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**ANTICIPATING THE “FINAL”
ARMS TRADE TREATY CONFERENCE:
*EIGHT CONCRETE PROPOSALS***

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Abstract

Conventional weapons are responsible for most battle field-related deaths and often represent a scourge on many societies in diverse global regions. Without denying the horrendous effects of nuclear, chemical or biological weapons, in numerical terms, conventional weapons seem to be the real weapons of mass destruction, particularly fuelled by the illicit and irresponsible trade in such weapons. At the same time, most conventional weapons are considered legitimate instruments of self-defence for states. There is no taboo on possessing and trading in conventional weapons and such trade is worth billions of dollars a year. According to the Stockholm International Peace Research Institute (SIPRI), the transfers (which include trade, but also loans, leases and gifts) in major conventional weapons increased 24 per cent between the period 2002-2006 and 2007-2011 (SIPRI 2012: 12).

The legitimacy and profitability of the arms trade make arms control measures often difficult to realize. The prospective Arms Trade Treaty (ATT) aims to regulate the trade in conventional arms, rather than to limit or outlaw it. From 2-27 July 2012 the member states of the United Nations (UN) gathered in New York to participate in the UN Conference on the ATT. These four weeks of negotiations produced a draft treaty text, but no consensus could be reached on a final text for adoption. In this GGI Analysis Paper, Katherine Prizeman and Niels van Willigen provide essential background and concrete recommendations for a last effort to negotiate a consensus treaty during the “Final UN Conference on the Arms Trade Treaty” scheduled to take place 18-28 March 2013.

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1. Introduction

"Its widespread and indiscriminate effects remind us that the arms trade, like terrorism, is impossible for any one country to control. With its countless murky intersections between the legal and the illicit, the arms trade turns the concept of "national security" into a hall of mirrors; no sale of weapons is ever completely safe, as yesterday's allies become today's terrorists. No longer beholden to the political demands of an East-West conflict, the arms trade has metastasized since the end of the Cold War, and is now a stronger presence in our world than ever before. And what we have to consider is that the circulation of weaponry in the global marketplace sustains not only the violence of war and genocide, but also the violence of poverty."

–Nobel Peace Laureate, Óscar Arias Sánchez

Speech at Panel on Multilateral and Disarmament Initiatives,
4th World Summit of Nobel Peace Laureates, Rome, Italy, November 28, 2003

The idea for a comprehensive arms trade treaty, which includes both arms exporting and arms importing states, is not new. In 1925, the *Geneva Arms Traffic Convention* was drafted and proposed by members of the League of Nations. It never entered into force and until recently there was no initiative to renew negotiations on a comprehensive global arms trade treaty. Instead, during the Cold war and afterwards, several other international measures were taken addressing the proliferation of conventional arms. Arms export control regimes such as the *Coordinating Committee for Multilateral Export Controls* (COCOM, 1947-1994) and the *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies* (1995) were created, alongside other instruments such as the *UN Register on Conventional Arms* (1991), the *UN guidelines for international arms transfers* (1996), the *Anti-Personnel Mine Ban Convention* (1997), and the *UN Programme of Action on Small Arms and Light Weapons* (2001). The European Union introduced an *EU Code of Conduct of Arms Exports* in 1998, which was replaced by the legally stronger *EU Common Position* in 2008.

None of these initiatives were meant to create a strong and effective legally binding treaty that would set high standards regarding the import, export and transfer of conventional arms, including small arms and light weapons (SALW). The proposed ATT, however, seeks to achieve just this. The initial proposals emerged from global civil society, which illustrates why much of the negotiations have been driven by human security concerns. The first concrete result which civil society produced was the publication of the *International Code of Conduct on Arms* by Nobel Laureates at the initiative of the Laureates including former President of Costa Rica Óscar Arias Sánchez in 1997. Moreover, in 2003, several non-governmental organizations launched the *Control Arms Campaign* aimed at convincing governments to commence negotiations for an ATT. A growing number of states expressed support for an ATT and in 2006 the United Nations General Assembly (UNGA) adopted resolution 61/89 that established a Group of Governmental Experts (GGE) with the mandate to explore 'the feasibility, scope and draft parameters' for a legally binding instrument ([United Nations General Assembly 2006: 2](#)). The positive report of the GGE was endorsed by [UNGA resolution 63/240](#) in December 2008 and followed by an Open Ended Working Group (OEWG). The OEWG was established to further explore the possibilities of a legally binding

instrument. In December 2009 the UNGA endorsed the OEWG's report and decided to convene a conference in 2012 ([United Nations General Assembly 2009](#))

The question whether the ATT should primarily be a human security or a state security instrument has therefore become one of the main dividing lines. It is one of the reasons why four weeks of negotiations failed to produce consensus in July 2012 (Bromley, Cooper and Holtom 2012: 1040). It was the United States which first declared to need more time, but its position was supported by other states, including Russia, The Democratic People's Republic of Korea (DPRK), Cuba and Venezuela.

In spite of the July Conference's failure, the Presidency of the conference (held by Ambassador Roberto Garcia Moritán of Argentina) was able to present a draft treaty text. This concrete result was followed by a positive decision of the UNGA's 2012 First Committee to convene a new conference in March 2013. This policy brief anticipates the March conference. We first elaborate on the outcome of the deliberations in the UNGA in the fall of 2012. Secondly, we delve into the substantive issues that most likely will pop up during the negotiations in March. Based on our analysis, we offer two concrete scenarios for the outcome of the negotiations and we end the policy brief with a few recommendations for moving the process forward.

1.1 The UNGA First Committee 2012

On 18 October 2012, the UNGA's First Committee decided that the Final UN Conference on the Arms Trade Treaty would take place from 18 to 28 March 2013 ([United Nations General Assembly 2012b](#)). Doing so, it abstained from the option to organize a vote within the UNGA on the draft treaty text. Although the vote would probably have had the required two-third majority, due to the lack of consensus it would also have led to the adoption of a treaty with less widespread support than aimed for. The First Committee decided that the draft treaty text would be the starting point for new negotiations in a manner that does not prejudice other negotiating options. That was an important accomplishment, because it prevented that negotiations would have to start all over from the beginning. Also, the same rules of procedure that governed the July Conference were adopted, meaning that the negotiations are to be governed by the consensus rule. The latter is important for two reasons. Firstly, by effectively providing every participating state the option to veto the outcome of the negotiations, the legitimacy of the process is enhanced. Secondly, for several states, the consensus provision is a primary condition for participating in the negotiations. Under the Obama administration, the United States turned from opposing negotiations to agreeing to participate in 2009 under the condition that consensus would be the decision-making method. Therefore, it is important to take a closer look at the substantive issues that have the potential to make consensus difficult, if not impossible, to achieve in March.

2. Substantive Issues Moving Forward

2.1 Basis of negotiation and rules of procedure

There are several issues that remain unresolved with regards to the ATT negotiating process and, as such, will play a large role in the outcome of the March 2013 conference. Although there is little disagreement among stakeholders that the process should be generally revisited, more specific issues regarding the basis of negotiations and rules of procedure are much more contentious and, therefore, complicated. As previously referenced, without adoption of a consensus treaty in July, the fate of future negotiations had rested on the formulation of the above mentioned October 2012 UNGA resolution detailing a way forward. Although no delegations voted against that resolution, there remained disagreement over the status of the President's draft treaty text from 26 July 2012 as well as the rules of procedure that will surely carry over into March 2013 ([United Nations General Assembly 2012a](#)). As such, separate votes were requested on operational paragraph OP2, which describes the rules of procedure for the "final" 18–28 March 2013 Negotiating Conference as "utilizing the modalities, applied mutatis mutandis, under which the United Nations Conference on the Arms Trade Treaty of 2 to 27 July 2012 operated," as well as on OP3, which designates the President's 26 July text as "the basis for future work on the Arms Trade Treaty." These votes were 153 in favour, 1 against and 18 abstentions for [OP2](#) and 148 in favour, 1 against and 22 abstentions for [OP3](#).

Expressions of support were widespread during the 2012 First Committee as representatives of diverse delegations called on member states to support the resolution and commit to another round of negotiations. Nevertheless, discontent over some specifics within the President's draft text came to light during discussions. For example, the Nigerian delegation underscored the need to more adequately address diversion and other ambiguities in the Treaty's scope. In addition, the delegation of Indonesia noted its abstention to OP2 and OP3 as the draft text "does not reflect its views and those of many other member states," in particular on the issue of territorial integrity. Several sceptical delegations explicitly expressed their opposition to treating the President's text as the sole basis for negotiations, including Belarus, Egypt, Iran, Ecuador, Cuba, Venezuela, Pakistan, and Syria. In his explanation of vote (EOV) the representative of Egypt called the draft "a work in progress," while the delegation of Belarus stated that the document would prejudice the results of the work of the upcoming March conference (EOV Egypt 2012; EOV Belarus 2012). Likewise, the representative of Iran offered an EOV regarding his delegation's rejection of OP3 noting that the draft text is "very vague, confusing and full of loopholes" that provides for far too much subjectivity in application of assessment criteria. In particular, Iran noted that the parameters explicitly allow arms-exporting states to export as many arms as they want to any country or region if in their subjective view it can "contribute to peace and security". Likewise, the Iranian delegate stated that the current draft text privileges the commercial interests of exporting states rather than adequately accounting for the security requirements of importing states (EOV Iran 2012).

With regards to the rules of procedure, delegations have generally expressed their support for the provision of consensus, although some have provided caveats. The delegations of Mexico and Norway reiterated their well-known concern over allowing consensus to be interpreted as the right of one or a few delegations to impede general agreement and function as de-facto veto power (EOV Mexico 2012; EOV Norway 2012). The issue of “negotiation” versus “elaboration” has also been raised, in particular by the Iranian delegation, insofar as the March Conference must be a consensus-based negotiation based on the views of all member states rather than an elaboration of a pre-existing instrument endorsed by a select few (EOV Iran 2012). Other delegations, including Egypt and India, have also warned against placing artificial deadlines or timelines on negotiations, with clear reference to the adjective “final” attached to the March 2013 conference (EOV Egypt 2012; EOV India 2012). The threat that consensus will be used as veto power is just as prominent now as it was in July 2012.

2.2 Debate of the intention and goal of ATT

In addition to treaty specifics, there also still remains the debate over what precisely the ATT is intended to accomplish. As previously referenced in the introductory section, the debate over state and human security in the context of the ATT continues. The original 2006 UNGA [resolution](#) calling for an ATT recognized, “...that the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development...” (United Nations General Assembly 2006). However, the strength of the humanitarian language adopted is still unclear. The fear of subjective state assessment under the pretence of humanitarian action is a main cause for concern, most especially for importing states. This fear of an exporters-only treaty is credible insofar as the current structure of the ATT provides for national risk assessments that are to be undertaken by exporters of arms with no oversight mechanism that could be used as a means of recourse regarding contentious, politicized transfer authorizations or denials. There is little in the current draft that details the responsibilities of importers, brokers, and transshipment states. Some of these predominantly importing states, including some states of the Non-Aligned Movement (NAM), have called for safeguards against political manipulation of transfers under the Treaty and have thus been loath to create an overly robust instrument increasing the perceived power of an exclusive exporters club.

The so-called progressive states, including Mexico, Norway, the Caribbean Community (CARICOM), and others, have pushed for a strong humanitarian dimension of the ATT noting that the irresponsible transfer of conventional arms, in particular SALWs, remains a serious contributor to conflict and human rights abuses in diverse global regions. In order to meaningfully contribute to international peace and security in the prevention of these conflicts and abuses, the ATT has been championed as a much-needed new legal instrument that would include strong, sufficiently binding and objective assessment criteria against which all conventional arms transfers must be sufficiently evaluated, thereby codifying circumstances

in which arms transfers would be required to be denied. In order for such an instrument to arise, however, the latest draft text will require significant reforms.

2.3 Most Outstanding Textual Issues

In the context of the most recent draft text (26 July), there are several major loopholes that seriously weaken the potential effectiveness of the ATT (United Nations General Assembly 2012a). If a future ATT is to make a meaningful contribute to international peace and security, not to mention the reduction of armed violence, then these primary loopholes will have to be closed. Merely adopting a treaty is wholly insufficient if its provisions do not provide for clear, objective, and robust criteria as well as an appropriate implementation mechanism that ensures its effectiveness in practice by all states parties.

Lack of robust controls for ammunition and munitions

Scope, which refers to both categories of weapons and activities covered, remains unresolved in certain aspects, but perhaps most importantly, it does not adequately cover ammunition and munitions. While the current text of Article 2 does include the seven categories of the UN Conventional Arms Register plus SALWs, not adequately covered are munitions, ammunition, and parts and components. Reference to ammunition is made under Article 6 of the text (Export) in which exporting states are to “establish and maintain an export control system to regulate the export of ammunition” and apply the previously listed criteria to their export. Likewise, under Article 6, states parties are to regulate export of parts and components “to the extent necessary” for conventional arms under the scope of the Treaty. In the previous [informal draft text](#) from 24 July 2012, stronger provisions were made regarding the export of these items with two anti-circumvention clauses under ‘covered items’ related to the regulation of munitions exports as well as parts and components (Informal consolidated draft text 24 July 2012). Therefore, as it stands now, obligations to control munitions, ammunition, and parts and components are ambiguous and not subject to the same level of accountability as other categories of conventional arms; in particular such items are not subject to the same provisions for national reporting or comprehensive national risk assessment.

Weakness in implementation measures

Under Article 5 of the current draft text, entitled “General Implementation,” there are measures that essentially provide for a superseding of risk assessment criteria. Such measures include vague references to “obligations undertaken with regard to other instruments” as well as reference to “contractual obligations under defence cooperation agreements.” Most contentious for many states under the existing provisions is this “defence cooperation clause” under paragraph 2 Article 5, which ultimately permits states parties to evade provisions of the Treaty by categorizing arms transfers as taking place as part of a bilateral agreement. While

strong proponents of this provision, including the delegation of India, have argued that implementation of this Treaty shall not prejudice obligations undertaken with regard to other instruments, it must be stipulated that those obligations must not be incompatible with the obligations under the ATT and ultimately must not undermine the object and purpose of the Treaty.

Ambiguity for prohibited transfers and assessment criteria

Article 3 on “Prohibited Transfers” requires that a state party shall not authorize a transfer “for the purpose of facilitating the commission genocide, crimes against humanity, war crimes constituting grave breaches of the Geneva Conventions of 1949, or serious violations of Common Article 3 of the Geneva Conventions of 1949.” These references to the specific Geneva Conventions are narrow and cover circumstances in which a state would import arms specifically for “the purpose of committing genocide” or any of the other atrocity crime listed. For many, this is too high a threshold for prohibition.

Furthermore, in the current draft, the risk assessment process in Article 4 suggests a “balancing” of the risk of violations of international humanitarian law (IHL) and international human rights law (IHRL) against the weapons’ potential “contribution to peace and security.” It is clear that permitting risk assessments that would balance a substantial risk of violations of IHL against what the exporting state views as a benefit to peace and security would potentially and gravely undermine states’ existing IHL obligations.

Diversion, gender-based violence, corruption, and development as secondary criteria

Paragraph 6 of Article 4 of the current draft text entitled “National Assessment” references items that are not directly included as stand-alone risk criteria—the risk of diversion to the illicit market, risk of gender-based violence or violence against children, risk of corruption, and risk of adversely impacting development. Rather, these criteria are in a paragraph that stipulates that when a state party is authorizing an export it “shall consider taking feasible measures, including joint actions with other states involved in the transfer, to avoid the transferred arms” from being used to these ends. These measures are neither described in detail nor made mandatory. The text suggests that optional measures should be taken to avoid these consequences rather obligating the state party to deny the transfer if the risk exists. This is clearly a weak treatment of these specific criteria that must be treated with the same level of robustness requiring the same amount of accountability as those criteria found under paragraph 2 of the same article. Moreover, for many, eliminating diversion is precisely the point of having an ATT in the first place.

Inability to adequately strengthen the Treaty over time

The current draft text allows that amendments to the Treaty be adopted by consensus only, rather than the more preferable provision of a 2/3 majority. As is the case with the Treaty negotiations writ large, the rule of consensus is often a major roadblock to success given its effect on bringing the process down to the lowest common denominator. The ability to strengthen the Treaty over time, as well as to address rapidly evolving technological, security, and other commercial developments, will clearly have a direct impact on the effectiveness and relevance of the ATT. Incorporating a review process that enables states parties to appropriately amend the Treaty, according to the majority voice of the Assembly of States Parties, will make for a stronger Treaty both in implementation and substantive provisions. This process does not exist in the draft treaty text and its exclusion makes this Treaty somewhat of an outlier relative to other treaty processes, such as *the Convention on Torture*, *Convention on the Rights of the Child*, and *the Convention on the Elimination of Discrimination Against Women (CEDAW)*.

3. Scenarios for the March Final Conference

There is much anticipation, and in many cases anxiety, regarding the so-called “final” conference set for 18-28 March 2013. As [expressed](#) by the Foreign Ministers of the “co-authors” group of states (states that co-sponsored the original 2007 resolution calling for an ATT, which include Argentina, Australia, Costa Rica, Finland, Japan, Kenya, and the United Kingdom), many delegations have “...stress[ed] the importance of continuing the international community’s work towards the Arms Trade Treaty. The United Nations Conference last July came very close to adopting a Treaty. At the conclusion of the Conference, a clear majority of States called for a swift continuation of the process towards the adoption of the Treaty” (Joint Statement 2012). While the continuation of the process was generally accepted, the likelihood that consensus will be reached after just nine negotiating days is far from guaranteed, due in part to the substantive and textual challenges already underscored in this paper.

3.1 If consensus will be reached

If consensus will be reached in March, whether or not the substance of the Treaty is adequately robust, the process of ratification and universalization will then commence. As the text stands now, entry-into-force (EIF) requires 65 ratifications with no qualifiers as to which states must be included (for example, some states have suggested requiring that the major exporters be among those required to ratify prior to EIF). EIF provisions will have a direct impact on not only when the Treaty will enter into force, but also how universally its provisions will be implemented. A Treaty that is seeking to craft *international* standards for the trade in conventional arms by its nature requires widespread, if not universal, adoption.

However, this desire for universality must not entirely stifle the opportunity to begin a process of implementing uniform arms transfer standards by those that have ratified the ATT through national legislation. The sooner states begin a serious assessment of their own transfer policies and practices, the better. However, it will be important to strike a balance between the need for rapid EIF and ensuring participation is widespread enough to guarantee that the Treaty's implementation is meaningful in achieving treaty goals and objectives.

Meaningful EIF will have to include at some stage the major exporting countries (including the permanent 5 members of the Security Council [P5] and Germany) given the nature of the ATT and its dependence on national assessments carried out by exporters of arms. It is no secret, however, that the US has tremendous difficulty ratifying international treaties and the US Congress often becomes a graveyard for such international initiatives. This challenge will have to be borne in mind throughout the negotiating process. The importance of including the US in negotiations is indeed high, but not without its limitations given the record of ratifications actually pushed through the US Congress. In addition, as is often noted by civil society advocates, the US government already has one of the most robust export control systems in place and, therefore, would ostensibly undertake the risk assessments that would be required under the ATT even without ratification of the Treaty. Nevertheless, the major importers of arms must also be among ATT implementers, such as India, South Korea, Singapore, and Indonesia.

Once consensus has been reached and an ATT has been penned, the new challenge that will emerge for states parties, as well as civil society groups that have worked diligently to bring about such a treaty, is how to ensure robust and objective implementation of the Treaty, in particular risk assessments. Successful implementation will be a by-product of sufficient oversight and accountability as well as strong universalization efforts. According to the current version of the draft text, the Implementation Support Unit (ISU) for the Treaty, referred to as a "Secretariat", bares only logistical and administrative responsibilities such as serving as a repository for reports. It does not include more substantive provisions related to objective oversight of national implementation, let alone the authority to flag potentially illicit transfers. The current text defining the Secretariat generally implies very little independent functioning. Member states have expressed their positions on both the nature of the proposed Secretariat as well as challenges of financing and it seems that this latest draft text reflects these dual concerns by underscoring that the Secretariat will hold only administrative and technical responsibilities in a very nominal structure. Therefore, civil society will have a potentially important role in monitoring implementation and, therefore, transfer authorizations in order to hold governments accountable. *The Landmine and Cluster Munition Monitor* is a good example of how civil society has played an extremely active role in ensuring that states parties fulfil treaty obligations.

In general, it is essential that states begin to assess their transfer policies at the earliest possible stage. The ATT process must begin to take shape well before universal ratification if and when it becomes a reality.

3.2 If consensus fails, steps forward

The alternative scenario in March will be a failure to reach consensus. If such a scenario occurs, there are several ways of bringing the ATT process forward either back to the General Assembly or into a process external to the UN.

A provision strategically placed in the GA resolution from 2012 that gave the mandate for the March conference states that the Committee, “Decides to remain seized of the matter during its current session and in doing so calls on the President of the Conference to report on the outcome of the Final United Nations Conference on the Arms Trade Treaty to the General Assembly at a meeting to be held as soon as possible after 28 March 2013” (United Nations General Assembly 2012b). Such a provision allows member states to take the issue of the ATT back to the General Assembly for further consideration, and possibly action, should a treaty not be adopted at the end of March. It is important to note that the General Assembly rules of procedure do not require consensus, but rather are based on a 2/3 majority. If such rules were operable, a group of like-minded states could presumably present the draft text (or some other version of it) for consideration and voting first through the First Committee and then to the General Assembly as a whole.

It is also important to note the use of the adjective “final” in the context of another failed conference in March. The description “final” conference does not allow for another conference in the same form given its implication of absolute conclusiveness. That being said, there is the option of bringing the process outside of the UN as was the case with the Anti-Personnel Landmines Convention and the Cluster Munitions Convention. However, as has often been noted by delegations and civil society alike, the ATT is of a unique nature in that it is not merely a trade treaty nor is it purely a humanitarian instrument. Unlike the Cluster Munitions Convention of 2008 and the Anti-Personnel Landmines Convention of 1997, the ATT will not ban one individual category of weapons nor will it disallow trade in conventional weapons. Therefore, the ATT represents a fusion of dual goals—arms control through regulation as well as alleviation of human suffering caused by the unregulated trade in conventional arms. If consensus is not reached, the intent to set international, common international standards for arms transfers would best be served under the umbrella of the UN General Assembly and its universal membership.

4. Recommendations

In anticipation of the March conference, we offer the following recommendations in order to achieve a robust and effective ATT at the conclusion of the nine days of negotiations. The recommendations cover specific, logistical actions that should be taken by the Conference as well as broader thematic approaches that should be considered by negotiators.

1. Make the most of plenary sessions

It is anticipated that should a contention arise around the text, a facilitator should be appointed to hold informal consultations to find a proposed solution to bring back to the plenary for adoption in order to make the best use of the time allotted for negotiations.

2. Dispense with general statements

It is essential to address procedural matters and then move directly to discussion on the text whereby member states may circulate statements in written form if needed. If member states wish to make a general statement, such interventions must be short and focused on specific, textual issues.

3. Prepare to talk about the text and propose solutions

Member states must use the remaining lead up time before March to familiarize their delegates with the text as much as possible in order to be able to speak fluidly and constructively on each article as well as propose solutions to the remaining textual contentions.

4. Close substantive loopholes

It is imperative that the previously elucidated textual loopholes during the negotiations this March if the ATT is to have a real impact on international peace and security. These primary loopholes seriously weaken the strength of the ATT and must be addressed in a serious manner.

5. Do not let consensus become de-facto veto power or force a dangerous lowest common denominator

Member states are tasked with the difficult challenge of preventing the consensus rule from dictating a weak or no outcome in March. In order to do so, the majority of states must work together to prevent any one state from derailing the entire process. Therefore, the majority of like-minded states that support a robust instrument must actively work against the exertion of such a veto power. Moreover, there will inevitably be a threat of veto if the text is too weak. That is to say, the more progressive states may also wish to yield veto power should the text prove inadequate.

6. Engage “skeptical” states as much as possible

Due to the consensus rule, the concerns of all member states will have to be addressed in order to achieve a robust and universal treaty. States that have serious reservations regarding the potential manipulation of the Treaty must be heard and sufficiently convinced that the

standards of the arm trade will be implemented universally and in an objective and non-discriminatory fashion.

7. Be mindful that the treaty does not legitimize the arms industry that needs significant reform and encourage further domestic production

As noted in the introduction, the ATT does not seek to outlaw the trade in conventional arms, but rather to regulate it. Nevertheless, the ATT must not be used as a means to further legitimize the arms trade by encouraging those that do not currently export weapons to begin to do so. Merely facilitating the arms trade is woefully insufficient if the ATT is intended to have a substantial impact on curbing the human suffering and insecurity that result from the unregulated trade in conventional weapons. In many ways, because of the significant loopholes that remain in the latest draft text, the current process is potentially headed down this road of legitimizing an industry that it should be seeking to deter through robust, universal standards. Such a pathway must be avoided.

8. Avoid an “exporters-only” treaty that provides for further divisions between developing and developed states

The current formulation of the draft text relies heavily on exporting state risk assessments. It is essential that the ATT treat equally all member states whether as exporters, importers, transshipment territories, or brokers. The dangerous consequences of the unregulated trade in conventional arms are a challenge that must be addressed by all member states that have equal levels of obligation and accountability set forth in the Treaty.

5. References

Bromley, M., Cooper, N. & Holtom, P. (2012) “The UN Arms Trade Treaty: arms export controls, the human security agenda and the lessons of history.” *International Affairs* 88 (5), 1029-1048.

EOV Belarus (2012): based on notes of Katherine Prizeman.

EOV Egypt (2012) Available at:
http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com12/eov/L11_Egypt.pdf

EOV India (2012). Available at:
http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com12/eov/L11_India.pdf

- EOV Iran (2012). Available at:
http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com12/eov/L11_Iran.pdf
- EOV Mexico (2012). Available at:
http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com12/eov/L11_Mexico.pdf
- EOV Norway (2012). Available at:
http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com12/eov/L11_Norway.pdf
- Informal consolidated draft text of the Arms Trade Treaty (24 July 2012). Available at:
<http://reachingcriticalwill.org/images/documents/Disarmament-fora/att/negotiating-conference/documents/consolidated-text-24July.pdf>
- Joint Statement by the Ministers for Foreign Affairs of the seven co-authors states of the General Assembly Resolution on the Arms Trade Treaty (2012) New York, 24 December.
- SIPRI (2012) *SIPRI Yearbook 2012: Armaments, Disarmament and International Security. Summary* (Stockholm: Stockholm International Peace Research Institute)
- United Nations General Assembly (2006) Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms: A-RES/61/89 (New York: United Nations)
- [United Nations General Assembly \(2009\)](#) The Arms Trade Treaty: A/RES/64/48 (New York: United Nations)
- United Nations General Assembly (2012a) United Nations Conference on the Arms Trade Treaty.
- The Draft of the Arms Trade Treaty: A/CONF.217/CRP.1 (New York: United Nations)
- United Nations General Assembly (2012b) First Committee Agenda item 94 (b) General and complete disarmament: towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms: A/C.1/67/L.11 (New York: United Nations)

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