

## REPORT 3<sup>rd</sup> PREPCOM ATT, 11-15 JULY 2011

This report looks at summarizing discussions on the inclusion of armed violence in the arms trade treaty.

### ARMED VIOLENCE IN THE ATT

The third preparatory week to the negotiations of an arms trade treaty (ATT) focused mainly on the implementation of the treaty's provisions. In particular, states discussed the need for an implementation unit as well as its functions, the need for transparency and reporting mechanisms, what to report on, the number of states needed for the treaty to enter into force and several other issues related to the implementation of the ATT. Countries also debated whether 2012 would be the year of the negotiations or whether more time would be needed in order to create a common ground on which to build the content of the treaty. At this stage, countries are still very divided on the scope and aims of the treaty, on its content as well as on its implementation mechanisms; therefore it might be possible that further time is needed for delegations to share their concerns.

As delegations were busy with implementing issues, there weren't many discussions in terms of scope, objectives and content of the treaty in the room, at least until the new paper from the Chair was released on Thursday morning. The interventions that followed the presentation of the Paper from the Chair were mostly general comments because delegations requested more time to read the paper and comment more specifically on it.

Although armed violence was not among the main concerns of delegations in New York, a number of them highlighted that armed violence was still not included in the Paper of the Chair.<sup>1</sup> In particular, they called for its inclusion in the preamble and objectives of the treaty on the base that the detrimental humanitarian effects of armed violence seem to be one of the key justifications for negotiating the ATT.

The latest text<sup>2</sup> of the preamble says:

*" 2. Recognising the absence of commonly agreed international standards for the transfer of conventional arms and their diversion to the illicit market are contributory factors to armed conflict, serious violations of international human rights law and international humanitarian law, gender-based violence, the displacement of people, transnational organized crime, terrorism and the illicit trade in narcotics, thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development."*

The text under goals and objectives reads:

*" This treaty will seek to:*

*4. Contribute to international and regional peace, security and stability by preventing international transfers of conventional arms that contribute to or facilitate: human suffering, serious violations of international human rights law and international humanitarian law, violations of UN SC sanctions and arms embargoes and other international obligations, armed conflict, the displacement of people, transnational organized crime, terrorist acts and thereby undermining peace, reconciliation, safety, security, stability and sustainable social and economic development: and"*

<sup>1</sup> Armed violence was also not in the Paper presented at the end of the second prepcom in March 2011. During that meeting, 24 states called for its inclusion in the text, nevertheless the Chair does not seem to have taken their call on board yet.

<sup>2</sup> Paper from the Chair, 14 July 2011. There is a mistake in the original text, it seems that the text should read " Recognising THAT the absence (...)".

Although both paragraphs recognize certain aspects of the broader armed violence concept<sup>3</sup>, specifically the ones that have been defined and are accepted internationally, it does leave out certain phenomena, such as gangs, national common crime as well as internal violent acts by non state actors, that have a huge impact on the stability, peace and security of several regions in the world. There are international recognized definitions of ‘armed violence’ such as the one by OECD/DAC or WHO, as well as several researches on the topic that allow for a general shared understanding of the concept. To ensure that the objectives and aims of this treaty capture the entire problem and not only part of it, states should include alongside armed conflict, armed violence as an overarching concept in the preamble and goals and objectives of the treaty.

### **Statements**

Barbados (for CARICOM), Grenada, ICRC, Nigeria, Norway, Saint Lucia, Switzerland, Trinidad and Tobago, and the joint statement by Bahamas, Chile, Colombia, El Salvador, Guatemala, Jamaica, Mexico (delivered the statement), Peru, Trinidad and Tobago and Uruguay all called strongly for the inclusion of armed violence in the preamble and in the goals and objectives.

Furthermore Nigeria proposed the inclusion among the criteria of an additional criterion on armed violence. Their proposal did not seem to have been taken on board by other states though, partly because there is still a lack of clear understanding of how armed violence could concretely be included as a specific criterion and what that would imply concretely in terms of implementation of the treaty.

### **Recommendations**

The same countries that called for the inclusion of armed violence during the 2<sup>nd</sup> prepcom called for it during this July session as well, although some of the Latin American countries do not seem to want to ‘fight’ too hard for it to be included during the negotiations next year. It is encouraging to see that some additional countries in Africa and Europe took a strong position on this matter and that countries in the Pacific region were increasingly interested in this concept.

In the run up to the final negotiations, specific efforts need to be put into clarifying what would be missing if armed violence is left outside the preamble and goals and objectives of the treaty. Although at this stage there is not much support for it, CSOs should also look into specific language and implications in terms of implementation of the treaty if states were to include a specific criterion on armed violence. Concerning this second aim, CSO should look into offering clarifications to concerns raised by states on the lack of an international legal definition of armed violence and therefore on the lack of a clear understanding on how to implement such provision concretely.

Finally, there seems to be growing momentum towards the inclusion of gender-violence in certain parts of the treaty; it might be interesting for AOAV to look at ways in which to strengthen the relationship between armed violence and gender-violence by highlighting that gender-violence is an important aspect of the armed violence concept and that it needs special recognition but that states advocating for the inclusion of gender-based violence in the

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<sup>3</sup> In particular *armed conflict, serious violations of international human rights law and international humanitarian law, gender-based violence, the displacement of people, transnational organized crime, terrorism and the illicit trade in narcotics.*

ATT should also support the inclusion of the broader concept of armed violence to prevent falling short of addressing the entire problem and not only certain aspects.

### **Overview of states' statements on armed violence**

Barbados (for CARICOM): *"In the preambular section CARICOM commends the inclusion of gender-based violence; we also commend its inclusion in the section on goals and objectives of the treaty."*

Grenada: *"Grenada echoes the views expressed by Trinidad and Tobago, St. Lucia and Nigeria on the preambular section of your paper and also note the absence of armed violence"*.

*We again express grave concern that armed violence has not been included in the preamble"*

México (joint statement by Jamaica, T&T, Bahamas, El Salvador, Guatemala, Colombia, Peru, Uruguay, Chile): *"Regarding the preamble, we deem it pertinent to include a notion that the absence or commonly agreed international standards for the transfer of conventional arms contributes to armed violence"*.

Nigeria: Called for the inclusion of armed violence after armed conflict in the preamble and the goals and objectives and proposed a specific criterion on armed violence: *"After B1 (in the criteria section) ... A state party shall not authorize a transfer of conventional arms if there is a substantial risk that those conventional arms would:*

*INCLUDE: B 2: Exacerbate armed violence"*

Norway: *"We note that your paper to a large degree refers to illicit transfers, illicit brokering etc. We would like to underline that, in our understanding, illicit activities are per definition already prohibited, and it is debatable whether there is much added value in prohibiting prohibited activities. We would like to emphasize therefore, that the goal and ambition of the ATT must be to prevent not only illicit, but also irresponsible arms trade leading to human suffering and armed violence. We would in this connection like to note our concern that the term armed violence does not appear in the preamble, although the detrimental humanitarian effects of armed violence seems to be one of the key justifications for this very exercise."*

Switzerland: Called for the inclusion of armed violence in the preamble as suggested by Nigeria.

Saint Lucia: Armed violence should be included in the preamble to better reflect the situation in the region.

Trinidad and Tobago: Aligned with CARICOM, armed violence should be in preamble and also in goals and objectives.

ICRC: Also called for the inclusion of armed violence in the preamble.