



**IANSA Women's Network Policy Paper – version 2: 13/07/11
Arms Trade Treaty 3rd Preparatory Committee (PrepCom), 11-15 July 2011
UN Headquarters, New York**

INCLUDING GENDER IN THE ARMS TRADE TREATY

Why?

Discussions on the ATT present a vital opportunity to examine the conventional arms used to commit acts of gender-based violence, most often small arms and light weapons (SALW). A decade of field-based research indicates that small arms and ammunition facilitate widespread domestic violence, rape, and other forms of sexual violence, both during and outside of conflicts, and both the UN Security Council and Secretary General have recognised this (see Annex 1 and 2 for specific examples).

In the last decade, a number of resolutions specific to gender-based violence in armed conflict have been passed, recognising the necessity to focus on it as a distinct aspect of the rights contained within international humanitarian law and international human rights law.

The UN Security Council decided to take up “women, peace and security” as a separate thematic topic in 2000, after a bloody decade of peacekeeping failures, such as in Somalia, Rwanda and the former Yugoslavia. As part of the examination of the broader atrocities committed, it became clear that significant attacks had occurred specifically targeting women, including reports of systematic sexual violence.

During the 2nd and 3rd ATT PrepCom meetings, the issue of gender has been brought up by many states in the discussions, among them Trinidad & Tobago, Mali, Spain, Nigeria, Norway and Australia who argue for an ATT to address gender-based violence in accordance with existing international commitments including UN Security Council resolutions 1325, 1820, 1888 and 1889 on women, peace and security.

Nevertheless, despite groundbreaking resolutions, such as UN Security Council Resolution 1325 declaring the importance of women's participation in peace processes and women's activism in the field of arms control, women and gender are being largely ignored in the process towards an ATT. In addition, some UN Member States have questioned women's participation and the necessity to explicitly mention gender-based violence.

Based on the draft non-papers issued by Ambassador Moritan, the following paper outlines ways in which a strong Arms Trade Treaty can help prevent gender-based violence and promote the participation of women in the implementation of the Treaty.

It is important to note that references to ‘women and children’, put together as though a homogenous group, are unhelpful as they imply that women, as children, are powerless victims with limited abilities, rather than adults with agency and therefore a key resource in combating gun violence. Children are minors, cannot vote, and as such, require specific and different attention and protection from women.

It is vital to make the distinction between women and children to ensure both that each group gains the specific attention it requires and is enabled to make the contributions of which it is capable.

How?

1. Principles

The preamble should refer to relevant existing international instruments on women's rights and gender-based violence, including UNSC resolutions on women, peace and security (1325, 1820, 1888, 1889, 1960). To protect women's rights, the relevant binding international instruments covering gender-based violence, including rape and sexual violence, must be applied in arms transfer decisions. See annex 3 below for a list of relevant instruments.

[Suggested additions]

Reaffirming the commitment to the continuing and full implementation, in a mutually reinforcing manner, of resolutions 1325 (2000), 1820 (2008), 1882 (2009), 1888 (2009), 1960 (2010)

Recalling the resolve expressed in the 2005 United Nations General Assembly World Summit Outcome Document (A/RES/60/1) to eliminate all forms of violence against women and girls, the obligations of States Parties to the Convention on the Elimination of All Forms of Discrimination Against Women and the Optional Protocol thereto, the Convention on the Rights of the Child and the Optional Protocols thereto, recalling also the commitments contained in the Beijing Declaration and Platform for Action as well as those contained in the outcome document of the twenty-third Special Session of the United Nations General Assembly entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-First Century" (A/S-23/10/Rev.1), in particular those concerning women and armed conflict,

Noting that women in situations of armed conflict and post-conflict situations continue to be considered as victims and not as actors in addressing and resolving situations of armed conflict and stressing the need to focus not only on protection of women but also on their capacities, such as contributing to peacebuilding,

2. Scope

The treaty should apply to all conventional arms, and in particular, small arms and light weapons and ammunition.

3. Parameters

[Suggested addition]

"A State party shall not authorize a transfer of arms if there is, in the view of the potential transferring State, a substantial risk that those arms would:..."

- Be used to perpetuate or facilitate high levels of gender-based violence, in particular rape and other forms of sexual violence
- Be used to perpetuate a pattern of or facilitate high levels of firearms-related homicide or serious injury
- OR Be used to commit or facilitate violations of international human rights or humanitarian law, including sexual and gender-based violence

Rape and other forms of sexual violence in armed conflict are, under international law, recognized as a war crime, crime against humanity or a constitutive element of genocide (UNSCR 1325, 1820, 1888, 1960).

Furthermore, discussions on armed violence have repeatedly noted that the use of firearms in non-conflict settings is the most prevalent form of armed violence and the form that results in the most deaths, injuries and permanent disabilities. This fact underscores the importance of adopting an approach to address armed violence that will encompass violence outside of armed conflict settings. This observation is based on the Amnesty International/IANSA report "How an Arms Trade Treaty can help prevent Armed Violence". General reference to "armed violence" weakens the language and is difficult to apply in the context of the ATT.

4. International Cooperation and Assistance

International cooperation and assistance should be an integrated part of an ATT in order to enhance implementation of the treaty's obligations and goals. Civil society and women's groups should be consulted and given the space to share their insight and experiences as well as included in capacity-building and assistance programmes.

5. Implementation

In order for the ATT to be strong and effective, it should set high standards for national systems and internal controls and a clear legal framework for brokering activities (including registration, licensing, disclosure of brokers' location in any export or import licensing application, criminalisation provisions for illicit trade) ensuring that brokers don't act in contradiction to UN Security Council resolutions, including arms embargoes. Furthermore, the ATT should contain strong language on record-keeping and transparency, information exchange, law enforcement and the ISU, as outlined below:

Record-keeping and transparency

The Treaty should oblige States Parties to publish accurate, comprehensive, timely and public national reports on international transfers of conventional arms and steps taken to implement the Treaty, in order to ensure transparency and accountability, build confidence among States' Parties, and enable relevant actors, including civil society and women's groups, to assess implementation, access information and raise public awareness on these issues.

Reports should include information on exports, imports, brokering, transit, transshipment and other international transfers of conventional arms covered by the Treaty, from or to their territory including details the final importer state, quantity, type and value of conventional arms, the state of origin of the items and any intermediary locations, as well as implementation of the Treaty under national laws, regulations and administrative procedures, including relevant enforcement actions and international cooperation and assistance activities. Records should be kept a minimum of 20 years.

States should incorporate the knowledge and experience of different civil society groups, including women's organisations, in exchanges and training programmes and initiate a more systematic approach to the gathering of sex- and age-disaggregated data, thus facilitating more effective actions for combating violations of the Treaty.

Information Exchange with States Parties

States Parties should be obliged to share information on authorised importers, exporters and brokers of conventional arms and ammunition, and for the purpose of law enforcement, States Parties should exchange information on international transfer agents, brokers and other actors suspected to be involved in the illicit trade, as well as sex- and age-specific data on trafficking networks, including linkages between different types of trafficking and anecdotal evidence and qualitative data.

Law Enforcement and Cooperation

States Parties should undertake broad stakeholder consultations with law enforcement officials in information sharing mechanisms, to source information from active civil society groups, including women's groups, working towards combating violations of the provisions of this Treaty and the illicit trade.

Implementation Support Unit

An independent Treaty institution, such as an ATT Implementation Support Unit (ISU), should be established. In addition to other roles suggested, the ISU should:

- Conduct gender-inclusive outreach and engage civil society to increase awareness of the Treaty regime and to promote the universality of the Treaty;
- Support and guide States Parties in the production of national reports, through the development of a reporting template;

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- Develop legal and administrative templates for national implementation of the Treaty;
- Promote civil society engagement and contributions to implementation of the Treaty.

6. Final Provisions

A problem will arise if states tend to understand the UN Programme of Action on Small Arms as having been made redundant by the ATT, whenever it comes into force, thus annulling the value of PoA commitments not relating to arms transfers that, as such, would not be included in the ATT but are relevant to protecting and including women in arms control initiatives (e.g. provisions relating to illicit trade and trafficking, collection and destruction programmes, DDR processes, national and regional focal points and civil society integration). Indeed, the PoA covers much broader ground than the control of arms transfers. The two processes should complement and reinforce each other.

[Suggested addition]

Relations with other international instruments

Nothing in this Treaty shall be interpreted as limiting or prejudicing in any way existing or developing rules of international law, or as restricting the application of any other international instrument which deals with specific issues arising in the context of the arms trade, in particular, the UN Programme of Action on the Illicit Trade in Small Arms and Light Weapons and the International Tracing Instrument (ITI).

Annex 1. Examples of how conventional arms and ammunitions, in particular, small arms, facilitate and aggravate violence against women on a daily basis

Non-conflict situations: Haiti

Marie was gang raped on 10 June 2010. "When you call [for help], people hear but they don't come out to help when there are people with guns around," she says. Her story is one of many others in Amnesty International's January 2011 report on Haiti, entitled "Aftershocks: Women Speak Out About Sexual Violence". Most of the rape victims interviewed were threatened by groups of men armed with guns. Among criminal gangs in Haiti, sexual violence at gunpoint has increased since the earthquake, but even before, it was already a common practice. In 2004, it was estimated that 19,000 per 100,000 girls were raped in the greater Port-au-Prince area.

Situations of armed conflict: DRC, Colombia, Sierra Leone

Democratic Republic of the Congo: During four days in the summer of 2010, a mass rape occurred in Luvungi, Eastern DRC. Nearly all of the 303 reported rapes were described as having been perpetrated by two-to-six armed men, taking place in front of the women's children and husbands. In the DRC, over 15,000 cases of sexual violence were reported in 2009, according to Human Rights Watch. Women and girls have been raped at gunpoint, in front of their family and community. It is estimated that over 1 million small arms are in circulation in the Great Lakes region with a heavy concentration in the east of the DRC.

Colombia: In Colombia, which has the second highest number of internally displaced people in the world after Sudan, 2 out of 10 displaced women identify sexual violence at gunpoint as the direct cause of displacement. In 2008, 21,000 people were victims of sexual violence, many at gunpoint.

Sierra Leone: 64,000 women and girls are estimated to have suffered war-related sexual violence in Sierra Leone's civil war between 1991 and 2002. Testimonies of women explain how the assaults were endured at gunpoint. 'They put their guns to our throats and stomachs to make sure that we followed their orders,' one woman reported.

Post-Conflict Situations: the Western Balkans

Macedonia: For twelve years, Vesna's husband would beat and harass her and her children every day, and would chase her out of the house with a gun. One day, when he was drunk, he shot both her and her son. They survived but still suffer deep physical and psychological wounds. In the Western Balkans, even after war has ended, guns are used to exert violence against women, most often in the home. According to a 2007 study from **Montenegro**, of 1500 women seeking assistance from women's shelters, 90% were threatened with small arms by their partners. In **Serbia**, in 2010 twenty-two women were murdered by their intimate partners, half of them by small arms, reported the Women Against Violence Network.

The widespread availability of firearms, not only during conflicts, but also in their aftermath and in peace situations, is a risk factor contributing to increasing gender-based violence, including domestic violence. The presence of a small arm in the home plays a significant role in whether domestic violence escalates to become lethal.

Annex 2. Notable references to the links between small arms and gender:

In his latest report on small arms to the UN Security Council, the UN Secretary General noted: “The causes and consequences of armed violence are highly gendered. (...) Recognition of the gendered nature of armed violence must inform policy and programmatic responses. If the gendered aspects of armed violence — including the male social roles that often shape armed violence and the structural subordination of women and girls in larger society — are not addressed, some of the key root causes of armed violence and its various impacts on girls, boys, women and men might be neglected.”

In 2010, the President of the Security Council noted in his statement on small arms and light weapons in the Central African Region, that “The Security Council is gravely concerned about **the illicit manufacture, transfer and circulation of small arms and light weapons (SALW) and their excessive accumulation and uncontrolled spread in many regions of the world**, particularly in the subregion of Central Africa, which have a wide range of humanitarian and socio-economic consequences, in particular on the security of civilians by fuelling armed conflict, **which in turn exacerbates the risks of gender-based violence** and recruitment of child soldiers and pose a serious threat to peace, reconciliation, safety, security, stability, and sustainable development at local, national, regional, and international levels. (Security Council Presidential Statement, March 2010, S/PRST/2010/6)

The serious threat of sexual and gender-based violence during and after armed conflict is recognised by 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.”

Annex 3. Relevant international and regional human rights instruments include:

- Convention on the Elimination of All Forms of Discrimination against Women [CEDAW];
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention on the Prevention and Punishment of Crime of Genocide, 1948
- Beijing Declaration and Platform of Action, Fourth World Conference on Women, 1995;
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;
- Declaration on the Elimination of Violence against Women;
- Rome Statute of the International Criminal Court (ICC) 1998
- Outcome document of the twenty-third special session of the UN General Assembly, Women 2000: Gender Equality, Development and Peace for the 21st Century, 2000;
- Four Geneva Conventions of 1949, and;
- UN SC Resolutions 1325, 1820, 1888, 1889 and 1960
- The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa