



## Final Preparatory Meeting for the First Conference of States Parties to the Arms Trade Treaty Geneva, 6-8 July 2015

### Summary and Analysis

#### Overview

The final preparatory meeting (Prep Com) for the First Conference of States Parties (CSP) took place in Geneva from 6-8 July. It was attended by close to 100 governments, including both States Parties and signatories, as well as representatives from the UN, industry and over 45 NGO representatives.

The meeting was dominated by often tense discussions on the Rules of Procedure (RoP) and the ATT Secretariat, as well as discussions on Financing and Reporting. It also included a panel discussion that examined different models for intersessional work, based on the experience of other treaties, and sessions that provided both substantive and logistical information about the first CSP, scheduled for 24 – 27 August in Cancun, Mexico.

The most progress was made on the RoP, where by the end of the final day there was a draft that appeared to command consensus. Least progress was made on the ATT Secretariat, where there is no clearer sense of location, and on Reporting, where a new draft template presented proved controversial, and concerns were raised over the increasingly closed nature of the consultations. Financing discussions were relatively smooth, but as they are very linked to the costs of the ATT Secretariat, not much was agreed on.

However in other areas there are new proposals being made that are proving divisive and made for a politically tense meeting in which new versions of draft rules and proposals were regularly being presented. The looming CSP, just six weeks away, has added a sense of urgency not felt in the earlier meetings.

#### Rules of Procedure

Negotiations on the Rules of Procedure involved several new versions of the most contentious rules being developed during the course of the meeting.

Since the Vienna meeting, a new version of the draft RoP had been circulated, developed on the basis of a drafting committee meeting held in Geneva in June.. After feedback provided on the first day of the Prep Com, Mexico as Facilitator issued an updated version of the three draft rules that were most contentious – Rule 5 (participation), Rule 33 (decision-making) and Rule 41 (intersessional decision-making). These were further revised and updated to be submitted to States Parties for adoption on the first day of the CSP.

Debate about the nature and extent of **civil society participation** was once again a central issue throughout all sessions on RoP. New Zealand noted at the outset of Monday's session that the draft language they had proposed to allow for "umbrella groupings" of NGOs and industry to attend CSPs without the need to apply annually was not included, despite support from a range of governments including UK, Ghana, Nigeria, Jamaica, Costa Rica and Norway. Support for the amendment grew, with new wording around "international coalitions and associations of industry" to provide more precision. Negotiations focussed around whether such groups could have a standing invitation to attend, or whether they need to apply each year. The US spoke strongly against the idea of a standing invitation, while Sweden and Switzerland noted hesitation. A revised draft rule was presented on Tuesday afternoon that allowed for "international coalitions of NGOs and associations of industry" to participate in CSPs with the Conference being able to allow such "international groupings" to attend subsequent sessions of the

Conference without needing to re-apply. This revised Rule 5 appeared to have a lot of support from many delegations including Austria, New Zealand, Costa Rica, Ireland, Guatemala, and Trinidad and Tobago, although a few called for more consistency in drafting language. The US noted acceptance of international coalitions and industry associations, but not once-only applications. However, informal discussions overnight highlighted concerns also from France and Germany around the potential standing invitation for civil society, and this led to further changes in the draft rule.

The ICRC emphasised the importance of an inclusive and transparent approach to participation consistent with purpose to build confidence through the promotion of cooperation, transparency and responsible action by States Parties. They noted the critical role of NGOs in bringing about the ATT, their experience and expertise in support of universal adherence and faithful implementation of the treaty, and the role of Control Arms in particular.

The final version of the RoP presented on the last day – and which will be submitted for adoption in Cancun – continues to allow for the participation of international NGO coalitions and associations of industry as Observers at CSPs, but will require these coalitions to apply to attend each year to the President of the Conference. Costa Rica, Ghana, Colombia, Ireland, Australia, and Guatemala registered their support for this version. [Control Arms](#) expressed surprise at any objection to an “international coalition” having a standing invitation to CSPs, given the importance placed on civil society by so many delegations and the central role of the Control Arms Coalition over the last 12 years.

On **decision-making**, the majority of governments continue to agree that CSPs should aim to take decisions by consensus, but that a vote should be taken where no consensus can be reached. There is also growing agreement that the voting threshold for matters of substance should be a 2/3 majority. Whether or not to defer decision-making – in an additional effort to reach consensus – was debated throughout the entire Prep Com. The draft rules presented before the Prep Com included the option for a CSP President to defer for up to 24 hours (draft Rule 33). The arguments centred on whether the President “may” or “shall” do this, and if the deferment would prevent a decision from being taken until the next CSP one year later. Costa Rica, Denmark, and Trinidad and Tobago were the most vocal against this, and Switzerland and Colombia expressed concern about the practical impacts of deferring a decision. The strongest supporters of the deferral option were Japan and the European Union, particularly France. [Control Arms](#) stressed majority based decision-making for all decisions, and the importance of transparency through open sessions including for subsidiary and extraordinary sessions.

A revised draft Rule 33 circulated on Tuesday presented a more nuanced version in which deferment could happen when “all efforts at consensus have been exhausted and no agreement reached” and “where possible within the limit set by close of business of the current ordinary session”. Most delegations reacted by appreciating the effort at compromise. Some, like the UK, Ireland, Austria, and Australia suggested small drafting amendments. Brazil, Costa Rica, South Korea, and Guyana emphasized their preference for “may” rather than “shall”, so that deferment remains an option rather than a requirement. France and Japan reiterated their support for “shall”.

Further revisions were made around deferral, with language changing to the Chair having the potential, rather than requirement to defer (“may” not “shall”) and a new draft presented on Wednesday. Sweden, Guatemala, Australia, Austria, Germany, Ireland, and Switzerland spoke in favour of it. Ghana did as well but reiterated the request that signatories be able to vote; Costa Rica was accepting but noted their preference for “may” while Trinidad and Tobago felt that the term “if all efforts have been exhausted” should be retained. France stated it could accept the compromise, although strongly signalled that it would not accept any further revisions.

There were different ideas about the **location of annual CSPs**, with Thailand, Luxembourg, Ireland, South Africa, Sweden and CARICOM supporting the idea of rotating CSPs to aid universalization, while Italy and France opposed this.

**Intersessional decision-making** was more of a discussion topic in Geneva than in previous meetings – an entire session was dedicated to it during the Conference plenary - eliciting mixed responses from States. Italy, France, and the UK felt strongly that States should not be able to take decisions during any intersessional meetings (between CSPs). Austria, Poland, Germany, South Africa, Sweden, Switzerland, and the Philippines took the opposite view. The relevant draft rule was revised early on in the Prep Com (draft Rule 41) to provide for some element of decision-making. Most States accepted the revision, although some pointed out the need for more clarity on the mechanism by which decisions would be taken and specificity as to the nature of the decisions to which it could apply. The draft rules have used the term “administrative” which, as a few States pointed out, is not very clear.

The languages in which Treaty-related documents will be produced, and CSPs conducted in, was also debated, with France arguing that Russian and Chinese must be provided even if the relevant States are not present, and other States including Sweden arguing that these languages should only be used when Russia and China join the Treaty.

The suggestion that other Observers, including civil society, be required to contribute financially to CSP costs has been removed from the draft Rules, which was welcomed by several States including the Republic of Korea and Thailand.

## **ATT Secretariat**

The ATT Secretariat quickly became an area of focus for the Geneva conference, when the Conference President, Ambassador Lomónaco of Mexico, announced on Monday morning that he would organize a series of one-on-one “confessionals” with States Parties present to obtain their preference for the ATT Secretariat’s location. The aim was to reduce the number of candidates for host from three to two, by informing the third place candidate of the result, and seeing if they wanted to subsequently withdraw. However, this did not work in practice as all three candidates stand firm in their bids.

Amb. Lomónaco further proposed that decision on the location, as well as remit of the ATT Secretariat, could be postponed and that instead, States Parties could appoint a Head of Secretariat during the first CSP. Switzerland, Germany, Luxembourg, Austria, Czech Republic, Thailand, and Italy supported this. A vacancy announcement was circulated to delegations for their review, and five States have stepped forward to be part of an Evaluation Committee – New Zealand, Argentina, Japan, Czech Republic, and Nigeria. A deadline of 31 July 2015 was announced, after which the Evaluation Committee will examine applications in early August, aiming to give the Chair recommendations for circulation.

A new paper on the ATT Secretariat was distributed by Facilitator France, which illustrates three possible models for the ATT Secretariat by using the examples of the ISUs for the Biological and Toxin Weapons Convention, the Mine Ban Treaty and the International Seabed Committee. France has also proposed that the three candidate countries for host of the ATT Secretariat complete a questionnaire that would outline in detail the set-up and costs for each location. The US expressed concern that Option A (linking to UN) would not give States Parties sufficient control and referred to UNODA as a “loose cannon” that has been operating without a mandate (in carrying out universalization activities), and so prefers Options B and C. [Control Arms](#) noted concern that the paper presented by France sets out too limited a scope for the ATT Secretariat and about the proposal to keep reports private. It advocated for an ATT Secretariat with a mandate to truly help Parties implement the Treaty and encourage others to accede. It noted that the arms trade is worth \$85bn and that the likely amounts requested for an ATT Secretariat and annual CSP will be well under one 1% of this.

The general impression on location is that states – from the global South tended to favor a stand alone set-up (Brazil, Guatemala, CARICOM) with some explicit support for Trinidad and Tobago (GRULAC countries), while European states tended to favor a set-up linked to the UN in some way without references to specific location but where the ATT Secretariat could benefit from technical expertise in the host city (EU, Sweden, Netherlands). Germany said it supported a European location for the ATT Secretariat. Ghana and Togo called for the location to be in a place “easily accessible to all States”.

Ghana also proposed that the decision should either be taken with both State parties and signatories being allowed to vote, or postponed to next CSP. There was some support for France's suggestion of a questionnaire to the host candidates detailing potential set-up and costs (EU, Sweden, UK, Netherlands). Some mentioned deciding on most efficient institutional set-up would depend on the location (Finland, Netherlands, UK).

The candidates announced themselves ready to complete a questionnaire, and Trinidad and Tobago asked for greater clarity on what it would contain. Finland, the Netherlands and the UK noted that this detailed information is key to deciding on what the most efficient institutional set-up would be. On the final day, all three candidates gave brief presentations to the conference about their offers to host, and the advantages they felt each of their locations offer to ATT implementation.

Regarding institutional set-up, States from the global South tended to favour a stand-alone structure while European States tended to favour a set-up linked to the UN in some way without references to specific location but where the ATT Secretariat could benefit from technical expertise in the host city. Brazil, Guatemala, CARICOM, Montenegro, Argentina, the US, Guyana, and Antigua and Barbuda stated that they felt the stand-alone option in the French paper was not fully developed. The Facilitator agreed to circulate a new paper that would better outline such a structure.

With respect to the mandate of the ATT Secretariat, Brazil, Colombia, Guatemala, CARICOM, Nigeria, South Africa, Antigua and Barbuda, and Guyana stated that they prefer a process in which tasks are decided before the number of staff is selected, as this would be most logical. Some States made reference to tasks for the ATT Secretariat that they feel are additional but important such as advancing universalization (CARICOM, Finland, Costa Rica), providing technical implementation assistance (Guatemala, CARICOM, Costa Rica, Slovenia, South Africa, Czech Republic, Guyana, Zambia) or analysis and research (Costa Rica). The EU, France, UK, Sweden, and Japan advocated for a minimized structure based on the mainly administrative tasks outlined in the chair's paper. Some such as Lithuania, Slovenia, Costa Rica, and the Czech Republic asked that the ATT Secretariat make public the reports that it would receive; an issue that also surfaced under Reporting. Nigeria mentioned that civil society should be included as one of the stakeholder groups the Secretariat should communicate with. South Africa noted the contradiction between the many references to a minimized structure but at the same time references to enhanced responsibilities.

The equitable geographic composition of the ATT Secretariat and management committee was highlighted as a priority by Brazil, Colombia, Ghana, Guatemala, Ghana, Luxembourg, Austria, Guyana, Thailand, and Mali.

## Financing

Many aspects of financing have become integrated with the discussions on the ATT Secretariat and the draft RoP. Ghana and Australia, as Facilitators of this Working Group, presented draft financial rules shortly before the Prep Com for States to respond to. Discussion was limited, both because there was not enough time for review and also because some aspects of the discussion were addressed elsewhere.

The most overlap exists in regard to decision-making. In draft Rule 35 of the initial draft RoP, financial decisions were to be made by consensus and if that was not achieved, there was an allowance for a deferral period, after which it would move to a 2/3 majority vote. Japan continues to be the only strong advocate for financial rules to be taken by consensus only; a few, such as Nigeria, emphasized the importance of flexibility and that such decisions not require consensus.

Switzerland, as well as Costa Rica, both made points about the importance of keeping some distance between financial rules and issues of the ATT Secretariat and its activities.

The draft financial rules propose the creation of a **budget management committee**. Questions were raised about this body and if it was necessary, or should be merged into a larger management committee

with most States who spoke supporting that suggestion. A few, such as Trinidad and Tobago, Korea, and Costa Rica, underscored that this be done transparently, with fair geographic representation and understanding about to who this body is responsible.

Establishing a **maximum or minimum contribution** that a State Party would have to make, for either ATT Secretariat costs or CSP costs, continues to be an area on which there is disagreement, although less so than in past meetings. Among those who expressed support for a cap such as Portugal, Peru, and Singapore, most support for 22 percent (which is standard within the UN) with the latter noting that it not be any higher. France would not like to see a cap. Nigeria supported keeping any minimums to a UN scale. The US and Sweden suggested that these limitations be established in a realistic way based on real circumstances and rationales. Costa Rica strongly disagreed with establishing limits, noting that they will disadvantage lesser-resourced States. Singapore disagrees with establishing a minimum. Japan, speaking in the RoP session, argued for the caps and minimums to be placed on all mandatory contributions so as to enhance ownership and commitment to the Treaty.

A “**pay to play**” model - which would require different types of participating States or bodies having to pay to attend a CSP - was discussed fairly extensively. Most States agree with this model, in general although there are some differences of opinion as to whether or not signatories, should have to contribute.

[Control Arms](#) stressed that the rules and budgetary processes put into place by States Parties must ensure the success of the entire ATT system including the work of its ATT Secretariat and meetings. It also emphasised that when voluntary funds are provided, they are done so with no risk of politicization or to infringe on the independence of the ATT Secretariat.

## Reporting

Delegations arrived at Geneva expecting to comment on and discuss the second draft templates of the Initial and Annual Reports, which had been circulated a month earlier by Sweden, the Reporting Working Group Facilitator. However, on the first day of the Prep Com, Amb. Beijer of Sweden announced that he had just completed a third draft of the templates, based on comments received over the previous month bilaterally and at (closed) consultations in Geneva and New York, which made discussion of the second draft redundant. He proposed instead that he describe the main changes he had made, that he circulate (imminently) the new draft, and that delegations share their initial thoughts on the afternoon of day 2. This was accepted by the Prep Com.

Sweden said that responses to the second drafts had been generally positive, with a general acceptance of his overall structure and his basic approach. However, in light of comments received, they had made further changes, and that chief among these were that he had:

- created a new tick-box at the beginning of each report where States Parties could declare whether they had already made their report public
- more accurately reproduced actual language from the Treaty text
- separated the Initial Report into two distinct sections containing respectively those Treaty elements that he had identified as unconditional obligations and those he identified as conditional obligations or voluntary
- created sub-categories in the Annual Reports for manned and unmanned items
- allowed for a greater degree of aggregations when reporting on SALW in the Annual Reports
- allowed for States Parties to report on number of items or value of exports and imports in the Annual Reports
- removed some complicated ‘double negative’ question constructions from the Initial Report.

Most States including the UK, Netherlands, Switzerland, Lithuania, Austria, Hungary, and Japan said more time was needed to consider the drafts properly and further comments would be sent in due course. A number of States did however provide some preliminary feedback (though it should be noted that it was not always clear whether States were speaking to the one-off initial report (of measures undertaken to

implement the Treaty) or the annual reports (concerning authorised or actual exports and imports) or both).

In terms of the level of transparency of both reports a number of States (including Austria, Czech Republic, Denmark, Estonia Lithuania, Slovenia, Trinidad and Tobago, and the US) spoke strongly in favour of full public reporting. France and Italy favoured a very minimalist approach to reporting, arguing that this was the best way to encourage universalisation. A few States (Ireland, Norway, and the UK) referred to a desire that the templates should be flexible and allow for change over time. The UK also wanted more information on how the templates would be introduced in the CSP.

With regard to the one-off initial-report template, Hungary, Italy, and South Africa welcomed what they characterised as a clearer distinction between obligatory and voluntary elements, the US stated that these distinctions as currently presented contained errors. Denmark and South Africa supported the tick-box-plus-comments approach. Costa Rica wants the template to encourage more reporting on voluntary items.

In the discussion on the annual report, the possibility of reporting on number of items and/or value was supported by Italy and South Africa but criticised by Poland (on the ground that this would frustrate efforts at comparative analysis) and the US (which observed that reporting by value was not mentioned in the Treaty text). France and Italy did not support the separation of manned and unmanned items into separate sub-categories, while Belgium wanted only a single reporting line for all SALW.

[Control Arms](#) expressed concern that the reporting templates do not live up to the standard of transparency established in the Treaty, and highlighted the way the process has become, ironically for a Treaty aspect about transparency, progressively more secretive over time. Control Arms noted that despite the protestations of some States that regarding the reporting burden, 49 States Parties had already completed the BAP Survey (plus a further 9 signatories and 2 non-signatories). Control Arms also argued that if the purpose of the annual report is for States Parties to give a comprehensive picture of their arms transfers, they should aim to include information on authorised *and* actual exports and imports, and on number of units transferred *and* their value.

The Facilitator announced he will receive further comments and responses up to Friday 17 July, after which a fourth draft will be produced for consideration at the CSP. He also said that whatever was agreed at the CSP would need to leave the option for additional changes in the future on the basis of practical experience and to take account of the further evolution of the concept of transparency.

## Outcomes

On the final day of the Conference, the Chair presented a document of decisions and recommendations for States as they move toward the CSP. They include considering the following for adoption at the CSP:

- The latest version of the draft RoP with the understanding that further minor adjustments could still be incorporated
- A Directive for the tasks of the ATT Secretariat, noting the emphasis by some delegations that tasks must be considered before size is decided.
- A TOR for a Management Committee
- The current draft of financial rules and a draft budget for the period between the first and second CSPs.
- Draft templates for reporting while acknowledging that these may change over time to reflect practice and experience.

As well, the recommendation of the Chair to post for a short-term Head of ATT Secretariat was approved, and an Evaluation Committee comprised of Argentina, the Czech Republic, Japan, New Zealand, and Nigeria was established to manage recruitment.



A few delegations summarized their positions throughout the Conference at this point, while extending acknowledgements, and UNODA reaffirmed its support to States Parties in their implementation of the Treaty.

**Control Arms Coalition participation & other activities**

Control Arms coordinated the participation of 45 civil society representatives. As in past meetings, an NGO day before the Prep Com (Sunday 5 July), enabled detailed discussion and agreement on policy positions, and related Control Arms messages, achieving a collective agreement on the drafting and delivery of interventions, and discussion of longer term plans for universalization and implementation.