



NMUN • NY

CONFERENCE ON THE ARMS TRADE TREATY
BACKGROUND GUIDE 2012

Written By: Mark Edwards, Sonia Patel, Nyla Langford, Thecla Prentiss



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CONTACT THE NMUN

Please consult the FAQ section of nmun.org for answers to your questions. If you do not find a satisfactory answer you may also contact the individuals below for personal assistance. They may answer your question(s) or refer you to the best source for an answer.

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NMUN•NY 2012 Important Dates

IMPORTANT NOTICE: To make hotel reservations, you must use the forms at nmun.org and include a \$1,000 deposit. Discount rates are available until the room block is full or one month before the conference – whichever comes first. **PLEASE BOOK EARLY!**

31 January 2012	<ul style="list-style-type: none"> • Confirm Attendance & Delegate Count. (Count may be changed up to 1 March) • Make Transportation Arrangements - DON'T FORGET! (We recommend confirming hotel accommodations prior to booking flights.)
15 February 2012	<ul style="list-style-type: none"> • Committee Updates Posted to www.nmun.org
1 March 2012	<ul style="list-style-type: none"> • Hotel Registration with FULL PRE-PAYMENT Due to Hotel - Register Early! Group Rates on hotel rooms are available on a first come, first served basis until sold out. Group rates, if still available, may not be honored after that date. See hotel reservation form for date final payment is due. • Any Changes to Delegate Numbers Must be Confirmed to: outreach@nmun.org • Preferred deadline for submission of Chair / Rapp applications to Committee Chairs • All Conference Fees Due to NMUN for confirmed delegates. (\$125 per delegate if paid by 1 March; \$150 per delegate if received after 1 March. Fee is not refundable after this deadline. • Two Copies of Each Position Paper Due via E-mail (See Delegate Preparation Guide for instructions).
NATIONAL MODEL UNITED NATIONS 2012	<p>1 - 5 April – Sheraton New York 3 - 7 April - New York Marriott Marquis</p> <p>The 2013 National Model UN Conference 17 - 21 March & 24 - 28 March (both at Sheraton; Sun-Thurs)</p>

POSITION PAPER INSTRUCTIONS

Two copies of each position paper should be sent via e-mail by 1 MARCH 2012

1. TO COMMITTEE STAFF

A file of the position paper (.doc or .pdf) for each assigned committee should be sent to the committee e-mail address listed below. Mail papers by 1 March to the e-mail address listed for your particular venue. These e-mail addresses will be active when background guides are available. Delegates should carbon copy (cc:) themselves as confirmation of receipt. Please put committee and assignment in the subject line (Example: GAPLEN_Greece).

2. TO DIRECTOR-GENERAL

- Each delegation should send one set of all position papers for each assignment to the e-mail designated for their venue: positionpapers.sheraton@nmun.org or positionpapers.marriott@nmun.org. This set (held by each Director-General) will serve as a back-up copy in case individual committee directors cannot open attachments.

Note: This e-mail should only be used as a repository for position papers.

- The head delegate or faculty member sending this message should cc: him/herself as confirmation of receipt. (Free programs like Adobe Acrobat or WinZip may need to be used to compress files if they are not plain text.)

- Because of the potential volume of e-mail, only one e-mail from the Head Delegate or Faculty Advisor containing all attached position papers will be accepted.

Please put committee, assignment and delegation name in the subject line (Example: Cuba_U_of_ABC). If you have any questions, please contact the Director-General at dirgen@nmun.org.

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OTHER USEFUL CONTACTS

Entire Set of Delegation Position Papers	positionpapers.sheraton@nmun.org
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THE 2012 NATIONAL MODEL UNITED NATIONS

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1 – 5 April (Sheraton) & 3 – 7 April (Marriott) • www.nmun.org

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Dear Delegates,

Welcome to the 2012 National Model United Nations (NMUN). This year's staff for the Conference on the Arms Trade Treaty (ATT) is Directors Mark Edwards and Sonia Patel and Assistant Directors Nyla Langford and Thecla Prentiss. Mark is finishing a M.A. in Diplomacy and International Studies from the John C. Whitehead School at Seton Hall University. This is his sixth year at NMUN and fourth on staff and he has been participating in MUN for twelve years. Sonia is a recent graduate of the Charlotte School of Law, and holds an undergraduate degree in Political Science from Furman University. This is her fifth year at NMUN and third year on staff. Nyla Langford received a Bachelor's degree in English from Texas Christian University in May 2010 and has since been working for a clinical research firm that specializes in oncology. This is her second year on staff at NMUN. Thecla graduated from the University of Montana in May 2011 in Political Science and History, and currently works for City Year Miami, an international non-profit addressing the dropout rate in urban schools. This is her fourth year at NMUN and first year on staff.

The ATT will be following a unique agenda consisting of the following topics that will be incorporated into a final Arms Trade Treaty:

1. Scope
2. Parameters/Criteria
3. International Cooperation and Assistance
4. Victims' Assistance
5. Implementation
6. Verification
7. Final Provisions

The Conference on Arms Trade Treaty is a distinctive committee that will operate under a unique set of rules and procedures. The objective of the Conference is to draft a comprehensive treaty on arms trade. It is important for all Member States to research all of the topics listed above to form a position regarding the full treaty.

This background guide will serve as a brief introduction to all of the topics listed. Accordingly, it is not meant to be used as an all-inclusive analysis but as the groundwork for your own analysis and research. To conduct your research, please consult scholarly materials, including journals, international news, and the United Nations website among others. Also, please consult the ATT Chairman's Working Papers from each Preparatory Conference. You will need to familiarize yourself with the work and current operations of the ATT Conferences.

Each delegation must submit a position paper. NMUN will accept position papers via e-mail by March 1. Please refer to the instructions located within this background guide in regards to NMUN position paper requirements and restrictions. Delegates' adherence to these guidelines is crucial. NMUN can be an incredibly rewarding experience, and we hope that you enjoy it as a delegate as much as we all have in the past. The skills you will obtain at NMUN will not only benefit you academically, but professionally as well. If you have any questions regarding preparation, please feel free to contact any of the ATT Conference substantive staff or Under-Secretaries General for the Peace and Security Department Sameer Kanal (Sheraton) and Hannah Birkenkötter (Marriott). Good luck in your preparation for the conference. We look forward to seeing you in April!

Sheraton Venue

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Message from the Directors-General Regarding Position Papers for the 2012 NMUN Conference

At the 2012 NMUN New York Conference, each delegation submits one position paper for each committee to which it is assigned. Delegates should be aware that their role in each committee affects the way a position paper should be written. While most delegates will serve as representatives of Member States, some may also serve as observers, NGOs, or judicial experts. To understand these differences, please refer to the Delegate Preparation Guide.

Position papers should provide a concise review of each delegation's policy regarding the topic areas under discussion and should establish precise policies and recommendations about the topics before the committee. International and regional conventions, treaties, declarations, resolutions, and programs of action of relevance to the policy of your State should be identified and addressed. Making recommendations for action by your committee should also be considered. Position papers also serve as a blueprint for individual delegates to remember their country's position throughout the course of the Conference. NGO position papers should be constructed in the same fashion as position papers of countries. Each topic should be addressed briefly in a succinct policy statement representing the relevant views of your assigned NGO. You should also include recommendations for action to be taken by your committee. It will be judged using the same criteria as all country position papers, and is held to the same standard of timeliness.

Please be forewarned, delegates must turn in entirely original material. *The NMUN Conference will not tolerate the occurrence of plagiarism.* In this regard, the NMUN Secretariat would like to take this opportunity to remind delegates that although United Nations documentation is considered within the public domain, the Conference does not allow the verbatim re-creation of these documents. This plagiarism policy also extends to the written work of the Secretariat contained within the Committee Background Guides. Violation of this policy will be immediately reported to faculty advisors and it may result in dismissal from Conference participation. Delegates should report any incident of plagiarism to the Secretariat as soon as possible.

Delegation's position papers can be awarded as recognition of outstanding pre-Conference preparation. In order to be considered for a Position Paper Award, however, delegations must have met the formal requirements listed below. Please refer to the sample paper on the following page for a visual example of what your work should look like at its completion. The following format specifications are **required** for all papers:

- All papers must be typed and formatted according to the example in the Background Guides
- Length must **not** exceed two single-spaced pages (one double-sided paper, if printed)
- Font must be Times New Roman sized between 10 pt. and 12 pt.
- Margins must be set at one inch for whole paper
- Country/NGO name, School name and committee name clearly labeled on the first page,
- The use of national symbols is highly discouraged
- Agenda topics clearly labeled in separate sections

To be considered timely for awards, please read and follow these directions:

1. **A file of the position paper** (.doc or .pdf format required) **for each assigned committee** should be sent to the committee email address listed in the Background Guide. These e-mail addresses will be active after November 15, 2011. Delegates should carbon copy (cc:) themselves as confirmation of receipt.
2. Each delegation should also send **one set of all position papers** to the e-mail designated for their venue: positionpapers.sheraton@nmun.org or positionpapers.marriott@nmun.org. This set will serve as a back-up copy in case individual committee directors cannot open attachments. These copies will also be made available in Home Government during the week of the NMUN Conference.

Each of the above listed tasks needs to be completed no later than **March 1, 2012 (GMT-5) for delegations attending the NMUN conference at either the Sheraton or the Marriott venue.**

PLEASE TITLE EACH E-MAIL/DOCUMENT WITH THE NAME OF THE COMMITTEE, ASSIGNMENT AND DELEGATION NAME (Example: AU_Namibia_University of Caprivi)

A matrix of received papers will be posted online for delegations to check prior to the Conference. If you need to make other arrangements for submission, please contact Amanda D'Amico, Director-General, Sheraton venue, or Nicholas Warino, Director-General, Marriott venue at dirgen@nmun.org. There is an option for delegations to submit physical copies via regular mail if needed.

Once the formal requirements outlined above are met, Conference staff use the following criteria to evaluate Position Papers:

- Overall quality of writing, proper style, grammar, etc.
- Citation of relevant resolutions/documents
- General consistency with bloc/geopolitical constraints
- Consistency with the constraints of the United Nations
- Analysis of issues, rather than reiteration of the Committee Background Guide
- Outline of (official) policy aims within the committee's mandate

Each delegation can submit a copy of their position paper to the permanent mission of the country being represented, along with an explanation of the Conference. Those delegations representing NGOs do not have to send their position paper to their NGO headquarters, although it is encouraged. This will assist them in preparation for the mission briefing in New York.

Finally, please consider that over 2,000 papers will be handled and read by the Secretariat for the Conference. Your patience and cooperation in strictly adhering to the above guidelines will make this process more efficient and it is greatly appreciated. Should you have any questions please feel free to contact the Conference staff, though as we do not operate out of a central office or location, your consideration for time zone differences is appreciated.

Sincerely yours,

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Position Paper for the General Assembly Plenary

The issues before the General Assembly Plenary are: The Use of Economic Sanctions for Political and Economic Compulsion; Democracy and Human Rights in Post-Conflict Regions; as well as The Promotion of Durable Peace and Sustainable Development in Africa. The Mexican Delegation first would like to convey its gratitude being elected and pride to serve as vice-president of the current General Assembly Plenary session.

I. The Use of Economic Sanctions for Political and Economic Compulsion

The principles of equal sovereignty of states and non-interference, as laid down in the Charter of the United Nations, have always been cornerstones of Mexican foreign policy. The legitimate right to interfere by the use of coercive measures, such as economic sanctions, is laid down in Article 41 of the UN-charter and reserves the right to the Security Council.

Concerning the violation of this principle by the application of unilateral measures outside the framework of the United Nations, H.E. Ambassador to the United Nations Enrique Berruga Filloy underlined in 2005 that the Mexico strongly rejects “the application of unilateral laws and measures of economic blockade against any State, as well as the implementation of coercive measures without the authorization enshrined in the Charter of the United Nations.” That is the reason, why the United Mexican States supported – for the 14th consecutive time – Resolution (A/RES/60/12) of 2006 regarding the *Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba*.

In the 1990s, comprehensive economic sanctions found several applications with very mixed results, which made a critical reassessment indispensable. The United Mexican States fully supported and actively participated in the “Stockholm Process” that focused on increasing the effectiveness in the implementation of targeted sanctions. As sanctions and especially economic sanctions, pose a tool for action “between words and war” they must be regarded as a mean of last resort before war and fulfill highest requirements for their legitimate use. The United Mexican States and their partners of the “Group of Friends of the U.N. Reform” have already addressed and formulated recommendations for that take former criticism into account. Regarding the design of economic sanctions it is indispensable for the success to have the constant support by all member states and public opinion, which is to a large degree dependent the humanitarian effects of economic sanctions. Sanctions must be tailor-made, designed to effectively target the government, while sparing to the largest degree possible the civil population. Sanction regimes must be constantly monitored and evaluated to enable the world-community to adjust their actions to the needs of the unforeseeably changing situation. Additionally, the United Mexican States propose to increase communication between the existing sanction committees and thus their effectiveness by convening regular meetings of the chairs of the sanction committees on questions of common interest. An example is the case of negative spill-over effects of economic sanctions on neighboring countries, in which affected countries additionally need to be enabled to voice their problems more effectively, as addressed in the resolution *Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions* (A/RES/54/107). Non-state actors have in the last years tremendously grown in their political importance, especially with regard to the international fight against terrorism. Their position and the possibilities of the application of economic sanction on non-state actors is another topic that urgently needs to be considered.

II. Democracy and Human Rights in Post-Conflict Regions

As a founding member of the United Nations, Mexico is highly engaged in the Promotion of Democracy and Human Rights all over the world, as laid down in the *Universal Declaration on Human Rights (UDHR)* in 1948. Especially since the democratic transition of Mexico in 2000 it is one of the most urgent topics to stand for Democratization and Human Rights, and Mexico implements this vision on many different fronts.

In the Convoking Group of the intergovernmental Community of Democracies (GC), the United Mexican States uphold an approach that fosters international cooperation to promote democratic values and institution-building at the national and international level. To emphasize the strong interrelation between human rights and the building of democracy and to fortify democratic developments are further challenges Mexico deals with in this committee. A key-factor for the sustainable development of a post-conflict-region is to hold free and fair election and thus creating a democratic system. Being aware of the need of post-conflict countries for support in the preparation of democratic elections, the United Mexican States contribute since 2001 to the work of the International Institute for Democracy

and Electoral Assistance (IDEA), an intergovernmental organization operating at international, regional and national level in partnership with a range of institutions. Mexico's foreign policy regarding human rights is substantially based on cooperation with international organizations. The Inter American Commission of Human Rights is one of the bodies, Mexico is participating, working on the promotion of Human Rights in the Americas. Furthermore, the Inter-American Court of Human Rights is the regional judicial institution for the application and interpretation of the *American Convention of Human Rights*.

The objectives Mexico pursues are to improve human rights in the country through structural changes and to fortify the legal and institutional frame for the protection of human rights on the international level. Underlining the connection between democracy, development and Human Rights, stresses the importance of cooperation with and the role of the High Commissioner on Human Rights and the reform of the Human Rights Commission to a Human rights Council.

Having in mind the diversity of challenges in enforcing democracy and Human Rights, Mexico considers regional and national approaches vital for their endorsement, as Mexico exemplifies with its *National Program for Human Rights* or the *Plan Puebla Panama*. On the global level, Mexico is encouraged in working on a greater coordination and interoperability among the United Nations and regional organizations, as well as the development of common strategies and operational policies and the sharing of best practices in civilian crisis management should be encouraged, including clear frameworks for joint operations, when applicable.

III. The Promotion of Durable Peace and Sustainable Development in Africa

The United Mexican States welcome the leadership role the African Union has taken regarding the security problems of the continent. Our delegation is furthermore convinced that The New Partnership for Africa's Development (NEPAD) can become the foundation for Africa's economic, social and democratic development as the basis for sustainable peace. Therefore it deserves the full support of the international community.

The development of the United Mexican States in the last two decades is characterized by the transition to a full democracy, the national and regional promotion of human rights and sustainable, economic growth. Mexico's development is characterized by free trade and its regional integration in the North American Free Trade Agreement. Having in mind that sustainable development is based not only on economic, but as well on social and environmental development, President Vicente Fox has made sustainable development a guiding principle in the Mexican Development Plan that includes sustainability targets for all major policy areas.

The United Nations Security Council has established not less than seven peace-keeping missions on the African continent, underlining the need for full support by the international community. In post-conflict situations, we regard national reconciliation as a precondition for a peaceful development, which is the reason why Mexico supported such committees, i.e. in the case of Sierra Leone. The United Mexican States are convinced that an other to enhance durable peace in Africa is the institutional reform of the United Nations. We therefore want to reaffirm our full support to both the establishment of the peace-building commission and the Human Rights Council. Both topics are highly interrelated and, having in mind that the breach of peace is most often linked with severest human rights' abuses, thus need to be seen as two sides of one problem and be approached in this understanding.

As most conflicts have their roots in conflicts about economic resources and development chances, human development and the eradication of poverty must be at the heart of a successful, preventive approach. Lifting people out of poverty must be seen as a precondition not only for peace, but for social development and environmental sustainability.

The United Mexican States want to express their esteem for the decision taken by the G-8 countries for a complete debt-relief for many African Highly-Indebted-Poor-Countries. Nevertheless, many commitments made by the international community that are crucial for Africa's sustainable development are unfulfilled. The developed countries agreed in the *Monterrey Consensus of the International Conference on Financing for Development* (A/CONF.198/11) to increase their Official Development Aid (ODA) "towards the target of 0,7 per cent of gross national product (GNP) as ODA to developing countries and 0,15 to 0,20 per cent of GNP of developed countries to least developed countries". Furthermore, the United Mexican States are disappointed by the result of the Hong Kong Ministerial conference of the World Trade Organization, which once more failed to meet the needs of those, to whom the round was devoted: developing countries and especially African countries, who today, more than ever, are cut off from global trade and prosperity by protectionism.

With regard to the African Peer Review Mechanism, the United Mexican States want to underline that good governance is an integral part of sustainable development. Therefore, we support all efforts by African countries to make the mechanism obligatory to increase transparency and accountability in all African countries.

Committee History

Foundation for an Arms Trade Treaty

Inter-state arms transfers play a large role in both domestic profit and international trade. Arms manufacturers employ hundreds of thousands of people worldwide, and those manufacturers need to export their goods in order to endure.¹ When conducted responsibly, arms transfers have the potential to promote stability; for example, they can be used to enhance peacekeeping efforts and protect civilians.² It is more frequently the case, however, that more weapons lead to less security, as sometimes the mere “presence of arms can be a powerful catalyst in volatile scenarios.”³ Expanded global trade has led to an ever-increasing supply of arms in the world.⁴ Unfortunately, this proliferation, combined with a lack of international standards of assurance to regulate conventional arms transfers, has also enabled countless weapons to be traded illegally and used by groups that gain or maintain power through armed violence and human rights violations.⁵

In 1991, a Group of Governmental Experts concluded their Study on Ways and Means of Promoting Transparency in International Transfers of Conventional Arms with these remarks:

“Arms transfers are a deeply entrenched phenomenon of contemporary international relations. This situation flows from the sovereign right of States to acquire arms for their defence, including arms from outside sources. Arms transfers therefore cannot be considered as necessarily destabilizing. However, the international transfer of conventional arms has in recent decades acquired a dimension and qualitative characteristics that give rise to serious and urgent concerns.”⁶

These concerns have only continued to grow over the years, and the international community has become aware of the negative impact of globalization of the arms trade on universal stability.⁷ Forming consistent international standards on arms transfers could potentially reduce these adverse effects, as “both terrorists and organized criminal groups thrive in areas with weak governmental controls and law enforcement, and lax border controls.”⁸

Towards an Arms Trade Treaty

Article 26 of the *Charter of the United Nations* expresses the need “to promote the establishment and maintenance of international peace and security with the least diversion for armaments.”⁹ However, the idea of an international agreement for trading armaments first began to gain ground in 1997, when former Costa Rican President Dr. Oscar Arias, led a collaborative effort between a group of Nobel Peace Laureates and leaders of non-governmental organizations (NGOs) to form the International Code of Conduct on Arms Transfers.¹⁰ Dr. Arias' presentation of this document to the United Nations (UN) stimulated debate on creating common standards and eventually a legally-binding document to regulate the international arms trade.¹¹

In 2006, the General Assembly (GA) requested that Member States submit their opinions on this idea.¹² These opinions were then compiled by the Secretary-General in 2007.¹³ To investigate the proposal's feasibility, the Secretary-General appointed a Group of Governmental Experts (GGE), including officials from most of the world's

¹ Debusmann, *World arms deals and tilting at windmills*, 2011.

² Control Arms Campaign, *Shattered Lives: the case for tough international arms control*, 2003, p. 8.

³ Control Arms Campaign, *Shattered Lives: the case for tough international arms control*, 2003, p. 9.

⁴ Keller, *Arm in Arm*, 1995, p. 1.

⁵ Control Arms Campaign, *Arms Without Borders: Why a globalised trade needs global controls*, 2006, p. 2.

⁶ United Nations Office for Disarmament Affairs, *Study on Ways and Means of Promoting Transparency in International Arms Transfers of Conventional Arms, Report of the Secretary-General (A/46/301)*, 1992, p. 33.

⁷ Craft, *Weapons for Peace, Weapons for War: The Effect of Arms Transfers on War Outbreak, Involvement, and Outcomes*, 1999, p. 52.

⁸ Zaheed, *Transnational Organized Crime: U.S. Policy, Programs, and Related Issues*, 2004, p. 9.

⁹ United Nations, *Charter of the United Nations*, 1945, p. 21.

¹⁰ Saferworld, *Saferworld and a history of the Arms Trade Treaty*, 2011.

¹¹ Saferworld, *Saferworld and a history of the Arms Trade Treaty*, 2011.

¹² United Nations General Assembly, *Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms (A/RES/61/89)*, 2006.

¹³ United Nations Secretary-General, *Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms (A/62/278)*, 2007.

major arms exporters, whose report in 2008 ultimately recommended that the UN consider the issue further.¹⁴ The GA then established an Open-Ended Working Group (OEWG) through *Resolution 63/240*, with the intent to have it meet for six sessions.¹⁵ However, after two sessions were completed in 2009, the remaining four sessions were converted into a Preparatory Committee (PrepCom) to lay the groundwork for a United Nations Conference on the Arms Trade Treaty in July 2012, during which the final treaty would be negotiated.¹⁶

Current Status of the Negotiation Process

To date, three sessions of the Preparatory Committee have concluded, the most recent in July 2011.¹⁷ Although the purpose of PrepComs is mainly to discuss what components should be included in an Arms Trade Treaty (ATT), there has also been significant debate on the actual content of the ATT.¹⁸ Debate during the first session of the PrepCom in July 2010 focused mostly on the elements and purpose of the treaty, with many states disagreeing over whether the treaty should be directed to prevent diversion of arms to the illicit market or to prevent violations of human rights and humanitarian law.¹⁹ Informal discussions on scope, parameters, and implementation received particular attention, and the facilitators for these discussions prepared summary reports of the initial views of the body on each topic.²⁰ The second session of the PrepCom, held in February-March 2011, continued debate on the driving themes of scope, parameters, and international cooperation and assistance.²¹ However, more specific sub-topics were also broached, the most notable being gender-based violence and gender-sensitive victims' assistance.²² The July 2011 PrepCom session was centered on the implementation and verification sections of the treaty; however, since a general agreement still had not been reached on scope, parameters or objectives, numerous States found this discussion premature, with the Russian delegation comparing it to "building the roof without having built the foundation or the walls."²³ Topics that arose included practical means of implementation, challenges to implementation, the proposed Implementation Support Unit (ISU), record keeping and reporting requirements, and final provisions such as ratification, entry into force and withdrawal.²⁴

At each PrepCom, the Chair has issued a "non-paper" outlining the elements that received the most discussion or support.²⁵ Also, the United Nations Institute for Disarmament Research (UNIDIR) has organized 12 regional seminars around the world to gather the thoughts of a larger population than the PrepComs enable.²⁶ There is one more PrepCom scheduled to take place in February 2012 in anticipation of the final conference in July 2012, which will last four consecutive weeks.²⁷ Once the Arms Trade Treaty is drafted at the Conference, it must be ratified before it will enter into force, a topic that is under debate as part of the treaty's "final provisions."²⁸ As with the substance of the ATT, the exact requirements still need to be determined, and the main question has been whether these requirements should be quantitative (ratification by a minimum number of states) or qualitative (ratification by specific States, such as the major arms exporters).²⁹ Most states seem to be in favor of quantitative entry into force, with suggestions of a minimum number for ratification ranging from 30 to 100 parties.³⁰ As the negotiation process continues, it will be important that decisions on each of these important issues are made in a way that increases the likelihood that the treaty fulfills its purposes, goals and objectives.

¹⁴ Reaching Critical Will, *Arms Trade Treaty: Brief history of the UN process*, 2011.

¹⁵ United Nations Office for Disarmament Affairs, *Arms Trade Treaty*, 2011.

¹⁶ United Nations General Assembly, *The arms trade treaty (A/RES/64/48)*, 2009.

¹⁷ United Nations Office for Disarmament Affairs, *Arms Trade Treaty*, 2011.

¹⁸ Acheson, *PrepCom 1 Day 10: Wrapping up and looking forward*, 2010.

¹⁹ Acheson, *PrepCom 1 Day 2: The debate on "elements" for an ATT continues*, 2010.

²⁰ Acheson, *PrepCom 1 Day 9: Facilitator's Summaries and Chair's draft paper released*, 2010.

²¹ Murphy, *Time to get serious about the ATT*, 2011, p. 3.

²² Rosengren, *The ATT, women, and gender*, 2011, p. 2.

²³ Acheson, *The importance of treaty objectives for implementation*, 2011, p. 1.

²⁴ Prizeman, *Final thoughts and moving forward*, 2011, p. 2.

²⁵ Reaching Critical Will, *Arms Trade Treaty*, 2011.

²⁶ United Nations Institute for Disarmament Research, *Conferences*, 2011.

²⁷ Women's International League for Peace and Freedom, *Reaching Critical Will*, 2011.

²⁸ Zuber, *Early reservations*, 2011, p. 1.

²⁹ Acheson, *Final provisions*, 2011, p. 2.

³⁰ Acheson, *Final provisions*, 2011, p. 2.

Annotated Bibliography

Committee History

Acheson, R. (2011). The importance of treaty objectives for implementation. *Arms Trade Treaty Monitor*, 2011, Vol. 3 (No. 2).

Ray Acheson is the Project Director of Reaching Critical Will and a contributor and editor at the Arms Trade Treaty Monitor. While all of her work provides detailed and objective coverage of the treaty negotiation process, this article is particularly helpful in demonstrating how all the aspects of the treaty must complement each other. She discusses the relationship between treaty objectives, scope, and implementation mechanisms.

Craft, C. (1999). *Weapons for Peace, Weapons for War: The Effect of Arms Transfers on War Outbreak, Involvement, and Outcomes*. New York, NY: Routledge.

Several studies have been done to assess the effect of arms on various aspects of conflict. This book analyzes the conclusions from these studies as they relate both to enhancing stability and exacerbating violence. While the book does not discuss the ATT, it is a good source of background knowledge and the studies that it references can be used to support positions on both sides of the arms trade argument.

United Nations Institute for Disarmament Research. (2011). *Conferences*. Retrieved August 17, 2011, from <http://www.unidir.org/html/en/conferences.html>.

The United Nations Institute for Disarmament Research (UNIDIR) “conducts research on disarmament and security with the aim of assisting the international community in their disarmament thinking, decisions, and efforts.” The section of the Web site titled “Conferences” provides a list of various meetings focused on disarmament and security, including the regional seminars devoted specifically to discussion on the ATT. Furthermore, many of the meeting pages include statements made during the seminar in downloadable document or audio files.

United Nations Office for Disarmament Affairs. (2011). *Arms Trade Treaty*. Retrieved August 11, 2011, from <http://www.un.org/disarmament/convarms/ArmsTradeTreaty/>.

The official page for the Arms Trade Treaty should be one of the first resources that delegates consider when beginning research. It provides all of the basic information on the ATT’s formation as well as important documents and statements by various players involved in the ATT negotiation process. The “Background” tab found under “Negotiations on an arms trade treaty” contains hyperlinks to several conventions and documents related to conventional weapons and humanitarian law, the principles of which are interwoven with ATT discussions.

Zaheed, T. (2004). *Transnational Organized Crime: U.S. Policy, Programs, and Related Issues*. Retrieved October 3, 2011, from http://assets.opencrs.com/rpts/RL32190_20040108.pdf

This report was created by a member of the Congressional Research Service (CRS), a nonpartisan “think tank” agency housed within the U.S. Library of Congress. While most of the CRS reports contain information on U.S. policy on specific issues, they also review all sides of the issue and provide objective analyses of activities in the international arena, even discussing the potential impact of policy alternatives. This particular report discusses the rising threat of transnational crime, listing availability of arms as a contributing factor.

I. Scope

Introduction

The “scope” of the Arms Trade Treaty (ATT) refers to the types of conventional weapons and the activities related to those items that should be regulated in the ATT.³¹ While early in the debate, states conceived of an items list consisting of only weapons covered by the United Nations Register on Conventional Arms, further negotiations suggest have shown that most Member States want the ATT’s scope to expand beyond the Register.³² There are, however, differences among Member States as to what exactly should be covered in the ATT.³³

Types of Items

In the most recent Chairman’s non-paper, the scope of the proposed treaty, as it applies to items covered, included the following:

“a) tanks, b) military vehicles, c) artillery systems, d) military aircraft (manned or unmanned), e) military helicopters (manned or unmanned), f) naval vessels (surface and submarine vessels armed or equipped for military use), g) missile and missile systems (guided or unguided), h) small arms, i) light weapons, j) ammunition for use with weapons defined in subparagraphs (a) – (i), parts or components specially and exclusively designed for any of the categories in subparagraphs (a) – (k), and technology and equipment specially designed and used to develop, manufacture, or maintain any of the categories in subparagraphs (a) – (k).”³⁴

This is the most recent official language as of publishing date. The list has been called “incomplete” by numerous civil society organizations that are monitoring the negotiations, but also a strong step towards an effective treaty.³⁵

Positive or Negative Items List

There are two ways to identify the items covered. The positive definition, which is listed below, only considers listed items, and a negative definition includes all arms.³⁶ The negative definition, also called the “All Conventional Weapons (except)” approach, calls for the inclusion of all items with the treaty merely listing exceptions, or items that would not be included in the treaty’s approach.³⁷

The United Nations Register of Conventional Arms

The UN Register of Conventional Arms is a voluntary system which calls for Member States to report on their own arms stockpiles and transfers in seven categories: “battle tanks, attack helicopters, armored combat vehicles, large caliber artillery systems, combat aircraft, warships, and missiles and launchers.”³⁸ The Register has been adopted by the majority of Member States as a standard.³⁹ However, there are organizations that believe all aspects of weaponry should be covered and see holes in the Register that can be exploited.⁴⁰ Some examples include transport aircraft; small arms such as shotguns, rifles, pistols, and others; munitions including ammunition, explosives and grenades; and smoke producing agents.⁴¹

Small Arms and Light Weapons (SALW)

There is a broad majority of states that support the idea of including small arms and light weapons (SALW) to the scope of the treaty; this formulation is known as “7+1.”⁴² The International Committee of the Red Cross (ICRC)

³¹ Acheson, *Questions of Scope*, 2011.

³² Acheson, *Questions of Scope*, 2011.

³³ Acheson, *Questions of Scope*, 2011.

³⁴ Moritan, *Chairman’s Draft Paper*, 2011.

³⁵ Isbister, *Saferworld Report-Card on the July 2011 ATT PrepCom*, 2011.

³⁶ *Arms Trade Treaty Legal Blog*, 2010.

³⁷ “ICRC Statement on Scope and Transactions in the Arms Trade Treaty,” 2011.

³⁸ Nuclear Threat Initiative, *UN Register of Conventional Arms*, 1991.

³⁹ Acheson, *Questions of Scope*, 2011.

⁴⁰ Amnesty International, *Arms for Repression*, 2010.

⁴¹ Amnesty International, *Arms for Repression*, 2010.

⁴² Acheson, *Questions of Scope*, 2011.

offered their full support for the inclusion of SALW in the ATT by stating, “[the] ATT should be a comprehensive global treaty that defines common binding standards for international arms transfers, building on states’ responsibilities under international law, including international humanitarian law. It is particularly important to include small arms and light weapons among the conventional weapons covered.”⁴³

Exceptions – Antique Weapons, and Hunting and Sporting Weapons

In the second and third PrepCom meetings, debate emerged over exceptions to the SALW category; the United States, Canada, and a statement from the United States-based National Rifle Association made strong assertions at the July 2011 PrepCom in support of an exception for hunting and sporting rifles in the treaty’s scope.⁴⁴ At the second PrepCom, the United Kingdom opposed such an exception for hunting and sporting rifles, believing that large-scale movements of even these weapons can be problematic and therefore should be regulated.⁴⁵ In agreement, the representatives from Cuba and Brazil agreed and want “antique, sporting, and hunting weapons” included.⁴⁶

Munitions

The prospect of also including ammunition in the treaty is termed the “7+1+1” formula.⁴⁷ While the majority of states agree on this concept, there are differences of opinions between the majority and the minority on the inclusion of munitions or simply ammunition.⁴⁸ Munitions is the broader category that some NGOs and Member States believe should be covered, which includes ammunition as well as rockets, grenades, bombs, mines, and torpedoes.⁴⁹ Some Member States have argued against the inclusion of munitions due to the fact that ammunition are so-called “dual-use” items, able to be used by police forces as well as military purposes; given that police forces are considered a more legitimate use of resources in developing countries than military forces, there is some opposition to regulating ammunition.⁵⁰

Parts and Components

Another category whose inclusion is supported by many states, most notably the European Union, is that of parts and components, which should cover “electronics, computers, telecommunications, information security, sensors and lasers, and transportation and training devices designed for military use.”⁵¹ Other Member States believe that only parts and components that are used in the direct manufacture of conventional weapons should be covered; the inclusion of *at least* this limited definition enjoys near-consensus support among member States.⁵²

Other categories

European Union Member states have voiced concern about the use of electronic components and weapons.⁵³ Weapons have also been developed that disrupt all electronic devices, which some organizations believe could have impact on the civilian population and should be regulated by the ATT.⁵⁴ Another category of concern is that as more advanced weaponry is developed, the ATT must be able to be updated and modified to reflect the new changes.⁵⁵ Another category is manufacturing equipment, which some Member States believe should be included in the ATT.⁵⁶

Types of Activities

The second aspect of the scope of the ATT relates to what activities should be covered. The most recent non-paper from the PrepCom Chairman reads, “The international transactions or activities covered by this Treaty include those listed below: a) import, b) export, c) transfer, d) brokering, e) manufacture under foreign license, and f) technology

⁴³ International Committee of the Red Cross, *ICRC Position on the Scope of an Arms Trade Treaty*, 2009.

⁴⁴ United Kingdom Permanent Representation to the Conference on Disarmament, *Towards an International Arms Trade Treaty*, 2011.

⁴⁵ Acheson, *Questions of Scope*, 2011.

⁴⁶ Acheson, *Questions of Scope*, 2011.

⁴⁷ International Action Network on Small Arms, *Including Small Arms and Light Weapons and Ammunition in the Scope of the Arms Trade Treaty*, 2010.

⁴⁸ Acheson, *Questions of Scope*, 2011.

⁴⁹ Amnesty International, *Arms for Repression*, 2010.

⁵⁰ Acheson, *Questions of Scope*, 2011.

⁵¹ Acheson, *Questions of Scope*, 2011.

⁵² Arms Trade Treaty Legal Blog, *Day 4 of the Second PrepCom*, 2011.

⁵³ Acheson, *Questions of Scope*, 2011.

⁵⁴ Amnesty International, *Arms for Repression*, 2010.

⁵⁵ ATT Monitor, *ATT PrepCom 2 Summaries: February 28, 2011*, 2011.

⁵⁶ Acheson, *Questions of Scope*, 2011.

transfer.”⁵⁷ While negotiating states mostly agree with these points, one other category has come to light about how to control technology and materials as they pass through multiple parties.⁵⁸ Each delegation has concerns about the activities covered by the ATT. The issue of activities to be covered by the ATT is still controversial due to the high level of sophistication and requirements that need to be met in order to regulate each activity included in the ATT.

Import, Export, and Transfer

The Chairman’s non-papers have not had a consistent definition for “transfer.”⁵⁹ One definition of international transfer is the “transfer, shipment or other movement, of whatever form, of arms from or across the territory of a state. An international arms transfer may also occur without the movement of equipment across State frontiers if a state, or its agent, is granted title and control over the equipment in the territory of the supplier State.”⁶⁰ Another aspect is the question of *when* a transfer occurs, which could be at the time of transfer of title, at transfer of control, or at physical motion across borders, and how it is done, which includes state-to-state, state-to-private, commercial trade, goods and expertise, and leases.⁶¹

Brokering

Negotiations of scope have also including the question of brokering, with support among Member States coalescing around a requirement that brokering be regulated in the treaty and that brokers be authorized by competent national authorities before engaging in this trade.⁶² A suggested method for national control systems on brokering includes the following points: a clear definition on activities under national control, a screening system for those who engage in the trade of military equipment, a licensing system of brokering transactions, adequate state monitoring, and an establishment of penalties.⁶³ The criminal prosecution of illicit brokering is also being considered, both in the state they conduct business in and possibly in international courts.⁶⁴

Trans-shipment

Trans-shipment, or the inclusion of an intermediary state in transfers from an exporter to an importer, has also been debated for inclusion in the treaty, due to the possibility of diversion, misuse or danger with the passage through multiple parties.⁶⁵ The overall idea of trans-shipment is similar to the transfer of weapons, but is being debated separately because of the involvement of other Member States in the transfer process.⁶⁶

Manufacture under Foreign License

Manufacture under foreign license is defined as “a direct commercial arrangement between a company in one country and a foreign government, international organization, or foreign company, providing for the transfer of production information which enables the foreign government, international organization, or commercial producer to manufacture, in whole or in part, an item of defense equipment.”⁶⁷ Essentially, this allows for intellectual property loans, whereby a specific type of arm is created in a country outside that which would normally produce it or in which the design was originated; this is very similar to the effect of a more conventional transfer of arms (such as military aid or sale), and as a result, there is significant support for the inclusion of manufacture under foreign license in the list of regulated activities.⁶⁸ An example of this can be found in a statement by Norway to the PrepCom, in which they promoted its inclusion in order to achieve “one main objective of an ATT [...] to ensure that all arms trade is subject to national assessment before license is granted.”⁶⁹ There is, however, a debate regarding its inclusion as a standalone activity for regulation, because it assumes a previous technology transfer for the manufacturing to take place.⁷⁰ Given that technology transfer is also highly likely to be included, a handful of states, with Switzerland

⁵⁷ Moritan, *Chairman’s Draft Paper*, 2011.

⁵⁸ Acheson, *Questions of Scope*, 2011.

⁵⁹ Moritan, *Chairman’s Draft Paper*, 2011.

⁶⁰ Control Arms, *Scope: Transfers and Transactions to be Covered by an Arms Trade Treaty*, 2009. It is easy to see how this definition would be problematic, as “transfer” is included in the definition of “transfer.”

⁶¹ Control Arms, *Scope: Transfers and Transactions to be Covered by an Arms Trade Treaty*, 2009.

⁶² Acheson, *Brokering and Implementation of the ATT*, 2011.

⁶³ Acheson, *Brokering and Implementation of the ATT*, 2011.

⁶⁴ Acheson, *Brokering and Implementation of the ATT*, 2011.

⁶⁵ Acheson, *Questions of Scope*, 2011.

⁶⁶ Acheson, *Questions of Scope*, 2011.

⁶⁷ Wood, *Background Paper: Scope*, 2010, p. 8-9.

⁶⁸ Wood, *Background Paper: Scope*, 2010, p. 8-9.

⁶⁹ Hauge, *Statement of Norway to the Second Preparatory Committee for the Arms Trade Treaty*, 2011.

the most vocal, have contended that manufacture under foreign license need not be listed explicitly and separately in order to still be regulated (through the technology transfer activity) in the ATT.⁷¹

Technology Transfer

Technology transfer between states is another proposed activity for inclusion in the ATT.⁷² Supporters, including Costa Rica and Norway, believe that each technology transfer “constitutes a potential for diversion or misuse,” and consequently that the treaty must include technology transfer.⁷³ Egypt and India, speaking for a vocal minority of states, believed it should not be regulated; India argued against its inclusion in the treaty on the basis of the difficulty to implement such regulations and the likelihood of inconsistent application of regulation, while Egypt believed that technology transfers were a tool of development and “should be encouraged, not restricted, by the ATT.”⁷⁴ Another concern is technology transfer, which includes cross-border knowledge and technology sharing. Some Member States want to protect the idea of free technology transfer.⁷⁵ In the March 2011 PrepCom, the Islamic Republic of Iran stated the ATT must protect the inalienable rights of States, and technology transfer was the intended point of the statement.⁷⁶

Financing

Some Member States have argued that financial transactions between states as they apply to conventional weapons should be regulated by the ATT.⁷⁷ Some European states have argued that financing is uncontrollable by state parties, and the United Kingdom and Indian delegations argued that the ATT should not include a financing section.⁷⁸ Some Member States and civil society organizations have called for the inclusions of the financial section in an effort to ensure that any activity that promotes the increase of arms in a separate country, whether through trade, aid, intellectual property rights or loans, is regulated in the ATT.⁷⁹

Research and Development

Another area being debated is research and development. At the March 2011 PrepCom, the United Kingdom and European Union representatives voiced concerns about research and development (R&D) and that it would not be able to be controlled by the state parties.⁸⁰ The United Kingdom eventually called for the removal of the financing and R&D sections for these reasons, and this position was reflected in the most recent versions of the Chairman’s non-paper.⁸¹

Conclusion

The details of scope, especially the question of which activities the ATT should cover, still need to be finalized and agreed upon. Questions remain over how detailed the ATT should be on this subject. This is a unique topic and each delegate must fully understand their position on how they plan to approach and negotiate the scope of the final ATT. The differences lie with national policies of Member States. How does your individual Member State stand on the scope as it applies to the items and activities that should be covered? Does your delegation support a limited scope of items to be included, or would they prefer the treaty to attempt to create a more expansive system of regulation? Does your delegation support the inclusion of Small Arms and Light Weapons? Does your country support including ammunition or the broader munitions category? What statements have your government made about the ATT?

⁷² Acheson, *Questions of Scope*, 2011.

⁷³ Acheson, *Questions of Scope*, 2011.

⁷⁴ Acheson, *Questions of Scope*, 2011.

⁷⁵ ATT Monitor, *ATT PrepCom 2 Summaries: February 28, 2011*, 2011.

⁷⁶ ATT Monitor, *ATT PrepCom 2 Summaries: February 28, 2011*, 2011.

⁷⁷ Acheson, *Questions of Scope*, 2011.

⁷⁸ Acheson, *Questions of Scope*, 2011.

⁷⁹ Control Arms, *Scope: Transfers and Transactions to be Covered by an Arms Trade Treaty*, 2009.

⁸⁰ Acheson, *Questions of Scope*, 2011.

⁸¹ Acheson, *Questions of Scope*, 2011.

Annotated Bibliography

I. Scope

Acheson, R. (2011). Questions of Scope. *Arms Trade Treaty Monitor*, 1 (2). Retrieved August 15, 2011, from <http://attmonitor.posterous.com/questions-of-scope>.

This is a top-quality review of the March 2011 PrepCom meeting. Acheson is very brief but detailed about the March PrepCom meeting, especially as it applies to the debate over the scope of ATT. This highlights the important actors in the scope debate and the main arguments being tossed around in PrepCom. The Journal this article is from is important in ATT research and is a quality source that can be utilized by delegates.

Bromley, M. and P. Holtom. (2011, July). Import Controls and Arms Trade Treaty. *SIPRI Background Paper*. Retrieved September 8, 2011, from <http://books.sipri.org/files/misc/SIPRIBP1107b.pdf>.

Bromley and Holtom write about the import side of the ATT activities. The import practices of each Member State is important because varied systems of tracking imports can become a problem, as the authors point out. The authors break down the issue into four areas that states should address: licensing for conventional arms, licensing for particular arms, licensing for non-state entities, and custom authorities.

Holtom, P. and M. Bromley. (2011, July). Transit and Trans-shipment Controls in an Arms Trade Treaty. *SIPRI Background Paper*. Retrieved September 8, 2011, from <http://books.sipri.org/files/misc/SIPRIBP1107a.pdf>.

In reviewing the ATT negotiations, concerns have been raised about the role of developing states. It addresses the concerns about small arms trade, especially the illicit trade. The authors also raise an important consideration, which is the role of developing nations in the trade. It also highlights the implementation issue that is different for Member States.

Isbister, R. (2011, July 21). *Saferworld Report-Card on the July 2011 ATT PrepCom*. Retrieved August 15, 2011, from <http://www.saferworld.org.uk/policy-and-analysis/saferworld-report-card-on-the-july-2011-att-prepcom>.

Saferworld is a monitoring group for the PrepCom and ATT process. This particular article reviews the work of the July 2011 PrepCom and overviews the strengths and weaknesses of the conference and the written materials that have emerged. The article links to a variety of other resources that deals with general scope materials.

Moritan, R. (2011, March 3). *Chairman's Draft paper*. Retrieved September 8, 2011, from <http://www.reachingcriticalwill.org/legal/att/prepcom3/docs/ChairPaper-14July2011.pdf>.

The Chairman's report of the PrepComs are vital in understand the general flow of the debate and how the ATT will possibly be drafted. This language is the official working ideas of the ATT to-date and what has been unofficially agreed upon. This lists the important parts to the scope issue and Member States can make amendments and specifics as appropriate.

II. Parameters / Criteria

Introduction: What are Parameters/Criteria?

Parameters and criteria are objective and non-discriminatory conditions for which international arms trade transfers can and must be denied.⁸² In the parameters section, states will likely list the basis for which items and activities included in the scope section must be denied. The most common parameters that states want to see included are in regards to potential violations of existing international law and international human rights law documents. Additionally, another important issue in a potential Arms Trade Treaty (ATT) is dealing with trade with non-state actors. Finally, most states believe that end-user/user-end assurances are a critical need that must be included in any final arms trade treaty.⁸³

International Law, including International Human Rights Law and International Humanitarian Law

In the strongest and most expansive potential ATT, anything that violates current existing international law and international human rights law must be excluded; human rights and international humanitarian law, however, are also controversial, and therefore may be excluded from the list of criteria, or included in a weaker form. According to Article 38 of the *Statute of the International Court of Justice*, international law includes treaties, anything that is customary international law and general principles of law.⁸⁴

The two most relevant sources of international law to the ATT are current, existing treaties, and customary international law.⁸⁵ Treaty law can refer to any treaty that member states have ratified, e.g. the *UN Charter*. Customary international law are norms that states follow out of a sense of legal obligation (*opinio juris*) and concurring state practice (*consuetudo*), and the only way that states are not bound by customary international law is through a consistent practice of choosing to opt out of customary international law.⁸⁶ As most countries follow customary law, it is important when developing a treaty to make sure not to violate any existing customary international law.⁸⁷ However, states can amend or codify customary law through a treaty. An example of something that would be considered customary international law is the prohibition for states to commit gross violations of human rights, even if they have not ratified relevant human rights treaties.⁸⁸ In terms of the ATT, this would mean that a state would not be able to export to a country committing gross violations of human rights.

Relevant International Human Rights Instruments and International Humanitarian Law

Once a final arms trade treaty is created, it is important that each section of the ATT is in compliance with existing international human rights law and international humanitarian law. Relevant international human rights law includes the *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW); *Universal Declaration of Human Rights* (UDHR); *International Covenant on Civil and Political Rights*; *Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*; *Convention on the Rights of the Child* (CRC); and the *International Convention on the Elimination of All Forms of Racial Discrimination*. The three most relevant International Humanitarian Law instruments to the ATT are the *Geneva Convention on the Treatment of the Victims of War*, *Protocol Additional to the Geneva Conventions of 1949* (Protocol I), and the *United Nations Declaration on the Basic Principles of Rights of Victims of Crime and Abuse of Power*. The other Geneva Conventions and Protocols may provide some guidance for the ATT as well. It is unclear whether or not a final ATT will use international human rights law and international humanitarian law as criteria for denying arms transfers. Human rights law and international humanitarian law violations are still under discussion as criteria. The sections below outline some of the major considerations regarding parameters and criteria.

⁸² Control Arms, *Presentations by Representatives of the Control Arms Coalition*, 2011, p. 6.

⁸³ Amnesty International, *Key Elements for Implementation of the Arms Trade Treaty*, 2011, p. 1.

⁸⁴ Carter, Trimble, et al., *International Law*, 2007, p. 123.

⁸⁵ Carter, Trimble, et al., *International Law*, 2007, p. 123.

⁸⁶ Carter, Trimble, et al., *International Law*, 2007, p. 124.

⁸⁷ Carter, Trimble, et al., *International Law*, 2007, p. 124.

⁸⁸ Carter, Trimble, et al., *International Law*, 2007, p. 126.

Human Rights Abuses

Of the 101 states that submitted original reports to the UN Secretary-General in regards to their views for a potential ATT, 72 stated a desire to include human rights abuses as a major issue for the ATT.⁸⁹ In existing law, a state that engages in arms trade with another state that they know will use those arms for human rights abuses aids or assists that state. According to Article 16 of the *ILC Draft Articles on the Responsibility of States for Internationally Wrongful Acts*, which reflects customary international law, aiding or assisting leads to state responsibility. The assisting state is equally responsible for the human rights abuse.⁹⁰ Although this is generally accepted in the international community, the issue of aiding and assisting is such an important issue relating to arms trade that states feel it must be memorialized in an arms trade treaty as well.⁹¹ Trading arms with a state that will use those arms for human rights abuses is a violation of the customary norm put down in Article 16 *ILC Draft Articles* and therefore, an internationally wrongful act. However, it will be important to explicitly state this in the future ATT, because then trading arms with a country that is violating human rights abuses will not only be a violation of customary international law, but also of a treaty provision.

Crimes Against Humanity, War Crimes and Genocide

Crimes against humanity and genocide are blatant violations of multiple international agreements and treaties as well as customary international law, but most importantly, they are a blatant violation of the underlying principles of the United Nations Charter. Arms Trade must be denied if there are circumstances that might lead to the arms being used to commit crimes against humanity, serious war crimes or genocide in the receiving state or in the region. The prohibition of such crimes arguably constitutes *jus cogens*.⁹² *Jus Cogens* norms are preemptory norms of international law.⁹³ Thus, *jus cogens* norms are bases upon which arms trade must be denied. Currently, unregulated arms trade fuels conflict, and conflict can fuel crimes against humanity, genocide and serious war crimes. As shown by the statistics listed under the conflicts section, this is still an incredibly relevant issue because conflicts are an ongoing problem. Any potential ATT might consider highlighting the potential use of arms for the commission of crimes against humanity, war crimes or genocide as a cause for denying transfer of arms.

Gender-Based Violence

Recently, there has been international debate of whether or not gender-based violence should be included in any potential arms trade treaty when there is already a basis for sanctioning international human rights violations independently of the ATT.⁹⁴ However, it is a recognized fact that unregulated arms trade does help fuel sexual and gender-based violence both during times of conflict and non-conflict.⁹⁵ According to the United Nations Development Fund for Women (UNIFEM), which, since July 2010, is a part of UN Women,

“Women are often forced to endure rape and other sexual abuse and violence, as well as abductions and forced slavery, including prostitution at the point of a gun. From Sudan to Sierra Leone, women and girls as young as 10 have been abducted at gunpoint from their homes. Women in camps for refugees and internally displaced persons are routinely gang raped and abused and the threat of armed violence compounds the difficulties of their survival and sustenance.”⁹⁶

In addition, UN Security Council Resolution 1325's Operative Clause 10 discusses the need to provide special protection to women and children during armed conflict.⁹⁷ A final decision has yet to be made over whether or not gender based violence will be a parameter listed in the final ATT, but it may be an issue that becomes expanded upon in the final ATT.

⁸⁹ Da Silva, *Creating a Human Rights Standard for the Arms Trade Treaty*, 2009, p. 28.

⁹⁰ Da Silva, *Creating a Human Rights Standard for the Arms Trade Treaty*, 2009, p. 28.

⁹¹ Control Arms, *About the Arms Trade Treaty*, 2011, p. 1.

⁹² Carter, Trimble, et al., *International Law*, 2007, p. 120.

⁹³ Carter, Trimble, et al., *International Law*, 2007, p. 120.

⁹⁴ Gerome, *The Arms Trade Treaty: Why Women?*, 2011, p. 1.

⁹⁵ Gerome, *The Arms Trade Treaty: Why Women?*, 2011, p. 1.

⁹⁶ United Nations Entity for Gender Equality and the Empowerment of Women, *About UN Women*, 2011, p. 1.

⁹⁷ United Nations Security Council, *Resolution 1325*, (2000), p. 3.

Trade with Non-State Actors

Trade with non-state actors is a concern expressed by many states in regards to the ATT.⁹⁸ The United Nations (UN) expressed its concerns regarding diversions in the preamble of UN General Assembly Resolution 64/48, which states:

Recognizing that the absence of commonly agreed international standards for the transfer of conventional arms that address, *inter alia*, the problems relating to the unregulated trade of conventional arms and their diversion to the illicit market is a contributory factor to armed conflict, the displacement of people, organized crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development,⁹⁹

This is a major concern for many states, because trade with non-state actors can easily fuel conflict, poverty, transnational organized crime and corruption.

Armed Violence

The unregulated arms trade often results in the “wrong individuals” having access to arms, which in a world with a regulated arms trade, they would not.¹⁰⁰ This often aids in fueling inter-state conflict, terrorism, and internal armed violence.¹⁰¹ According to Oxfam International, an average of 2,000 people die each day from the unregulated arms trade, resulting in a loss of over 300,000 lives each year.¹⁰² Oxfam International also points out that conflict in African states costs the continent a loss of 18 billion USD each year and unregulated arms trade fuels all 30 conflicts worldwide.¹⁰³ In addition, armed violence caused by unregulated small arms trade has displaced millions of people worldwide.¹⁰⁴ Thus, in any potential arms trade treaty, the risk that arms transfers would perpetuate or create armed violence is an issue that must be addressed.

Poverty and Socio-economic Development

Oxfam International emphasizes that unregulated arms trade has aided in preventing states from being able to meet their Millennium Development Goals (MDG) in terms of poverty prevention.¹⁰⁵ Statistics have shown that states that are in the middle of, or emerging from, armed conflict situations are least likely to meet their commitment to the MDG.¹⁰⁶ Buying weapons has become a two-edged sword for developing countries. Some states do not regulate the arms trade, resulting in an increase in the level of poverty in their states.¹⁰⁷ States that buy weapons do so at a high cost, redirecting resources to arms acquisition that would otherwise go towards combating poverty in their states.¹⁰⁸ Oxfam International states that, “Turkey continues to increase its national debt by buying arms – possibly as high as \$15.8bn since 2000 when the Millennium Development Goals were first agreed. As a result its national budget is very tight and work to improve social welfare and reduce poverty has been hit.”¹⁰⁹ Poverty continues to be a major setback for developing countries, and the unregulated arms trade has resulted in increased levels of poverty. Armed conflict has undermined all Millennium Development Goals, and thus without an arms trade treaty regulating the arms trade, states will be continued to be pushed further and further into poverty.

⁹⁸ United Nations Institute for Disarmament Research, *Non State Actors and the ATT: Challenges and Opportunities*, 2009, p. 4.

⁹⁹ United Nations General Assembly, *Resolution 64/48 The Arms Trade Treaty*, 2009, p. 2.

¹⁰⁰ Belanger, *Global Arms Trade Treaty Picks Up Speed*, 2011, p. 1.

¹⁰¹ Belanger, *Global Arms Trade Treaty Picks Up Speed*, 2011, p. 1.

¹⁰² Oxfam International, *Control Arms: Why We Need a Global Arms Trade Treaty*, 2011, p. 1.

¹⁰³ Oxfam Australia, *Control Arms*, p. 1.

¹⁰⁴ United Nations Institute for Disarmament Research, *Non State Actors and the ATT: Challenges and Opportunities*, 2009, p. 3.

¹⁰⁵ Oxfam International, *Shooting down the MDGs: How Irresponsible Arms Transfers Undermine Development Goals*, 2008, p. 2.

¹⁰⁶ Oxfam International, *Irresponsible Arms Trade Wrecking Attempts to Reduce Poverty*, 2008, p. 1.

¹⁰⁷ Oxfam International, *Irresponsible Arms Trade Wrecking Attempts to Reduce Poverty*, 2008, p. 1.

¹⁰⁸ Oxfam International, *Irresponsible Arms Trade Wrecking Attempts to Reduce Poverty*, 2008, p. 1.

¹⁰⁹ Oxfam International, *Irresponsible Arms Trade Wrecking Attempts to Reduce Poverty*, 2008, p. 1.

Transnational Organized Crime, Terrorism and Corruption

Transnational Organized Crime is defined in the United Nations Convention against Transnational Organized Crime as “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences...in order to obtain, directly or indirectly, a financial or other material benefit.”¹¹⁰ Such groups tend to be serious perpetrators of human rights violations, and are often doing so using illegally obtained arms.¹¹¹ Thus, member states view the potential use of arms in transnational organized crime as an issue that must be addressed in the ATT, and for which an arms transfer could potentially be denied.

Terrorism has been another issue that is largely fueled by an unregulated arms trade. For example, due to the current ongoing conflict in Libya, it is believed that the conflict is allowing internationally recognized terrorist groups, like Al-Qaeda, to obtain arms from groups within Libya.¹¹² One of the many reasons proponents of an ATT are supportive of its creation is to prevent things like this from occurring.

A more recently developing parameter option relates to corruption, or specifically, the "requirement on States to consider the risk of corruption, alongside the other factors they will take into account, in deciding whether or not to approve" arms transfers.¹¹³ Civil society has generally been supportive of including corruption, and Transparency International, as part of the Control Arms alliance of NGOs, has led advocacy efforts to include corruption, arguing that:

“Corruption in the arms trade damages countries in two main ways. First, it inflates the cost and/or reduces the quantity or quality of the weapons which nations acquire to defend themselves. Second, corruption undermines the ability of States to control the diversion of weapons from their intended end-users.”¹¹⁴

While a small number of states have spoken against the inclusion of corruption in the arms trade treaty, “many states want to see corruption addressed.”¹¹⁵ Corruption has already been included in the second and third Chairman’s non-papers.¹¹⁶ The third non-paper mandates states party to “take all necessary measures to prevent, counter and prosecute corruption.”¹¹⁷ However, the Control Arms coalition, as well as a group of primarily European states, are advocating for stronger language “to ensure that arms transfers are only undertaken when both exporting and importing governments have the capacity and the controls to mitigate the risk that the transfer could be undermined by corruption.”¹¹⁸

Diversions and End-User/User-End Assurances

Diversions occur when one state purchases arms, ammunition, or other items listed in the treaty’s scope, and then allows another state or group to purchase the weapons from them.¹¹⁹ One of the few areas of consensus in preliminary ATT negotiations is that states want end-user/user-end assurances incorporated into a final ATT. An important guarantee that many member states want to see is a provision in regards to end-user/user-end certificates.¹²⁰ End-User/User-End Assurances are made between the buyer and seller (or intermediaries such as brokers or transshipment agents) to ensure that if the weapons are purchased from one state, the purchasing state will not resell them to other groups or organizations, and that they will be solely used by the purchasing state. The assurance would include, “exporter, consignee, purchasers, country of final destination, description of type and

¹¹⁰ United Nations General Assembly, Resolution 55/25. *United Nations Convention Against Transnational Organized Crime*, 2001, p. 2.

¹¹¹ Sefue, *Statement by H.E. Ambassador Ombeni Y. Sefue, Permanent Representative of the United Republic of Tanzania to the United Nations, during the Plenary Session of the Third Conference of the Preparatory Committee of the United Nations Arms Trade Treaty*, 2011, p. 1.

¹¹² International Business Times, *Al-Qaeda Exploiting Libyan Chaos to Buy Arms, Establish Influence: Algerian Source*, 2011, p. 1.

¹¹³ Wright, *Why a robust Arms Trade Treaty needs strong anti-corruption mechanisms*, 2011.

¹¹⁴ Wright, *Why a robust Arms Trade Treaty needs strong anti-corruption mechanisms*, 2011, page 5.

¹¹⁵ Bock, *Corruption and the Arms Trade*, 2011.

¹¹⁶ Wright, *Why a robust Arms Trade Treaty needs strong anti-corruption mechanisms*, 2011, page 6.

¹¹⁷ Moritan, *Chairman's Non-Paper, 14 July 2011*, 2011.

¹¹⁸ Bock, *Tackling Corruption in the Global Arms Trade: the UN Arms Trade Treaty*, 2011.

¹¹⁹ Bromley and Holtom, *Import Controls and an Arms Trade Treaty*, 2011, p. 3.

¹²⁰ Bromley and Holtom, *Import Controls and an Arms Trade Treaty*, 2011, p. 1.

quantity of items, specific purpose they will be used, and an undertaking that they will not be used for purposes other than those declared.”¹²¹

Conclusion

Parameters are one of the most contentious points in the negotiation process on the Arms Trade Treaty because this is the area where many Member States disagree on what is most important and relevant to include in the final document. Many of the issues discussed here will be included in the final ATT, but the extent to which they will be covered is another matter. For example, in terms of gender-based violence, there is a debate over whether this should be included in the final document, and if it is included, to what extent? In order to ensure that an ATT is valid and effective, it will take much international cooperation and assistance between member states to make sure they follow the parameters mandated by the final ATT.

Annotated Bibliography

II. Parameters / Criteria

Da Silva, C. (n.d.). *Creating a Human Rights Standard for the Arms Trade Treaty*. Retrieved August 30, 2011 from www.unidir.org/pdf/articles/pdf-art2861.pdf

This is a great article about how arms trade has helped to fuel international law violations. It particularly focuses on how unregulated arms trade has impacted international human rights law throughout the world. Delegates should pay close attention to the part of the article where the author discusses breaches of international law and how the arms trade treaty should go about combating these violations.

Masters, S. *The Arms Trade Treaty: Why Women?* (2011). Retrieved September 3, 2011 from <http://www.iansa.org/resource/2011/05/the-arms-trade-treaty-why-women>

This is a great article for delegates representing states that believe gender-based violence needs to be a provision included in the arms trade treaty. The article provides interesting statistics that could be the basis to include as an argument for why gender-based violence needs to be included in a final arms trade treaty. Also, there is a sample criteria provision that could be incorporated into the final arms trade treaty in regards to gender-based violence.

Oxfam International. (2008). *Shooting Down the MDGs: How Irresponsible Arms Transfers Undermine Development Goals*. Retrieved August 30, 2011 from <http://www.oxfam.org/en/policy/shooting-down-mdgs>

This is a great article for delegates representing lower-developed states because this article shows how much of a negative impact unregulated arms trade has had on their states. Delegations representing other countries may also find it helpful as a tool to see what position their counterparts will be pursuing during the conference. Although a little bit dated, this article is still extremely relevant to a majority of delegations.

United Nations General Assembly. 55th Plenary Meeting. (2009). *Resolution 64/48 The Arms Trade Treaty (A/RES/64/48)*. Retrieved August 29, 2011 from <http://www.un.org/Docs/journal/asp/ws.asp?m=A/RES/64/48>

This resolution was the most recent one passed in regards to the Arms Trade Treaty. This will be a very helpful actual United Nations document because of the fact that it goes into depth about the goals that the United Nations as a whole would like to see incorporated into the final treaty. This resolution is an absolute must read for all delegates in the Conference on an Arms Trade Treaty committee.

United Nations Institute for Disarmament Research. (2009). *Non-State Actors and the ATT: Challenges and Opportunities*. Retrieved September 20, 2011 from www.unidir.org/pdf/activities/pdf3-act488.pdf

The United Nations Institute for Disarmament Research (UNDIR) is extremely involved in the development of the ATT, and thus will serve as a helpful resource for delegates in this committee. This particular document is helpful in discussing the major issues related to trade with non-state

¹²¹ Amnesty International, *Key Elements for Implementation of the Arms Trade Treaty*, 2011, p. 1.

actors, including international human rights violations. This is a summary report for a seminar that was conducted and it provides a good general overview of the issue.

III. International Cooperation & Assistance

Introduction

The various responsibilities imposed by the ATT upon future States Party will be difficult for certain states to implement without assistance, due to low socio-economic status, insufficiently strong legal and regulatory systems, and weak border controls.¹²² In the deliberations, it has been agreed that the concept is important, and that international cooperation and assistance should be about capacity building, so Member States can adhere to the ATT.¹²³ In the July 2011 non-paper by the PrepCom Chairman, other sections of the treaty require states party to the future ATT to set their domestic rules to prevent the illicit transfer of all forms of arms, ammunition, and trafficking.¹²⁴ Without international cooperation, this is impossible. This is especially applicable to the developing world, where the flow of conventional weapons, specifically Small Arms and Light Weapons (SALW), remains unchecked because of a variety reasons including, but not limited to, economic conditions, poor governmental control, presence of rebel groups, and ongoing armed violence.¹²⁵ It is not surprising, then, that armed violence is a leading cause of poverty and death in the developing world and the unregulated arms trade is a primary cause of the violence.¹²⁶ Without international cooperation, there is no hope for the ATT to be an effective treaty.

The Chairman's July 2011 non-paper defines international cooperation and international assistance as two different categories.¹²⁷ International cooperation is concerned with the sharing of implementation information, import and export reports, domestic prosecutions, and domestic methods of law and order.¹²⁸ The paper also calls for the open sharing of all information related to these across borders, and for mutual legal assistance.¹²⁹ International assistance concerns the offering of information regarding implementation policies or the progress of application, and continues that where plausible, Member States should offer technological, financial, material, and legal assistance to those countries in need.¹³⁰ There is also the need for Member States to delegate a national point of contact to facilitate communication between states.¹³¹ Another important information category is import and export records; the Chairman's non-paper calls for open sharing of that information between states.¹³²

International Cooperation

Member States were generally in agreement that cooperation and assistance should be provided where and when appropriate.¹³³ One of the points *not* agreed upon was the use of reports submitted by Member States.¹³⁴ In the July 2010 PrepCom, Australia voiced concerns about reporting requirements being forced upon smaller Member States, and referred to them as "unnecessary obligations."¹³⁵ By contrast, the Belgian representative stated that full transparency is required to ensure that Member States meet the obligations under the ATT.¹³⁶ It is important to note that the majority of states have not given specifics for how assistance and cooperation will work, because since state responsibilities under the treaty have not been finalized; as a result, it is difficult to determine what technical, financial, material, and legal assistance will be needed, and could best be provided by other states, in the final

¹²² Maze, *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*, 2011.

¹²³ Acheson *Consideration of Cooperation and Assistance*, 2011.

¹²⁴ Moritan, *Chairman's Draft Paper*, 2011, Enforcement.

¹²⁵ DellaVigna and La Ferrara, *Detecting Illegal Arms Trade*, 2009.

¹²⁶ DellaVigna and La Ferrara, *Detecting Illegal Arms Trade*, 2009.

¹²⁷ Moritan, *Chairman's Draft Paper*, 2011, Enforcement.

¹²⁸ Moritan, *Chairman's Draft Paper*, 2011, International Cooperation.

¹²⁹ Moritan, *Chairman's Draft Paper*, 2011, International Assistance.

¹³⁰ Moritan, *Chairman's Draft Paper*, 2011, International Assistance.

¹³¹ Moritan, *Chairman's Draft Paper*, 2011, International Cooperation.

¹³² Moritan, *Chairman's Draft Paper*, 2011, International Assistance.

¹³³ Simmel, *ATT Prep Committee 2010: Wednesday, 2010-07-21 Afternoon Session*, 2010.

¹³⁴ Simmel, *ATT Prep Committee 2010: Wednesday, 2010-07-21 Afternoon Session*, 2010.

¹³⁵ Simmel, *ATT Prep Committee 2010: Wednesday, 2010-07-21 Afternoon Session*, 2010.

¹³⁶ Simmel, *ATT Prep Committee 2010: Wednesday, 2010-07-21 Afternoon Session*, 2010.

ATT.¹³⁷ In general, states support a treaty that would promote cooperation with and through the United Nations and regional organizations, as well as between states; smaller groups of states also call for the treaty to promote cooperation with the arms industry.¹³⁸ As a part of this information exchange, records, legal documents regarding tracing, and evidence should be readily available and kept for a period of time; suggestions for this length range from a few weeks to indefinitely.¹³⁹ An example of the type of cooperation sought between Member States is bilateral customs cooperation agreements with open information exchange.¹⁴⁰ Regional conferences have been held, led by the United Nations Institute for Disarmament Research (UNIDR) and the European Union (EU) with the goal of ensuring that all requirements other sections of the ATT place upon states party are able to be implemented, and that cooperation is utilized when necessary.¹⁴¹ It is important to note that all provisions of assistance provided by future states party would still be bound by previously established international laws and other commitments, which include sanctions and other applied barriers or commitments.¹⁴²

International Assistance

While the final ATT has not been finished, one of the main concerns is foreign provision of resources to enforce border control, especially for developing states.¹⁴³ Developing states have spoken about their concern that their capabilities would not be able to meet the standards imposed by the ATT, often in conjunction with calling for lower standards.¹⁴⁴ This problem is exacerbated in those developing states experiencing current or recent armed conflicts; these states are at even higher risk of destabilization or perpetuation of conflict due to the continued flow of arms.¹⁴⁵ In 2006, the United Nations recognized that conflicts in Africa, including Somalia, Liberia, and the Democratic Republic of the Congo, were being fueled by arms trafficking into multiple guerilla and government militias.¹⁴⁶ States are able to provide other states with assistance in building their capacity to control their borders, and as a result this is a central component of the section on International Assistance in the most recent Chairman's non-paper.¹⁴⁷

Another area where fulfillment of treaty obligations may be problematic is in the submission of reports; many developing states cannot meet their reporting requirements because of the lack of technology, resources, or personnel to do so.¹⁴⁸ The provision of international assistance is seen as an incentive for developing states to accede to the ATT, as the concerns of developing states regarding their own abilities to fulfill the treaty's obligations would be alleviated with the knowledge that developed states would assist them, and that the treaty itself would provide a structure for the coordination of such assistance.¹⁴⁹ It is clear that if developing countries are not assisted by developed states, the principles of the ATT will not be achieved, and the unregulated and uncontrolled conventional arms trade will continue.

Conclusion

International cooperation and assistance are seen as vital components of the ATT; however, there are disagreements as to how cooperation and assistance should be addressed in the treaty. These disagreements include report-sharing, how to assist developing states in the enforcement and monitoring process, and what level of assistance should be guaranteed. The task now before member states is to decide how the international cooperation and assistance section will be finalized and implemented in the final negotiations. Some questions to consider include the following: should developed states be required, or merely encouraged, to assist developing states in fulfilling their responsibilities under the ATT? What level of transparency in reporting fits the needs and policy of your state? Should non-state actors such as IGOs, regional organizations, or even civil society organizations (i.e. NGOs) be considered part of the

¹³⁷ Maze, *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*, 2011.

¹³⁸ Maze, *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*, 2011.

¹³⁹ Maze, *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*, 2011.

¹⁴⁰ Maze, *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*, 2011.

¹⁴¹ UNIDR, *Summary Report: Regional Seminar for Countries in Eastern Asia and Pacific*, 2011.

¹⁴² Moritan, *Chairman's Draft Paper*, 2011, International Assistance.

¹⁴³ Maze, *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*, 2011.

¹⁴⁴ Maze, *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*, 2011.

¹⁴⁵ DellaVigna and La Ferrara, *Detecting Illegal Arms Trade*, 2009.

¹⁴⁶ Review Conference on Illicit Small Arms Trade, *Illicit Small Arms Trade in Africa Fuels Conflict, Attributes to Poverty, Stalls Development, Say Speakers on Second Day of UN Review Conference*, 2006.

¹⁴⁷ Maze, *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*, 2011.

¹⁴⁸ Zuber, *Giving Circles*, 2011

¹⁴⁹ Prizeman, *Assisting and Implementing: A Symbolic Relationship*, 2011.

cooperation and assistance framework of the ATT, or does your state prefer a solely bilateral or multilateral framework?

Annotated Bibliography

III. International Cooperation & Assistance

Amoa, B. (2011, March 2). *The Arms Treaty: International cooperation and Assistance*. Retrieved August 15, 2011, from <http://attmonitor.posterous.com/the-armstreaty-international-cooperation-and>.

This ATT report was released after the March 2011 PrepCom meeting. This article quotes the Australian representative at PrepCom and her definition of assistance and cooperation, which is important because even though the terms are constantly used together, they do have different meanings. The report goes on to summarize important speeches and positions at PrepCom.

Maze, K. (2011, January). *International Assistance and Cooperation in an ATT: Possibilities for a Future Treaty*. Retrieved September 9, 2011, from <http://www.unidir.org/pdf/activites/pdf12-act537.pdf>.

This paper is an excellent overview about what needs to be done in an effort to pass an effective ATT. It covers assistance and cooperation and offers suggestions on what needs to be done to make cooperation and assistance work. The suggestions go beyond the technological ideas and focus more on practical relationships between Member States and institutions.

Moritan, R. (2011, March 3). *Chairman's Draft paper*. Retrieved September 8, 2011, from <http://www.reachingcriticalwill.org/legal/att/prepcom3/docs/ChairPaper-14July2011.pdf>.

The Chairman's report of the PrepComs are vital in understand the general flow of the debate and how the ATT is being debated. The sections listed above deal with assistance and cooperation. The non-paper breaks cooperation and assistance into two categories, which is important because it defines the terms according to the PrepCom Member States.

Simmel, V. (2010, July 21). *ATT Prep Committee 2010*. Retrieved August 15, 2011, from http://disarm.igc.org/index.php?option=com_content&view=category&layout=blog&id=148&Itemid=80.

This is an important report because it looks closely at the daily operations and important speeches of the PrepComs. It is one report in a series; however, this one is particularly important because it addresses the debate occurring for the cooperation and assistance points. Statements by Belgium, Australia, and the United States regarding speak to cooperation and its place in the ATT

IV. Victims' Assistance

*"In all parts of the world, the ready availability of conventional weapons and ammunition has led to human suffering, repression, crime and terror among civilian populations. Sometimes, the irresponsible transfer of conventional weapons can destabilize security in a region, enable the violation of Security Council arms embargoes and contribute to human rights abuses."*¹⁵⁰

Introduction

The previous quote, by Mr. Sergio de Queiroz Duarte, United Nations High Representative for Disarmament Affairs, lists the crimes that can occur when there is no regulation of international arms trade. As such, in any treaty, the rights of victims must be taken into account.¹⁵¹ This is the "human" area of the treaty, where the rights of those most affected by the unregulated arms trade are addressed in a tangible sense. Currently, there is a debate if this is an issue

¹⁵⁰ de Queiroz Duarte, *Statement of the High Representative for Disarmament Affairs: Preparatory Committee for the United Nations Conference on an Arms Trade Treaty*, 2010, p. 1.

¹⁵¹ de Queiroz Duarte, *Statement of the High Representative for Disarmament Affairs: Preparatory Committee for the United Nations Conference on an Arms Trade Treaty*, 2010, p. 1.

that needs to be placed in the Arms Trade Treaty (ATT) at all, and if so, whether victims' assistance should be integrated into a different section, e.g. the Preamble, or should be given its own, separate section in the ATT.¹⁵²

Important International Humanitarian Law Relevant to Victims' Assistance

International Humanitarian Law that is relevant to the victims of an unregulated arms trade includes the *Geneva Convention on the Treatment of the Victims of War, Protocol Additional to the Geneva Conventions of 1949* (Protocol I), *United Nations Declaration on the Basic Principles of Rights of Victims of Crime and Abuse of Power*, and the *Rome Statute of the International Criminal Court* (Article 75). The *Geneva Conventions* were the first documents to recognize that victims of conflicts and enemy combatants had rights. More recently, in 2006 the United Nations General Assembly passed the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.¹⁵³ This Resolution discusses the obligation to protect individuals from international human rights law and international humanitarian law violations, and highlights the importance of granting individual rights to victims.¹⁵⁴

The Definition of Victims: Victims of Armed Conflict versus Victims of Armed Violence

States have debated as to whether or not to include Victims' Assistance as part of the ATT. However, with increasing recognition of victims' rights, there is a movement to include victims' assistance as a topic to the ATT.¹⁵⁵ If victims' assistance is to be included in the ATT, there needs to be a provision defining which victims are within the scope of the ATT. During recent ATT negotiations, states have expressed their desire to limit victims' assistance to include only victims of armed conflict and not victims of armed violence.¹⁵⁶ The reason for this limitation is to ensure that the treaty focuses more on the international arms trade and not just on the rights of victims.¹⁵⁷ NGOs have been largely in favor of including victims of armed conflict and victims of armed violence in an ATT section focusing on victims' assistance.¹⁵⁸

Although never officially defined in *Protocol I* of the Geneva Conventions, victims of international armed conflict are protected under this piece of international humanitarian law.¹⁵⁹ Victims are all individuals that suffer from an international armed conflict. An international armed conflict exists when two states resort to armed force, or when peoples "are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination."¹⁶⁰ *Protocol II* of the Geneva Convention discusses victims of non-international armed conflict.¹⁶¹ This issue is also important, because worldwide, non-international armed conflicts exist far more often than international armed conflicts. Victims of armed conflict, therefore, are all men, women, and children civilians and combatants that are injured due to armed conflict.¹⁶² As armed conflict is often perpetuated by the lack of regulation in arms trade, this is a relevant issue to the ATT. Warfare against civilian populations in an international armed conflict is prohibited by *Protocol I* in Article 51, but attacks on civilians in armed conflict often goes unnoticed or without response.¹⁶³ The goal of including this issue as a portion of the ATT will result in further recognition of victims' rights in future armed conflicts. Victims of armed violence are different from victims of armed conflict. Victims of armed violence are defined as, "persons who, individually or collectively, have suffered

¹⁵² Cevra, *Putting People First: Victim Assistance in the Arms Trade Treaty*, 2011, p. 1

¹⁵³ United Nations General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005, p. 1.

¹⁵⁴ United Nations General Assembly, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, 2005, p. 1.

¹⁵⁵ Cevra, *Putting People First: Victim Assistance in the Arms Trade Treaty*, 2011, p. 1

¹⁵⁶ Action on Armed Violence, *Armed Violence in the ATT, Report 2nd Preparatory Meeting*, February – March 2011, 2011, p. 1.

¹⁵⁷ Action on Armed Violence, *Armed Violence in the ATT, Report 2nd Preparatory Meeting*, February – March 2011, 2011, p. 1.

¹⁵⁸ Action on Armed Violence, *Armed Violence in the ATT, Report 2nd Preparatory Meeting*, February – March 2011, 2011, p. 1.

¹⁵⁹ International Committee of the Red Cross, *The Geneva Convention of 1949 and their Protocols*, 2010, p. 1.

¹⁶⁰ International Committee of the Red Cross, *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts*, 2005, p. 1.

¹⁶¹ International Committee of the Red Cross, *Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)*, 2005, p. 1.

¹⁶² International Committee of the Red Cross, *The Geneva Convention of 1949 and their Protocols*, 2010, p. 1.

¹⁶³ International Committee of the Red Cross, *Protocol Additional to the Geneva Conventions of 1949 (Protocol I)*, 1949, p. 915.

harm, including physical or psychological suffering, economic loss or substantial diminution of their fundamental rights. This includes, where appropriate, the immediate family or dependents of direct victims.”¹⁶⁴

Over 100 states have also signed onto the *Geneva Declaration on Armed Violence and Development*, which addresses the need to help curb armed violence to aid with development in developing states.¹⁶⁵ This declaration states that:

“The international community has acknowledged that armed violence and conflict impede realization of the Millennium Development Goals, and that conflict prevention and resolution, violence reduction, human rights, good governance and peace-building are key steps towards reducing poverty, promoting economic growth and improving people’s lives.”¹⁶⁶

The correlation between armed violence and the inability to meet the Millennium Development Goals (MDGs) is clear, as “22 of the 34 countries least likely to achieve the MDGs are in the midst of — or emerging from — armed conflict.”¹⁶⁷

According to the United Nations Development Programme (UNDP), more than 700,000 people are killed due to armed violence each year, and armed violence is one of the top ten causes of death in over 40 countries throughout the world.¹⁶⁸ As this is such a dynamic issue, and related to the arms trade, it is interesting to note that a section on victims’ assistance was included in the Chairman’s first non-paper, but was removed prior to the second non-paper’s publication.¹⁶⁹ States see this as an issue that could be discussed in the victims’ assistance section of the ATT, but some Non-Governmental Organizations (NGOs) believe that this issue is such an important issue that it should be a parameter for the ATT.¹⁷⁰

Also related to the definition of victims is the issue of whether gender-based violence caused by unregulated arms trade has a place in the ATT.¹⁷¹ Some states believe there is a need for mentioning female victims and their specific needs, whereas others do not see the need to specify the gender of the victims if the treaty mentions victims in an all-encompassing manner. This discussion will likely continue through until the July 2012 negotiations of the Arms Trade Treaty.¹⁷²

Extent of victims’ assistance

If victims’ assistance is given its own section in the ATT, and once States have agreed on a definition of victims, the question remains to which extent the ATT will spell out victims’ rights.¹⁷³ Some states have argued that victims’ assistance should be included to the extent that “victims rehabilitation and socioeconomic reintegration” should be a part of the ATT.¹⁷⁴ This would require specific provisions stating that victims are granted benefits or are integrated into specific rehabilitation programs. Other states have argued that victims’ assistance should not be included at all because the treaty is then not about the actual trade of the arms, but also extends to the use of arms obtained through unregulated trade.¹⁷⁵

During the 2010 Oslo Conference on Victims of Armed Violence, states met to discuss how best to help victims of armed violence.¹⁷⁶ Richard Moyes, the Policy and Research Director for Action on Armed Violence, stated that the assistance of victims of armed conflict should best be conducted as follows:

“States should affirm that they recognize the rights of victims of armed violence and commit

¹⁶⁴ Moyes. *Victims and Survivors of Armed Violence: Responding to Rights and Needs*, 2010, p. 5.

¹⁶⁵ Geneva Declaration, *Who Signed It*, n.d., p. 1.

¹⁶⁶ Geneva Declaration, *Geneva Declaration on Armed Violence and Development*, 2006, p. 1.

¹⁶⁷ Geneva Declaration, *What is the Political Context*, n.d., p. 1.

¹⁶⁸ Moyes. *Victims and Survivors of Armed Violence: Responding to Rights and Needs*, 2010, p. 4.

¹⁶⁹ Action on Armed Violence, *Armed Violence in the ATT, Report 2nd Preparatory Meeting, February – March 2011*, 2011, p. 2.

¹⁷⁰ Action on Armed Violence, *Armed Violence in the ATT, Report 2nd Preparatory Meeting, February – March 2011*, 2011, p. 2.

¹⁷¹ Acheson. *Consideration of Cooperation and Assistance*, 2011, p. 2.

¹⁷² United Nations, *Arms Trade Treaty: Preparatory Committee*, 2011, p. 1.

¹⁷³ Acheson, *Consideration of Cooperation and Assistance*, 2011, p. 1.

¹⁷⁴ Acheson, *Consideration of Cooperation and Assistance*, 2011, p. 1.

¹⁷⁵ Acheson, *Consideration of Cooperation and Assistance*, 2011, p. 1.

¹⁷⁶ United Nations Development Programme, *Armed Violence Prevention*, 2011, p. 1.

themselves to ensuring access to justice, care and rehabilitation, and social and economic inclusion; states should strengthen national public health capacities to measure and monitor patterns of armed violence; programming and policies developed to help victims of armed violence should be recognized as a component of armed violence reduction programming; indicators on assistance to victims of armed violence should be incorporated into national development plans across health, justice, disability, social and economic inclusion sectors and elsewhere; and where necessary, meeting targets for effectively achieving the rights of victims and survivors should be supported through international development cooperation.”¹⁷⁷

The Chairman’s Draft Paper of July 2011 only included one provision on victims’ assistance. In this provision, it was suggested that states commit to provide assistance for the care and rehabilitation as well as the social reintegration of victims.¹⁷⁸ However, these provisions are very vague. Delegates should debate whether more specific commitments on victims’ assistance can be made. Such commitments could include bilateral or multilateral cooperation to ensure that victims are granted the same level of protection internationally. Delegates might also consider to set up mechanisms to provide victims with monetary compensation if victims have suffered great damage or loss of property due to armed conflict/armed violence. Since the debate on the issue of victims’ assistance has been limited to whether or not victims’ assistance should be included into the ATT, discussion on what a victims’ assistance section could look like, if included, has been rather vague. Delegates are therefore asked to come up with innovative proposals, if their country favors inclusion of a victims’ assistance section.

Conclusion

Victims’ assistance is still an emerging issue and will likely be further discussed in the next ATT Preparatory Committee. It is still rather unclear whether victims’ assistance will make it into the final ATT, as it is a rather contentious issue. States must decide whether or not this will be included in the treaty, and if it is included, to what extent. The issue is not about whether or not there is a *need* to aid victims of armed violence, but whether or not there is a *place* for assistance to the victims of armed violence in the ATT. There is a number of states that believe victims of armed conflict have a place in the ATT, but victims of armed violence do not.¹⁷⁹ However, due to the influence of NGOs in regards to the ATT and a group of states who support a more expansive definition of victims to be assisted, this could change in the near future. Another question is whether both victims of armed conflict and victims of armed violence or just victims of armed conflict should be included in the ATT. This will need to be determined as negotiations in regards to victims’ assistance related to the ATT progress.

Annotated Bibliography

IV. Victims’ Assistance

Geneva Declaration. (2006). *Geneva Declaration on Armed Violence and Development*. Retrieved September 20, 2011 from <http://www.genevadeclaration.org/fileadmin/docs/Geneva-Declaration-Armed-Violence-Development-091020-EN.pdf>

This is the actual text of the Geneva Declaration on Armed Violence and Development, and it has been signed by over 100 states. Delegates representing states that have signed onto this declaration will find it useful to help guide their position as to whether or not victims’ assistance is an issue to be discussed in the ATT. This document will also be helpful to delegates representing developing nations as it points out the correlation between slow development and armed violence.

International Committee of the Red Cross. (2010). *The Geneva Conventions of 1949 and their Additional Protocols*. Retrieved September 2, 2011 from <http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm>

The International Committee of the Red Cross (ICRC) provides an extremely helpful overview of the Geneva Conventions and the additional protocols on this website. Because the Geneva Conventions are extremely relevant when it comes to any victims’ assistance issues, it is important

¹⁷⁷ Moyes. *Victims and Survivors of Armed Violence: Responding to Rights and Needs*, 2010, p. 12.

¹⁷⁸ Moritan, *Chairman’s Draft Paper*, 2011, p. 10.

¹⁷⁹ Action on Armed Violence, *Armed Violence in the ATT, Report 2nd Preparatory Meeting, February – March 2011*, 2011, p. 1.

that delegates understand what the Convention and the Protocols are about. This is an absolute must read for all delegates in the Conference on an Arms Trade Treaty.

Moyes, R. (2010). *Victims and Survivors of Armed Violence: Responding to Rights and Needs*. Retrieved September 3, 2011 from http://www.undp.org/cpr/we_do/armed_violence.shtml

This article, and other articles from this page, is extremely helpful for understanding the problems victims of armed violence face. This is one of the four papers put out by UNDP and the Norwegian Ministry of Foreign Affairs about victims of armed violence. The information portrayed on all four papers stems from the 2010 Oslo Conference on Victims of Armed Violence.

United Nations. (2011). *Arms Trade Treaty: Preparatory Committee*. Retrieved September 3, 2011 from <http://www.un.org/disarmament/convarms/ATTPrepCom/>

Once delegates are assigned the ATT committee in their respective delegations, this is the Web site that they should start with. Almost all information from the United Nations about the ATT is posted somewhere originating from this Web site. Delegates should especially keep checking for information here between the final Preparatory Committee in mid-February and when the conference begins.

United Nations General Assembly. (2005). *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*. Retrieved September 20, 2011 from

<http://www2.ohchr.org/english/law/remedy.htm/>

This document outlines many of the rights of the victims of international human rights law and international humanitarian law violations. It was created in 2005 by the United Nations General Assembly, and thus is still extremely relevant today. Delegates representing nations that view victims' assistance as a major ATT issue should plan to be familiar with this document.

V. Implementation

Introduction

One of the most important aspects of the Arms Trade Treaty (ATT) will be its strategies for implementation, as these will be necessary in order to realize the objectives and criteria outlined in the treaty. However, the early stages of the treaty process have largely focused on principles, scope, and parameters; as a result, implementation was first placed on the Provisional Programme of Work at the Third Preparatory Committee (PrepCom) in July 2011.¹⁸⁰ At this session, it quickly became clear that there are a wide variety of opinions regarding implementation, mostly concerning how strictly-detailed implementation measures will be and who should be responsible for each measure.¹⁸¹

Support for Implementation through National Systems

There have been fears of a binding ATT overstepping national sovereignty ever since the idea was first introduced, and a statement by the five permanent members of the Security Council (P5) at the Third PrepCom reiterated this concern.¹⁸² In general, the P5 believe that “there is little or no appetite for licensing or authorisation decisions [being made] by a supra-national body.”¹⁸³ In order to protect their prerogatives, many delegations have spoken in support of relying on individual states to implement the objectives of the treaty through their own domestic legislation.¹⁸⁴ This would require significant negotiations to reach an agreement, as the national systems in place today exhibit

¹⁸⁰ United Nations General Assembly, *Preparatory Committee for the United Nations Conference on the Arms Trade Treaty, Third Session: Provisional Programme of work*, 2011, p. 1.

¹⁸¹ United Nations Office for Disarmament Affairs, *Statements on an arms trade treaty*, 2011.

¹⁸² Delegation of France to the Third Preparatory Committee for the Conference on the Arms Trade Treaty, *P5 Statement at the 3rd Preparatory Committee on an Arms Trade Treaty*, 2011.

¹⁸³ Saferworld, *An Implementation Framework for the Arms Trade Treaty*, 2011, p. ii.

¹⁸⁴ United Nations Institute for Disarmament Research, *Implication of States' Views on an Arms Trade Treaty*, 2008, p. 39.

varying degrees of control, leaving gaps that can be used to facilitate illicit or harmful trade.¹⁸⁵ If this option is pursued, the minimum standards for national systems must be clearly defined in the ATT in order to ensure that each State's actions are of comparable quality.¹⁸⁶ Some areas of implementation that have been discussed in negotiations to date include authorization, notification, and, of course, enforcement.¹⁸⁷

National Systems of Authorization

Licensing, which is essentially the approval or denial of a certain transaction, forms an integral part of arms control.¹⁸⁸ It “provides a framework for authorisation of the transfer of conventional weapons.”¹⁸⁹ Licensing can cover many types of activities — such as imports, exports, re-exports, and transits or transshipments — and a comprehensive licensing system would also include “catch-all” language for cases that could otherwise circumvent close inspection.¹⁹⁰ The extent of the licensing requirements under the ATT is yet to be determined. Some states, notably the P5, are in favor of a simple treaty that does not delve into too much detail, claiming that such specificity would render it too complicated to implement.¹⁹¹ However, in order to minimize the potential for diversion of arms to illicit trade, it is important that standards be set for all parties to an arms transfer; this position is held by a majority of the negotiating states.¹⁹²

An important aspect of licensing, which is often uncontrolled, is end-user assurance with an international import certificate (IIC) or an end-user certificate (EUC).¹⁹³ Such certificates explain who will ultimately possess the contents of a transfer and for what legal purpose the items will be used.¹⁹⁴ Verifying end-use is a vital component of ensuring the safety of arms transfers because “the provision of false documentation [...] often forms part of illicit arms trafficking.”¹⁹⁵ Ideally, authorizations for arms exports, imports, or transits would be analyzed on a case-by-case basis and not granted until the corresponding authorizations were verified along with the end-user certificates.¹⁹⁶ Such analysis, which is several non-governmental organizations (NGOs) advocate for, would help licensing authorities determine if the requested transaction poses a risk of perpetuating armed violence.¹⁹⁷

For example, if an import license is requested, then the relevant governmental institution in the potential recipient state would first verify that the export license issued by the exporting state is legitimate, as well as confirm that the end-user certificate is authentic, before making a decision to approve the transfer.¹⁹⁸ This would go a long way in identifying arms diversions; however, this would be a very detailed approach to licensing that is not widely implemented at present, though it is widely supported for inclusion in the ATT.¹⁹⁹ Such verification would require cooperation on both ends of a transfer, and many delegations have noted that “preventing diversion is the responsibility of both arms exporters and importers.”²⁰⁰ Regardless of the ATT's instructions on national implementation, and in spite of the potential for variation within states, there are a few key steps that states must take, including creating a list of items that will be subject to control, establishing or identifying institutions that will be responsible for licensing activities, and delineating their duties to reduce potential confusion over mandate.²⁰¹

Even if systems of licensing are strengthened, there will always be a possibility that they could be compromised. Because of this possibility, many delegations have suggested that uniform standards for marking and tracing

¹⁸⁵ United Nations Institute for Disarmament Research, *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons*, 2006, p. 19.

¹⁸⁶ Control Arms Campaign, *Promoting Implementation of the ATT*, 2011, p. 1.

¹⁸⁷ Moritan, *Chairman's Draft Paper*, 2011, p. 6-8.

¹⁸⁸ Oxfam, *National Implementation of the Proposed Arms Trade Treaty: A Practical Guide*, 2010, p. 5.

¹⁸⁹ Oxfam, *National Implementation of the Proposed Arms Trade Treaty: A Practical Guide*, 2010, p. 5.

¹⁹⁰ Oxfam, *National Implementation of the Proposed Arms Trade Treaty: A Practical Guide*, 2010, p. 7.

¹⁹¹ Acheson, *More debate on implementation*, 2011.

¹⁹² Bromley and Holtom, *SIPRI Background Paper: Import controls and an Arms Trade Treaty*, 2011, p. 5.

¹⁹³ Bromley and Griffiths, *End-User Certificates: Improving Standards to Prevent Diversion*, 2010, p. 1.

¹⁹⁴ Wassenaar Arrangement Plenary, *End-Use Assurances Commonly Used Indicative List*, 1999.

¹⁹⁵ United Nations Institute for Disarmament Research, *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons*, 2006, p. 106.

¹⁹⁶ Amnesty International, *Key elements for implementation of the Arms Trade Treaty*, 2011, p. 1.

¹⁹⁷ International Action Network on Small Arms, *How an Arms Trade Treaty Can Help Prevent Armed Violence*, 2011, p. 25.

¹⁹⁸ International Action Network on Small Arms, *How an Arms Trade Treaty Can Help Prevent Armed Violence*, 2011, p. 27-28.

¹⁹⁹ Bromley and Griffiths, *End-User Certificates: Improving Standards to Prevent Diversion*, 2010, p. 1-2.

²⁰⁰ Spies, *Towards a Negotiating Mandate for an Arms Trade Treaty*, 2009.

²⁰¹ Oxfam, *National Implementation of the Proposed Arms Trade Treaty: A Practical Guide*, 2010, p. 6-8.

weapons should be implemented as part of the ATT.²⁰² This could be accomplished by endorsing one of the marking and tracing instruments that has been established in past agreements.²⁰³ The first of these is the *UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition* (UN Firearms Protocol).²⁰⁴ This document, which was adopted by the UN General Assembly in 2001 and entered into force in 2005, is “the only global legally-binding instrument addressing the issue of small arms.”²⁰⁵ It requires that small arms and light weapons (SALW) be marked both at the time of manufacture and at the time of import, and also requires that records of these markings and the weapons transactions be kept.²⁰⁶ However, Article 4 states that “this Protocol shall not apply to state-to-state transactions.”²⁰⁷ The second instrument mentioned is the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, which was established through the *UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*.²⁰⁸ This International Tracing Instrument (ITI) “builds upon the provisions of the United Nations Firearms Protocol, detailing measures that states should adopt in relation to marking, record keeping and tracing.”²⁰⁹ However, this is a non-binding political instrument, and the degree to which it is implemented varies by state.²¹⁰ If minimum levels of application for marking and tracing systems such as these were expanded to include all conventional weapons instead of just SALW, and effectively enforced, it could help authorities identify actors in the illicit arms trade and subsequently prevent future arms diversions: “Where any diversion or form of misuse is identified it should be possible to identify both the weapons and the individual with (the last known) legal responsibility for those [weapons].”²¹¹ However, even a comprehensive marking system would not fully guarantee the security of all arms transfers because “markings are not indelible. Serial numbers are often removed or falsified.”²¹²

National Systems of Enforcement

With enhanced authorization systems also comes a need for enhanced enforcement, not simply in verifying that treaty provisions are properly enacted but also in taking disciplinary action if they are violated.²¹³ Such enforcement is especially needed for invalid or forged transfer documentation since “few states seem to explicitly criminalize the provision of false EUCs in the context of an arms transfer between foreign countries, yet this is important for the prevention of illicit brokering.”²¹⁴

While the means of enforcement are being defined, so are the activities that will be subject to them. Brokering has emerged as a contentious topic on which member states have suggested varying degrees of application.²¹⁵ Some states, such as the United States and Egypt, do not want brokering to be included in the treaty at all.²¹⁶ Other states, such as Germany, which does not control brokers, believe that the treaty should only address unauthorized or irresponsible brokering.²¹⁷ However, a large group of states suggest that brokering not only be included in the treaty but also that it be strictly monitored.²¹⁸ A statement by the Caribbean Community (CARICOM) at the third session of the PrepCom was clear in this regard, asserting that “without the criminalization of offences under the ATT, those

²⁰² Acheson, *The debate on “elements” for an ATT continues*, 2010.

²⁰³ Acheson, *The debate on “elements” for an ATT continues*, 2010.

²⁰⁴ Acheson, *The debate on “elements” for an ATT continues*, 2010.

²⁰⁵ United Nations Programme of Action Implementation Support System, *Firearms Protocol: Background*, 2011.

²⁰⁶ United Nations Programme of Action Implementation Support System, *Firearms Protocol: Background*, 2011.

²⁰⁷ United Nations General Assembly, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (A/RES/55/255)*, 2001, p. 4.

²⁰⁸ Acheson, *The debate on “elements” for an ATT continues*, 2010.

²⁰⁹ United Nations Development Programme, *How to Guide: Small Arms and Light Weapons Legislation*, 2008, p. 105.

²¹⁰ United Nations Programme of Action Implementation Support System, *International Tracing Instrument: Reported implementation by country*, 2011.

²¹¹ United Nations Development Programme, *How to Guide: Small Arms and Light Weapons Legislation*, 2008, p. 104.

²¹² Berkol, *Marking and Tracing Small Arms and Light Weapons: Improving Transparency and Control*, 2002, p. 17.

²¹³ Amnesty International, *Key elements for implementation of the Arms Trade Treaty*, 2011, p. 1

²¹⁴ United Nations Institute for Disarmament Research, *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons*, 2006, p. 107.

²¹⁵ Acheson, *Brokering and implementation of the ATT*, 2011, p. 6.

²¹⁶ Acheson, *Brokering and implementation of the ATT*, 2011, p. 6.

²¹⁷ Acheson, *Brokering and implementation of the ATT*, 2011, p. 6.

²¹⁸ Acheson, *Brokering and implementation of the ATT*, 2011, p. 6.

individuals who violate its provisions would be allowed to engage in activities which have [...] led to armed conflict in some states.”²¹⁹

An even more complicated aspect of controlling any individual conduct, including brokering activities, is the question of jurisdiction over brokers who operate through a country other than their own in order to take advantage of less stringent controls.²²⁰ Many states claim that it would be too difficult to monitor their citizens while abroad and have even raised concerns that doing so would infringe upon the laws of the base country.²²¹ The Group for Research and Information on Peace and Security (GRIP) has suggested that states issue licenses for “third-country” brokering to their nationals.²²² Still, even in the presence of such licenses, the party responsible for verifying their authenticity would need to be clarified at the international level to prevent brokers from organizing “illicit arms transfer activities with impunity by exploiting loopholes and inconsistencies in national and regional mechanisms.”²²³

Implementation Support Unit

While the idea of national implementation is highly popular, “it seems that most delegations, with few exceptions, are in agreement that some structure of oversight would be helpful.”²²⁴ In addition, concerns have been raised about the capacity of some states, particularly small or developing states that lack the necessary infrastructure, to fulfill their projected responsibilities: “Several delegations, including developed and developing states, recognized the need for cooperation and assistance to small states implementing the treaty.”²²⁵ To alleviate the burden of increased regulation that is bound to result from the ATT, the idea of an Implementation Support Unit (ISU) has been proposed.²²⁶ The many potential duties of an ISU could include matching needs of developing states with offers of assistance on technical support, personnel training, and legal assistance to develop appropriate legislation.²²⁷ With an ISU acting as the coordinator, States could solicit such assistance from other states or international, regional, and sub-regional bodies.²²⁸

Implementation Support Units, such as the one proposed for the ATT, have been established in the past by States Parties to other arms-related agreements, such as the Anti-Personnel Mine Ban Convention and the Biological Weapons Convention.²²⁹ While states disagree over the potential mandate of an ISU for the ATT, the proposal for its establishment has been generally well-received; only a few states, such as Zimbabwe and Iran, have opposed the idea in its entirety, claiming that it is superfluous.²³⁰ However, there have been discussions over practical concerns such as size, membership, funding, and housing.²³¹ Some states would like for the ISU to be part of the United Nations budget, while others think it should be funded by States Parties.²³² Regarding housing, some states support an independent ISU that could also serve as an oversight and investigational body.²³³ Many others have argued for the ISU to be integrated with existing UN bodies, such as the UN Office of Disarmament Affairs (UNODA).²³⁴ In the

²¹⁹ Goddard, *Statement by H.E. Mr. Joseph Goddard, Permanent Representative of Barbados to the United Nations, on behalf of the Caribbean Community (CARICOM) at the Third Session of the Preparatory Committee for the United Nations Conference on the Arms Trade Treaty*, 2011, p. 1-2.

²²⁰ Acheson, *Brokering and implementation of the ATT*, 2011, p. 7.

²²¹ Acheson, *Brokering and implementation of the ATT*, 2011, p. 7.

²²² Acheson, *Brokering and implementation of the ATT*, 2011, p. 7.

²²³ Herby, *Statement of the International Committee of the Red Cross*, 2011, p. 1.

²²⁴ Prizeman, *Debate over an implementation support unit*, 2011, p. 4.

²²⁵ Spies, *Towards a Negotiating Mandate for an Arms Trade Treaty*, 2009.

²²⁶ Prizeman, *Debate over an implementation support unit*, 2011, p. 3.

²²⁷ Amnesty International, *The Arms Trade Treaty: Countering myths and misperceptions*, 2009, p. 7.

²²⁸ Control Arms Campaign, *Promoting Implementation of the ATT*, 2011, p. 2.

²²⁹ *Meeting of the States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction, Implementation Support for the Convention on the Prohibition of Anti-Personnel Mines*, 2001, p. 1.

Sixth Review Conference of the States Parties to the Convention on the Prohibition of the Development, Production And Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, *Final document (BWC/CONF.VI/6)*, 2006, p. 19.

²³⁰ Prizeman, *Debate over an implementation support unit*, 2011, p. 4.

²³¹ *International Action Network on Small Arms, Arms Trade Treaty Preparatory Committee (11-15 July 2011) Summary Report: Plenary Session: Morning - 12 July 2011*, 2011, p. 1.

²³² *International Action Network on Small Arms, Arms Trade Treaty Preparatory Committee (11-15 July 2011) Summary Report: Plenary Session: Morning - 12 July 2011*, 2011, p. 1.

²³³ Control Arms Campaign, *Promoting Implementation of the ATT*, 2011, p. 2.

²³⁴ *International Action Network on Small Arms, Arms Trade Treaty Preparatory Committee (11-15 July 2011) Summary Report: Plenary Session: Morning - 12 July 2011*, 2011, p. 1.

face of these disparities, one proposal that has received near-universal support is the designation of a national contact point within each State to facilitate international cooperation and dialogue with the ISU.²³⁵

Conclusion

As the negotiation process has not yet clearly defined the scope, parameters, or goals of the ATT, it is difficult to establish an implementation plan.²³⁶ The delegations from Russia and Egypt, in particular, have expressed that “the provisions of an ATT can only flow from its objectives.”²³⁷ Additionally, implementation will depend on decisions such as: whether or not to include ammunition in the scope, whether reducing violence or promoting human rights should be included in the primary objectives, and how an ISU would be organized, housed, and funded.²³⁸ Still, since “an arms trade treaty will only be as successful as its level of effective implementation by Member States,” the logistics of implementation should be contemplated while the scope and parameters are being established to ensure that the resulting document will be both viable and effective.²³⁹

Annotated Bibliography

V. Implementation

Acheson, R. (2011). The importance of treaty objectives for implementation. *Arms Trade Treaty Monitor*, 2011, Vol. 3 (No. 2).

The Arms Trade Treaty Monitor is a journal that can be accessed online through the Web site of its creator, www.ReachingCriticalWill.org. Established at the same time as the Open-Ended Working Group, this journal provides timely updates on ATT negotiation activities. The rest of the ATT section of the Web site is invaluable as it provides analyses of treaty progress, links to important documents, and statements presented at each Preparatory Committee session. This particular article describes the necessity for a firm foundation of principles and objectives in order to accurately discuss implementation.

Bromley, M. and H. Griffiths. (2010). End-User Certificates: Improving Standards to Prevent Diversion. *SIPRI Insights on Peace and Security*, 2010, No. 2010/3. Retrieved September 19, 2011, from <http://books.sipri.org/files/insight/SIPRIInsight1003.pdf>

The Stockholm International Peace Research Institute (SIPRI) is an independent research institute that focuses on conflict, armaments, arms control, and disarmament. Delegates will find many informative articles through SIPRI, but this one describes licensing and the concept of end-user certificates (EUCs). Bromley and Griffiths discuss the problems associated with EUCs and other forms of transfer documentation within the current arms trading system as well as recommendations for improvement.

Oxfam. (2010). *National Implementation of the Proposed Arms Trade Treaty: A Practical Guide*. Retrieved August 14, 2011, from <http://controlarms.org/wordpress/wp-content/uploads/2011/02/National-Implementation-of-the-ATT-A-practical-guide.pdf>

This guide was published by Oxfam in conjunction with Saferworld, another NGO, and the Center for International Trade and Security of the University of Georgia. It contains valuable recommendations for Member States on how they can use domestic policy to enforce the ATT. It also provides an important overview of the various mechanisms that are essential to the treaty's success.

Reaching Critical Will. (2011). *Arms Trade Treaty*. Retrieved August 29, 2011, from <http://www.reachingcriticalwill.org/legal/att/index.html>.

²³⁵ Prizeman, *Debate over an implementation support unit*, 2011, p. 3.

²³⁶ Acheson, *The importance of treaty objectives for implementation*, 2011, p. 2.

²³⁷ Spies, *Towards a Negotiating Mandate for an Arms Trade Treaty*, 2009.

²³⁸ Prizeman, *Debate over an implementation support unit*, 2011, p. 3.

²³⁹ Acheson, *Fiscal challenges to implementation*, 2011, p. 4.

This Web site provides an overview of the ATT and the progress that has been made. It also has documents available for download that the UNODA Web site lacks, specifically the Preparatory Committee Chair's non-papers from each session. Reaching Critical Will staff also provide daily summaries during Preparatory Committee sessions that analyze the views that were expressed and the progress that was made on many aspects of the ATT, including implementation. Additionally, the Web site is connected to the Arms Trade Treaty Monitor, a digest that is focused solely on the many aspects of and issues with the ATT.

Saferworld. (2011). *An Implementation Framework for the Arms Trade Treaty*. Retrieved August 14, 2011, from <http://controlarms.org/wordpress/wp-content/uploads/2011/07/An-Implementation-Framework-for-the-ATT.pdf>

This publication by Saferworld provides opinions on what should be included in several aspects of the ATT. Subjects covered include reporting, follow-up provisions, consultations, national implementation, assistance, entry into force, and amendments. It will provide delegates with a wide range of possibilities for what the ATT can achieve so that they will have a firm foundation for negotiations.

Spies, M. (2009). *Towards a Negotiating Mandate for an Arms Trade Treaty*. *Disarmament Diplomacy*, 2009, Issue No. 91. Retrieved October 1, 2011, from <http://www.acronym.org.uk/dd/dd91/91att.htm>

This article was written with support from the International Action Network on Small Arms (IANSA). It discusses the progress of the ATT since the idea was first addressed by Oscar Arias in 1997 through the second session of the Open-Ended Working Group (OEWG) in 2009. Although it does not cover the negotiation progress since the Preparatory Committee was formed, most of the ATT issues discussed have yet to achieve consensus and are still being addressed by delegates.

United Nations Development Programme. (2008). *How to Guide: Small Arms and Light Weapons Legislation*. Retrieved October 2, 2011, from http://www.poa-iss.org/MGE/Documents/Topics/UNDP_SALW_Legislation.pdf

This guide is useful for those who support the inclusion of small arms and light weapons (SALW) in the scope of the ATT. It discusses how legislation can be implemented at the national level, using both domestic systems and regional or international instruments, to address SALW proliferation. Current legislative practices are described, but the focus is laid on potential alternatives for improvement.

United Nations Institute for Disarmament Research. (2006). *Developing a Mechanism to Prevent Illicit Brokering in Small Arms and Light Weapons*. Geneva, Switzerland: UNIDIR.

The United Nations Institute for Disarmament Research (UNIDIR) "conducts research on disarmament and security with the aim of assisting the international community in their disarmament thinking, decisions and efforts." While this publication directs special attention to brokering activities, it is within the context of larger concerns of the arms trade, weapons diversion, and international stability. As such, it is a great resource for justifying the need for an ATT.

United Nations Institute for Disarmament Research. (2008). *Implication of States' Views on an Arms Trade Treaty*. Retrieved August 29, 2011, from <http://www.unidir.org/pdf/ouvrages/pdf-1-92-9045-008-B-en.pdf>

This study conducted by UNIDIR also provides a multivariate analysis of the ATT, including background, rationale, feasibility, and scope. However, the section of particular importance is that which not only discusses the various provisions that Member States think should form a part of the ATT, but why these points are important and the possible ways in which they could be addressed.

United Nations Programme of Action Implementation Support System (PoA-ISS). (2011). *International Tracing Instrument: Reported implementation by country*. Retrieved October 1, 2011, from <http://www.poa-iss.org/InternationalTracing/InternationalTracing.aspx>

The implementation map found at this Web site provides a detailed overview of what measures each state has taken to implement the International Tracing Instrument (ITI). Categories include National Legislation, Marking, Record Keeping, and International Cooperation. The PoA-ISS website as a whole also provides valuable information on the UN Programme of Action on small arms and light weapons, including documents from past meetings on the topic, which can be helpful for ATT negotiations.

VI. Verification

“Non-regulated and non-transparent arms trading and the absence of effective monitoring systems for arms trading at the international level cause serious humanitarian consequences, slow down integral human development, undermine the rule of law, increase conflicts and instability around the globe, endanger peace-building processes in various countries and spawn a culture of violence and impunity.”²⁴⁰

Introduction

The topic of verification is crucial to a treaty on the arms trade because there is a vital need for increased transparency, open exchange of information, and international cooperation. The previous quote from the Holy See at the 2011 Preparatory Committee shows the importance of establishing transparency as an important pillar of this section of the Treaty.²⁴¹ Transparency is a difficult topic to grasp because of a serious lack of documentation in the history of state actions in the arms trade.²⁴² This is primarily due to competition at regional and national levels as well as concerns associated with non-state actors producing an atmosphere of distrust and suspicion.²⁴³ The use of arms embargoes and arms trade agreements have historically resulted in politically influenced actions and very little international regulation.²⁴⁴ This is mainly caused by the lack of an internationally governing body for the arms trade and thus little adherence to international certification standards for military items.²⁴⁵ This reality means that embargoes and trade agreements often have no legal force behind them.²⁴⁶ They are also, like Russia’s arms trade with Iran since 1992, generally bilateral and not multilateral, creating no arena for substantial international transparency.²⁴⁷ It is therefore crucial that the Arms Trade Treaty (ATT) develops a clearly articulated plan to ensure arms trade monitoring, documentation, accountability, and transparency.

The need for consensus-based decisions on verification

In order to ensure that past mistakes are not made when laying the framework for the ATT, states have agreed on preliminary precautions to ensure cooperation.²⁴⁸ Led by the United States, the European Union, and Russia at the 2011 Preparatory Committee, there is clear agreement that all decisions on what will go into the Treaty on issues dealing with transparency must be consensus-based in order to ensure international agreement to the standards established.²⁴⁹ This assurance of unanimous decision-making has served to be a crucial promise for states like the United States (US) who were concerned that there would not be enough international consensus on main points to produce a strong agreement.²⁵⁰

Case Study: United States of America (U.S.)

The Bush Administration had a policy of non-participation with any discussions toward a treaty on arms trade and focused purely on national controls for this topic.²⁵¹ In 2009, the Obama Administration changed this policy on the condition that discussions continued with a purely consensus-based strategy.²⁵² In a speech that year, U.S. Secretary of State Hillary Clinton stressed the importance of ensuring wide support for the treaty to avoid potential loopholes that could be “exploited” by actors who wish to continue illegal and “irresponsible” arms trade.²⁵³ The U.S. is a good example of the importance of this point in amassing support for the ATT. At the March 2011 Preparatory Committee, Russia agreed with the U.S. and affirmed its support for a negotiation process that would be consensus-

²⁴⁰ The Holy See, *Statement of the Holy See*, 2011, p. 1.

²⁴¹ The Holy See, *Statement of the Holy See*, 2011, p. 1.

²⁴² Brzoska, *Monitoring and verification of the arms trade and arms embargoes*, 2010, p. 1.

²⁴³ Brzoska, *Monitoring and verification of the arms trade and arms embargoes*, 2010, p. 1.

²⁴⁴ Brzoska, *Monitoring and verification of the arms trade and arms embargoes*, 2010, p. 1.

²⁴⁵ Brzoska, *Monitoring and verification of the arms trade and arms embargoes*, 2010, p. 1.

²⁴⁶ Epps, *UN Arms Embargoes and the Arms Trade Treaty*, 2010, p. 1.

²⁴⁷ Beehner, *Russia-Iran Arms Trade*, 2006, p. 1.

²⁴⁸ Arms Trade Treaty Monitor. *ATT PrepCom Summaries: March 4, 2011 (AM Session)*, 2011, p. 1.

²⁴⁹ Arms Trade Treaty Monitor. *ATT PrepCom Summaries: March 4, 2011 (AM Session)*, 2011, p. 1.

²⁵⁰ Mohammed, *US Reverses stance on treaty to regulate arms trade*, 2009, p. 1.

²⁵¹ Mohammed, *US Reverses stance on treaty to regulate arms trade*, 2009, p. 1.

²⁵² Mohammed, *US reverses stance on treaty to regulate arms trade*, 2009, p. 1.

²⁵³ Mohammed, *US reverses stance on treaty to regulate arms trade*, 2009, p. 1.

based.²⁵⁴ This shows that states beyond the U.S. and other western nations like the United Kingdom (U.K.) and France that would traditionally seek transparency in their policies have recognized this issue as crucial to the success of the ATT. This is most likely because of the lack of international regulation on the arms trade up until this point and crucial need for some binding consensual agreement.²⁵⁵

In addition to a call for consensus-based international decision-making as grounds for successful verification procedures, *A/RES/64/48*, adopted in 2009, calls upon all Member States to fulfill the recommendations of the Group of Governmental Experts (GGE).²⁵⁶ The GGE recommended that states comply with international governing bodies of all arms embargos, trades and information disclosure. The GGE says that transparency is required in an “open manner” and asks that states comply with already existing regulatory bodies on arms trade in an effort to increase credibility.²⁵⁷ *A/RES/64/48* is one of the primary documents that discuss the importance of transparency. Initially, draft resolutions and reports on the ATT were focused on implementation efforts.²⁵⁸ The verifications aspect of the ATT continued to gain importance particularly when states acknowledged the need for consensus-based discussion and required a mechanism to ensure this.²⁵⁹

Record keeping, reporting and transparency

The verification section of the treaty should center mainly on the topics of record keeping and certification, reporting, and ensuring transparency. The issue of national implementation of these aspects of the treaty is covered primarily in the Implementation section of this guide. Concerning verification, it was established in the *Chairman of the 2011 Preparatory Committee’s Working Paper* in 2011 that there should be a “national contact point” for each state.²⁶⁰ These can be compared to the national contact points that exist in the *Programme of Action on the Illicit Trade of Small and Light Weapons* (POAITS LW).²⁶¹ According to the POAITS LW, these contact points act as a liaison between states to ensure correct implementation of the POAITS LW.²⁶² The national contact point will receive all information and requests having to do with the Treaty, and will thus ensure the free exchange of information and cooperation.²⁶³ These points are set to be re-assigned to new locations on a quarterly basis, but it is plausible to assume that if states already have a contact point established for small arms and light weapons that they could initially use the same one for the ATT.²⁶⁴ This is crucial for verification because it will ensure that these bodies can continually update the international regulatory body, known as the Implementation Support Unit (ISU).²⁶⁵

The ISU is foreseen to be established by the Treaty to serve as a mechanism to receive all documentation and receive annual reports from states.²⁶⁶ The ISU plays a double role of assisting member states in domestic implementation (dealt with more in the Implementation section of this guide) and for verification. For verification purposes, the ISU is responsible for keeping track of and monitoring data coming from countries. The ISU will be responsible for assigning the national points of contact and monitoring them accordingly. It will also re-assign them to new locations on a quarterly basis.²⁶⁷ In addition to these protocols, states are encouraged to maintain constant information sharing to ensure confidence building in the Treaty and spread awareness.²⁶⁸ These methods of ensuring that all information is accounted for and individual states are held accountable for their actions on an international level are put in place with the assumption that national implementation of the Treaty will occur in a strict and methodical manner with each state taking appropriate action to implement the obligations outlined in the Treaty. This is also similar to the recommendations of the POAITS LW, which calls upon states to establish “national coordination agencies” for

²⁵⁴ Arms Trade Treaty Monitor, *ATT PrepCom Summaries: March 4, 2011 (AM Session)*, 2011, p. 1.

²⁵⁵ Arms Trade Treaty Monitor, *ATT PrepCom Summaries: March 4, 2011 (AM Session)*, 2011, p. 1.

²⁵⁶ United Nations General Assembly, *Resolution 63*, 2009, p. 1.

²⁵⁷ United Nations General Assembly, *Resolution 48*, 2009, p. 1.

²⁵⁸ Arms Trade Treaty Monitor, *ATT PrepCom Summaries: March 4, 2011 (AM Session)*, 2011, p. 1.

²⁵⁹ Arms Trade Treaty Monitor, *ATT PrepCom Summaries: March 4, 2011 (AM Session)*, 2011, p. 1.

²⁶⁰ Moritan, R, *Chairman’s Draft Paper*, 2011, p. 1.

²⁶¹ United Nations Programme of Action. *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small and Light Weapons In All Aspects*, 2001, p. 1.

²⁶² United Nations Programme of Action, *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small and Light Weapons In All Aspects*, 2001, p. 1.

²⁶³ Moritan, *Chairman’s Draft Paper*, 2011, p. 8.

²⁶⁴ Moritan, *Chairman’s Draft Paper*, 2011, p. 8.

²⁶⁵ Moritan, *Chairman’s Draft Paper*, 2011, p. 8.

²⁶⁶ Moritan, *Chairman’s Draft Paper*, 2011, p. 8.

²⁶⁷ Moritan, *Chairman’s Draft Paper*, 2011, p. 8.

²⁶⁸ Moritan, *Chairman’s Draft Paper*, 2011, p. 8.

guidance on policy and research.²⁶⁹ The goal of these domestic measures is to lessen the potential for illicit trade and transfer of arms at not only a non-state level but in all aspects.²⁷⁰ Additionally, *A/RES/63/240* encourages “international, regional and sub-regional levels” to take on new “initiatives” associated with confidence building toward the ATT and for general responsible arms trade.²⁷¹ *A/RES/63/240* also recommends that transparency be increased with workshops and seminars on a regional and sub-regional basis.²⁷² This will be a plausible reality as states establish their national institutions and provide a base of support throughout the world.²⁷³

Conclusion

As the ATT inches closer to becoming a reality, the topic of verification becomes more and more important. This is because there has never been a strong international regulatory body on the arms trade and thus no method of ensuring transparency, record keeping and reporting. The issue that is going to decide the success of this section of the treaty is likely to be transparency. As shown above, it is important that states start and implement methods to ensure transparency once the treaty is established. This is the main question that delegates must consider. Delegates should also ensure that they have a good understanding of the historic problems associated with transparency in the arms trade and debates surrounding the issue.

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VI. Verification

Brzoska, M. *Monitoring and verification of the arms trade and arms embargoes*. (2010). Retrieved August 31, 2011, from <http://www.unidir.org/pdf/articles/pdf-art3000.pdf>

This article is extremely helpful in explaining the controversial aspects of the verification topic of the ATT. Brzoska discusses, in particular, the problem with transparency and lack of “opacity” in the arms trade between both state and non-state actors. Delegates can use this article as a good analysis of several topics associated with transparency, particularly the legal issues.

The Holy See. *Statement of the Holy See*. (2011). Retrieved September 21, 2011, from http://www.vatican.va/roman_curia/secretariat_state/2011/documents/rc_seg-st_20110711_commercio-armi_en.html

This statement from the Holy See embodies the importance of transparency for the ATT. Delegates should read the entire statement to get a good idea of what many countries current stance is on the topic of verification. This can be useful for other topics as well, including international cooperation and assistance.

Moritan, Roberto Garcia. *Chairman’s Draft Paper*. (2011). Retrieved August 20, 2011, from <http://www.adh-geneve.ch/RULAC/pdf/Chairman-Draft-ATT-blog.pdf>

The Chairman’s Draft Paper from the Chairman of the 2011 Preparatory Committee on the ATT is a draft concept of how the ATT can be expected to look in terms of lay out. It is particularly helpful in determining the types of concepts that need to be discussed at a general level and putting everything into context. I would use this as a very early reference in preparation for more detailed research.

Mohammed, A. (2009). *US reverses stance on treaty to regulate arms trade*. Retrieved October 14, 2009, from <http://www.reuters.com/article/2009/10/15/us-arms-usa-treaty-idustre59e0q920091015>

This article gives an overview of why the Obama Administration changed the US policy of noncompliance with an international arms trade that was established by the Bush Administration. It is a great case study to use in understanding the verification process and surrounding debates and issues. Additionally however,

²⁶⁹ United Nations Programme of Action. *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small and Light Weapons In All Aspects*, 2001, p. 1.

²⁷⁰ United Nations Programme of Action, *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small and Light Weapons In All Aspects*, 2001, p. 1.

²⁷¹ United Nations General Assembly, *Resolution 63*, 2009, p. 1

²⁷² United Nations General Assembly, *Resolution 48*, 2009, p. 1

²⁷³ Moritan, *Chairman’s Draft Paper*, 2011, p. 9.

delegates need to pay close attention the Vienna Convention on the Laws of Treaties and not let this article sway them in opinion one way or another.

United Nations General Assembly. (2010, January 12). *Resolution 64/48*. Retrieved on August 31, 2011 from <http://www.un.org/Docs/journal/asp/ws.asp?m=A/Res/64/48>

This resolution, adopted by the General Assembly in 2009, is one of the first broadly encompassing agreements on issues particularly to do with verification for the ATT. It discusses many of the surrounding topics and debates raised in discussion. This is a good place to start in understanding the issues surrounding the ATT.

United Nations Programme of Action. *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small and Light Weapons in All Aspects*. (2001). Retrieved on September 21, 2011 from <http://www.poa-iss.org/poa/poahtml.aspx>

This Programme of Action is crucial to understanding the reporting and record keeping aspect of the ATT. The issues to do with national contact points in particular are very similar to those planned for the ATT. Delegates should use this as a guide in making policy proposals for this aspect of the Treaty.

VII. Final Provisions

Introduction

The Final Provisions of the Arms Trade Treaty (ATT) are crucial to ensuring an internationally encompassing agreement that will succeed in regulating international arms trade. The final provisions of any treaty are concerned with ratification, accession, and entry into force and must be carefully discussed and implemented. The depository of a treaty is the entity that is responsible for the “written instruments” of a treaty after the writing process has been completed and who is in charge of keeping members of the treaty updated on any developments.²⁷⁴ For the ATT, the depository is the Secretary-General of the United Nations (UN) as is common for multilateral treaties negotiated under the auspices of the UN. According to the treaty section of the UN Office for Legal Affairs, there are currently over 500 treaties deposited with the Secretary-General.²⁷⁵ The official languages of the ATT are Arabic, Chinese, English, French, Russian and Spanish.²⁷⁶

Signature, Ratification, Accession

It is important to understand the difference between the terms signature, ratification and accession as they apply to all international agreements, and therefore to the future ATT. Signature means that the state in question is agreeing to acknowledge the treaty and refrains from undermining the purpose of the treaty.²⁷⁷ For example, a president may sign a treaty and announce his or her support for the aims of the treaty. Although Article 12 of the *Vienna Convention on the Law of Treaties* states that a signature is an agreement to be legally bound by the treaty, many multilateral treaties have a ratification clause that states otherwise.²⁷⁸ Ratification refers to the decision of a state to be bound by the treaty.²⁷⁹ There are several components of ratification that must be understood. At a national level, ratification is achieved through gaining consensus that the state wishes to ratify the treaty, through a parliamentary vote or other necessary actions.²⁸⁰ The conditions for a valid act of ratification are normally laid out in the state’s Constitution. At an international level, treaties must receive a certain number of ratifications by states regardless of their internal validity to enter into force.²⁸¹ A multilateral treaty will only have legally binding force if that number of ratifications is reached. States that subsequently ratify the treaty in question will immediately bound by it. Accession means that a state has accepted the opportunity to become part of the treaty.²⁸² Accession has the same legally

²⁷⁴ United Nations Office for Legal Affairs, *United Nations Treaty Collection*, 2011, p. 1.

²⁷⁵ United Nations Office for Legal Affairs, *United Nations Treaty Collection*, 2011, p. 1.

²⁷⁶ Arms Trade Treaty Legal Blog, *Third PrepCom*, 2011, p. 1.

²⁷⁷ United Nations Treaty Series, *Vienna Convention on the Law of Treaties*, 1969, p. 6.

²⁷⁸ United Nations Treaty Series, *Vienna Convention on the Law of Treaties*, 1969, p. 6.

²⁷⁹ United Nations Treaty Series, *Vienna Convention on the Law of Treaties*, 1969, p. 6.

²⁸⁰ United Nations Office for Legal Affairs, *Treaty Reference Guide*, 2001, p. 1.

²⁸¹ United Nations Office for Legal Affairs, *Treaty Reference Guide*, 2001, p. 1.

²⁸² United Nations Office for Legal Affairs, *Treaty Reference Guide*, 2001, p. 1.

binding effect as ratification of a treaty but unlike the ratification process, accession usually occurs after a treaty has gained the required number of ratifications to enter into force.²⁸³ The requirements for accession depend on the treaty itself. The depository of the ATT, the Secretary-General, is responsible for informing states of all signatures, ratifications, acceding states, and the eventual entry into force of the ATT.²⁸⁴

Debate surrounding the entry into force of the future ATT

In order for an international treaty to “enter into force,” a certain number of ratifications by Member States are required. This signifies that the treaty has been recognized by the international community and a significant number of states have agreed to its aims.²⁸⁵ Debate surrounds the number of ratifications needed for every treaty to enter into force, especially regarding controversial agreements like the ATT.²⁸⁶ It can become difficult for a treaty to enter into force because of a high threshold of ratifications. For example, the Comprehensive-Nuclear-Test-Ban-Treaty (CTBT), an internationally encompassing agreement that regulates nuclear weapons tests, has struggled to enter into force because of a reluctance of many states, including the US and China, to ratify the treaty.²⁸⁷ This can cause a lack of efficiency for the successful and timely implementation of the treaty.²⁸⁸

At the Third Preparatory Committee for the ATT in 2011, there was significant debate over the number of ratifications needed for the ATT to enter into force.²⁸⁹ The European Union (EU) had a policy highlighting a quick entry into force and thus agreed with states like Uruguay, Mexico, and Colombia who supported a total of 30 ratifications for entry into force. Meanwhile, Russia sided with states like the U.S., Australia, and New Zealand, arguing that 60 is a safer number for entry into force.²⁹⁰ Those supporting a large number of ratifications sighted the need for international agreement and the involvement of many nations before the Treaty is universally accepted.²⁹¹

In addition to establishing rules on the number of ratifications needed to enter into force, there is also the question of how long to wait after these ratifications have been acquired. A certain number of days is always established to wait before the treaty will enter into force once it has received the necessary number of ratifications.²⁹² The following rules have been established regarding entry into force for the ATT: The Treaty will enter into force on the first day of the month after the required number of ratifications has been reached.²⁹³ For states whose ratification or accession is deposited subsequent to the entry into force, it will enter into force on the 30th day following the date of deposit of their instruments of ratification or accession.²⁹⁴

Withdrawal

The rules and regulations regarding withdrawal from a treaty vary depending on the dangers associated with this action. For agreements associated with arms of any kind, there are generally strict guidelines that states must agree to upon ratification of the treaty. The issue of withdrawal can take on a political aspect in many cases. For example, in the case of the Nuclear Nonproliferation Treaty (NPT), the Democratic Republic of Korea (DPRK) used withdrawal as a threat to Western nations who sought to regulate the country’s nuclear program. The DPRK eventually did withdraw officially from the NPT in 2003 after approximately 10 years of disagreement. It also succeeded in escaping the “three month notification period,” imposed on all signing members, which forced all states wishing to withdraw to notify the other members three months prior to their planned withdrawal. This period of time was agreed upon to essentially provide a “cooling off” time for the nations in question and potentially pave the way for compromises and a suspension of the withdrawal.²⁹⁵ Similar rules are imposed in other treaties and used as leverage to warrant agreements and compromises by both the nations wishing to withdraw and the remaining members of the treaty.

²⁸³ United Nations Office for Legal Affairs, *Treaty Reference Guide*, 2001, p. 1.

²⁸⁴ United Nations Office for Legal Affairs, *Treaty Reference Guide*, 2001, p. 1.

²⁸⁵ United Nations Office for Legal Affairs, *Treaty Reference Guide*, 2001, p. 1.

²⁸⁶ Arms Trade Treaty Blog, *Day 3 of the Third PrepCom*, 2011, p. 1.

²⁸⁷ McGrath, *Entry into Force of the CTBT: All Roads Point to Washington*, 2008, p. 1.

²⁸⁸ McGrath, *Entry into Force of the CTBT: All Roads Point to Washington*, 2008, p. 1.

²⁸⁹ Arms Trade Treaty Blog, *Day 3 of the Third PrepCom*, 2011, p. 1.

²⁹⁰ Arms Trade Treaty Blog, *Day 3 of the Third PrepCom-National Implementation*, 2011, p. 1.

²⁹¹ Arms Trade Treaty Blog, *Day 3 of the Third PrepCom- National Implementation*, 2011, p. 1.

²⁹² Arms Trade Treaty Monitor, *Final Provisions*, 2011, p. 1.

²⁹³ Arms Trade Treaty Monitor, *Final Provisions*, 2011, p. 1.

²⁹⁴ United Nations Children’s Fund, *Introduction to the Convention on the Rights of the Child*, 1989, p. 2.

²⁹⁵ Korean Central News Agency, *Detailed Report’ Explains NPT Withdrawal*, 2003, p. 1.

In recent discussion, the following rules have been discussed for the ATT: The Treaty is proposed to have an unlimited duration once signed by a state. In order to withdraw, states must submit written notification and the withdrawal will take effect 180 days after the receipt of notification, unless the state specifies a later date that they wish to withdraw.²⁹⁶ These plans are subject to change as the discussions continue over what will go into the final draft of the treaty.²⁹⁷ As with all aspects of the Final Provisions, like the number of ratifications needed for entry into force, there are political motivations behind these discussions.²⁹⁸

Conclusion

Overall, the Final Provisions section of the ATT is crucial for the future of the Treaty and the potential debates and conflicts that may arise between states. Delegates need to have a thorough understanding of the rules behind ratification, signature, accession, and entry into force before tackling the additional issues associated with the ATT. Paying close attention to the documentation of debate within the Preparatory Committees is the best way to gain a good understanding of what to expect, along with carefully studying the overview of rules in the *Vienna Convention on the Laws of Treaties* and the UN Office for Legal Affairs.

Annotated Bibliography

VII. Final Provisions

Arms Trade Treaty Blog. *Day 3 of the Third PrepCom*. (2011). Retrieved August 29, 2011, from <http://armstradetreaty.blogspot.com/2011/07/day-3-of-third-prepcom-national.html>

This is a very detailed analysis of the 2011 Preparatory Committee. The 2011 Preparatory Committee covered the important aspects of the ratification, entry into force topics and debates that surround it. Delegates should read this document to become familiar with the current discussions on these topics and use it as a basis for forming policy proposals.

Preparatory Committee for the United Nations Conference on the Arms Trade Treaty. (2010). *Delivered by the High Representative for Disarmament Affairs*. Retrieved on August 30, 2011, from <http://www.un.org/disarmament/convarms/ATTPrepCom/Documents/Statements-UN/HROpeningstatement.pdf>

This shows a very accurate portrayal of the discussion and debate at a Preparatory Committee for the ATT. At the July, 2010 Preparatory Committee, the main topic in this statement is the previous UN action on the process of creating an arms trade treaty and what had been covered. Looking to the future, the High Representative of Disarmament Affairs stresses the importance of cooperation and coordination between states.

United Nations Children's Fund. *Introduction to the Convention on the Rights of the Child*. (1989). Retrieved August 31, 2011, from <http://www.unicef.org/crc/files/Definitions.pdf>

This source, while seemingly out of place for an Arms Trade Treaty guide gives a good overview of how the ratification, signatures, and accession process works for international treaties. It broadly encompasses these terms and provides a variety of examples which clarifies confusion that may arise in understanding the difference between these terms.

The UN Office for Legal Affairs. *Treaty Reference Guide*. (2001). Retrieved on September 22, 2011, from <http://untreaty.un.org/ola-internet/assistance/guide.htm>

This source is valuable for all aspects of the ratification, signature, and accession process for treaties. It is a great place for delegates to become familiar with these topics and see examples of treaties throughout history. This is a good place to start for policy proposals on the topic of final provisions as well

United Nations Treaty Series. *Vienna Convention on the Laws of Treaties* (1969). Retrieved on September 22, 2011,

²⁹⁶ Moritan, *Chairman's Draft Paper*, 2011, p. 11.

²⁹⁷ Arms Trade Treaty Blog, *Day 3 of the Third PrepCom*, 2011, p. 1.

²⁹⁸ Arms Trade Treaty Blog, *Day 3 of the Third PrepCom*, 2011, p. 1.

from untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

This document is crucial to any discussion of the issues of entry into force and any mechanisms to introduce treaties. It is one of the first international agreements on establishing treaties and hands down important protocols to be followed. Delegates should look specifically at Articles 11 and 18, focusing on final provisions.

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Rules of Procedure Conference on the Arms Trade Treaty

Introduction

1. These rules shall be the only rules which apply to the Conference on the Arms Trade Treaty (hereinafter referred to as “the Conference”) and shall be considered adopted by the Conference prior to its first meeting.
2. For purposes of these rules, the Plenary Director, the Assistant Director(s), the Under-Secretaries-General, and the Assistant Secretaries-General, are designates and agents of the Secretary-General and Director-General, and are collectively referred to as the “Secretariat.”
3. Interpretation of the rules shall be reserved exclusively to the Director-General or her or his designate. Such interpretation shall be in accordance with the philosophy and principles of the National Model United Nations and in furtherance of the educational mission of that organization.
4. For the purposes of these rules, “President” shall refer to the chairperson or acting chairperson of the Conference.

I. SESSIONS

Rule 1 - Dates of convening and adjournment

The Conference shall meet, commencing and closing on the dates designated by the Secretary-General.

Rule 2 - Place of sessions

The Conference shall meet at a location designated by the Secretary-General.

II. AGENDA

Rule 3 - Provisional agenda

The provisional agenda shall be drawn up by the Secretary-General and communicated to the Members of the Conference at least sixty days before the opening of the session.

Rule 4 - Adoption of the agenda

The agenda provided by the Secretary-General shall be considered adopted as of the beginning of the session.

Rule 5 - Explanatory memorandum

Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents.

III. SECRETARIAT

Rule 6 - Duties of the Secretary-General

1. The Secretary-General or her/his designate shall act in this capacity in all meetings of the Conference.
2. The Secretary-General shall provide and direct the staff required by the Conference and be responsible for all the arrangements that may be necessary for its meetings.

Rule 7 - Duties of the Secretariat

The Secretariat shall receive, print, and distribute documents, reports, and treaty segments of the Conference, and shall distribute documents of the Conference to the Members, and generally perform all other work which the Conference may require.

Rule 8 - Statements by the Secretariat

The Secretary-General, or her/his representative, may make oral as well as written statements to the Conference concerning any question under consideration.

Rule 9 - Selection of the President

The Secretary-General or her/his designate shall appoint, from applications received by the Secretariat, a President who shall hold office and, *inter alia*, chair the Conference for the duration of the session, unless otherwise decided

by the Secretary-General.

Rule 10 - Replacement of the President

If the President is unable to perform her/his functions, a new President shall be appointed for the unexpired term at the discretion of the Secretary-General.

IV. LANGUAGE

Rule 11 - Official and working language

English shall be the official and working language of the Conference.

Rule 12 - Interpretation (oral) or translation (written)

Any representative wishing to address any body or submit a document in a language other than English shall provide interpretation or translation into English.

This rule does not affect the total speaking time allotted to those representatives wishing to address the body in a language other than English. As such, both the speech and the interpretation must be within the set time limit.

V. CONDUCT OF BUSINESS

Rule 13 – Quorum

The President may declare a meeting open and permit debate to proceed when representatives of at least one third of the members of the Conference are present. The presence of representatives of a majority of the members of the Conference shall be required for any decision to be taken.

For purposes of this rule, “members of the Conference” means the total number of members (not including observers) in attendance at the first night’s meeting.

Rule 14 - General powers of the President

In addition to exercising the powers conferred upon him or her elsewhere by these rules, the President shall declare the opening and closing of each meeting of the Conference, direct the discussions, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The President, subject to these rules, shall have complete control of the proceedings of the Conference and over the maintenance of order at its meetings. He or she shall rule on points of order. He or she may propose to the Conference the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times the representative of each member may speak on an item, the adjournment or closure of the debate, and the suspension or adjournment of a meeting.

Included in these enumerated powers is the President’s power to assign speaking times for all speeches incidental to motions and amendment. Further, the President is to use her/his discretion, upon the advice and at the consent of the Secretariat, to determine whether to entertain a particular motion based on the philosophy and principles of the NMUN. Such discretion should be used on a limited basis and only under circumstances where it is necessary to advance the educational mission of the Conference. For purposes of this rule, the President’s power to propose to the Conference entails her/his power to entertain motions, and not to move the body on his or her own motion.

Rule 15

The President, in the exercise of her or his functions, remains under the authority of the Conference.

Rule 16 - Points of order

During the discussion of any matter, a representative may rise to a point of order, which shall be decided immediately by the President. Any appeal of the decision of the President shall be immediately put to a vote, and the ruling of the President shall stand unless overruled by a majority of the members present and voting.

Such points of order should not under any circumstances interrupt the speech of a fellow representative. Any questions on order arising during a speech made by a representative should be raised at the conclusion of the speech, or can be addressed by the President, sua sponte, during the speech. For purposes of this rule, the members present and voting mean those members (not including observers) in attendance at the meeting during which this motion comes to vote.

Rule 17

A representative may not, in rising to a point of order, speak on the substance of the matter under discussion.

Rule 18 - Speeches

1. No one may address the Conference without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak.
2. Debate shall be confined to the question before the Conference, and the President may call a speaker to order if her/his remarks are not relevant to the subject under discussion.
3. The Conference may limit the time allowed to speakers and all representatives may speak on any question. Permission to speak on a motion to set such limits shall be accorded only to two representatives favoring and two opposing such limits, after which the motion shall be put to the vote immediately. When debate is limited and a speaker exceeds the allotted time, the President shall call her or him to order without delay.

In line with the philosophy and principles of the NMUN, in furtherance of its educational mission, and for the purpose of facilitating debate, if the President determines that the Conference in large part does not want to deviate from the limits to the speaker's time as it is then set, and that any additional motions will not be well received by the body, the President, in her/his discretion, and on the advice and consent of the Secretariat, may rule as dilatory any additional motions to change the limits of the speaker's time.

Rule 19 - Closing of list of speakers

Members may only be on the list of speakers once but may be added again after having spoken. During the course of a debate the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. When there are no more speakers, the President shall declare the debate closed. Such closure shall have the same effect as closure by decision of the Conference.

The decision to announce the list of speakers is within the discretion of the President and should not be the subject of a motion by the Conference. A motion to close the speakers' list is within the purview of the Conference and the President should not act on her/his own motion.

Rule 20 - Right of reply

If a remark impugns the integrity of a representative's State, the President may permit that representative to exercise her/his right of reply following the conclusion of the controversial speech, and shall determine an appropriate time limit for the reply. No ruling on this question shall be subject to appeal.

For purposes of this rule, a remark that impugns the integrity of a representative's State is one directed at the governing authority of that State and/or one that puts into question that State's sovereignty or a portion thereof. All interventions in the exercise of the right of reply shall be addressed in writing to the Secretariat and shall not be raised as a point of order or motion. The reply shall be read to the Conference by the representative only upon approval of the Secretariat, and in no case after voting has concluded on all matters relating to the treaty, during the discussion of which the right arose.

Rule 21 - Suspension of the meeting

During the discussion of any matter, a representative may move the suspension of the meeting, specifying a time for reconvening. Such motions shall not be debated but shall be put to a vote immediately, requiring the support of a majority of the members present and voting to pass.

Rule 22 - Adjournment of the meeting

During the discussion of any matter, a representative may move the adjournment of the meeting. Such motions shall not be debated but shall be put to the vote immediately, requiring the support of a majority of the members present and voting to pass. After adjournment, the Conference shall reconvene at its next regularly scheduled meeting time.

As this motion, if successful, would end the meeting until the Conference's next regularly scheduled session the following year, and in accordance with the philosophy and principles of the NMUN and in furtherance of its educational mission, the President will not entertain such a motion until the end of the last meeting of the

Conference.

Rule 23 - Order of motions

Subject to rule 23, the motions indicated below shall have precedence in the following order over all proposals or other motions before the meeting:

- a) To suspend the meeting;
- b) To adjourn the meeting;

Rule 24 - Proposals and amendments

Proposals and substantive amendments shall be submitted in writing to the Secretariat, with the names of twenty percent of the members of the Assembly that would like the Assembly to consider the proposal or amendment. The Secretariat may, at its discretion, approve the proposal or amendment for circulation among the delegations. As a general rule, no proposal shall be put to the vote at any meeting of the Assembly unless copies of it have been circulated to all delegations. The President may, however, permit the discussion and consideration of proposals and amendments, even though such proposals and amendments have not been circulated. If the sponsors agree to the adoption of an amendment, the proposal shall be modified accordingly and no vote shall be taken on the amendment. If any sponsors should oppose the adoption of an amendment, a substantive vote on the amendment shall be taken prior to the consideration of the proposal during voting procedure. A document modified in this manner shall be considered as the proposal pending before the Assembly for all purposes, including subsequent amendments.

For purposes of this rule, all "proposals" shall be in the form of working papers prior to their approval by the Secretariat. Working papers will not be copied, or in any other way distributed, to the Assembly by the Secretariat. The distribution of such working papers is solely the responsibility of the sponsors of the working papers. Along these lines, and in furtherance of the philosophy and principles of NMUN and for the purpose of advancing its educational mission, representatives should not directly refer to the substance of a working paper that has not yet been accepted as a draft treaty segment.

After approval of a working paper, the proposal becomes a draft treaty segment and will be copied by the Secretariat for distribution to the Assembly. These draft treaty segments are the collective property of the Assembly and, as such, the names of the original sponsors will be removed. The copying and distribution of amendments is at the discretion of the Secretariat, but the substance of all such amendments will be made available to all representatives in some form.

Rule 25 - Withdrawal of motions

A proposal or a motion may be withdrawn by its sponsor at any time before voting has commenced, provided that it has not been amended. A motion thus withdrawn may be reintroduced by any representative.

VI. VOTING

Rule 26 - Voting rights

Each member of the Conference shall have one vote.

This rule applies to substantive voting on amendments, draft treaty segments, and portions of draft treaty segments divided out by motion. As such, all references to member(s) do not include observers, who are not permitted to cast votes on substantive matters.

Rule 27 - Request for a vote

A proposal or motion before the Conference for decision shall be voted upon if any member so requests. Where no member requests a vote, the Conference may adopt proposals or motions without a vote.

For purposes of this rule, proposal means any draft treaty segment, an amendment thereto, or a portion of a draft treaty segment divided out by motion. Just prior to a vote on a particular proposal or motion, the President may ask if there are any objections to passing the proposal or motion by acclamation, or a member may move to accept the proposal or motion by acclamation. If there are no objections to the proposal or motion, then it is adopted without a vote.

Rule 28 – Adoption of Decisions

1. Decisions on matters of procedure shall be taken by a majority of representatives present and voting.
2. The substantive work of the body shall be decided in two separate votes. The first, regarding proposals, shall be taken by a majority of the representatives present and voting. The second, which shall be a compilation of previously accepted proposals, shall be taken by two-thirds of the representatives present and voting. In all substantive votes, every effort should be made to reach agreement on substantive matters by means of consensus.
3. For the purpose of tabulation, the phrase “members present and voting” means members casting an affirmative or negative vote. Members which abstain from voting are considered as not voting.

Only those members who designate themselves as “present” or “present and voting” during the attendance roll call, or in some other manner communicate their attendance to the President and/or Secretariat, are permitted to vote and, as such, no others will be called during a roll-call vote. Any representatives replying, “pass,” must, on the second time through, respond with either “yes” or “no.” A “pass” cannot be followed by a second “pass” for the same proposal or amendment, nor may it be followed by an abstention on that same proposal or amendment, nor may the representative explain their vote.

Rule 29 - Explanations of vote

Representatives may make brief statements consisting solely of explanation of their votes after the voting has been completed. The representatives of a member sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended, and the member has voted against the proposal or motion.

All explanations of vote must be submitted to the President in writing before debate on the treaty is closed, except where the representative is of a member sponsoring the proposal, as described in the second clause, in which case the explanation of vote must be submitted to the President in writing immediately after voting on the treaty ends.

Rule 30 - Conduct during voting

After the President has announced the commencement of voting, no representatives shall interrupt the voting except on a point of order in connection with the actual process of voting.

Rule 31 - Division of proposals and amendments

Immediately before a proposal or amendment comes to a vote, a representative may move that parts of a proposal or of an amendment should be voted on separately. If there are calls for multiple divisions, those shall be voted upon in an order to be set by the President where the most radical division will be voted upon first. If objection is made to the motion for division, the request for division shall be voted upon, requiring the support of a two-thirds majority of those present and voting to pass. Permission to speak on the motion for division shall be given only to two speakers in favor and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are involved shall then be put to a vote. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

For purposes of this rule, most radical division means the division that will remove the greatest substance from the draft treaty segment, but not necessarily the one that will remove the most words or clauses. The determination of which division is most radical is subject to the discretion of the Secretariat, and any such determination is final.

Rule 32 - Amendments

An amendment is a proposal that does no more than add to, delete from, or revise part of another proposal. An amendment can add, revise, or delete any part of any proposal.

Rule 33 - Order of voting on amendments

If two or more proposals, other than amendments, relate to the same agenda item, they shall be voted on in the order in which they were submitted. Prior to entering voting procedure, the President shall announce if a draft treaty segment contradicts or overlaps with another draft treaty segment in any way. Upon the passage of any draft treaty segment, all other draft treaty segments that contradict or overlap with it shall be considered rejected without a vote.

For purposes of this rule, “the order in which they were submitted” shall refer to the order in which proposals were approved by the Secretariat and thus the order in which proposals became draft treaty segments. The second portion of the rule means that only one draft treaty segment for Scope may pass, only one for Parameters/Criteria, etc.

Therefore, delegates are advised to merge all draft treaty segments for a given agenda item together unless there are irreconcilable differences in approach, which shall be resolved by voting; if this should happen, the first draft treaty segment that passes will be included in the final draft treaty.

Rule 34 - Order of voting on proposals

If two or more proposals, other than amendments, relate to the same question, they shall, unless the Conference decides otherwise, be voted on in the order in which they were submitted.

Rule 35 - The President shall not vote

The President shall not vote but may designate another member of her/his delegation to vote in her/his place.

VII. CREDENTIALS

Rule 36 - Credentials

The credentials of representatives and the names of members of a delegation shall be submitted to the Secretary-General prior to the opening of a session.

Rule 37

The Conference shall be bound by the actions of the General Assembly in all credentials matters and shall take no action regarding the credentials of any member.

VII. PARTICIPATION OF NON-MEMBERS OF THE CONFERENCE

Rule 38 - Participation of non-Member States

1. The Conference shall invite any Member of the United Nations that is not a member of the Conference and any other State, to participate in its deliberations on any matter of particular concern to that State.
2. A committee or sessional body of the Conference shall invite any State that is not one of its own members to participate in its deliberations on any matter of particular concern to that State.
3. A State thus invited shall not have the right to vote, but may submit proposals which may be put to the vote on request of any member of the body concerned.

If the Conference considers that the presence of a Member invited according to this rule is no longer necessary, it may withdraw the invitation again. Delegates invited to the Conference according to this rule should also keep in mind their role and obligations in the committee that they were originally assigned to. For educational purposes of the NMUN Conference, the Secretariat may thus ask a delegate to return to his or her committee when his or her presence in the Conference is no longer required.

Rule 39 - Participation of national liberation movements

The Conference may invite any national liberation movement recognized by the General Assembly to participate, without the right to vote, in its deliberations on any matter of particular concern to that movement.

Rule 40 - Participation of and consultation with specialized agencies

In accordance with the agreements concluded between the United Nations and the specialized agencies, the specialized agencies shall be entitled: a) To be represented at meetings of the Conference and its subsidiary organs; b) To participate, without the right to vote, through their representatives, in deliberations with respect to items of concern to them and to submit proposals regarding such items, which may be put to the vote at the request of any member of the Conference or of the subsidiary organ concerned.

Rule 41 - Participation of non-governmental organization and intergovernmental organizations

Representatives of non-governmental organizations/intergovernmental organizations accorded consultative observer status by the General Assembly and other non-governmental organizations/intergovernmental organizations designated on an ad hoc or a continuing basis by the Conference on the recommendation of the Bureau, may participate, with the procedural right to vote, but not the substantive right to vote, in the deliberations of the Conference on questions within the scope of the activities of the organizations.