SMALL, BUT LETHAL

– SMALL ARMS AMMUNITION AND THE ARMS TRADE TREATY

By Hilde Wallacher and Alexander Harang, PRIO • 2011

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Each year, 12 billion bullets are produced, two bullets per person in the world. Unrestricted access to ammunition fuels conflicts and crime across the globe. Often referred to as the "weapon of mass destruction of the poor", hundreds of thousands of people are killed by small arms every year. Many more are injured, traumatized and forced to flee. Today, the international trade in conventional weapons – including small arms and ammunition - is poorly regulated. At the United Nations in 2009, after years of discussions, the vast majority of governments agreed a timetable to establish a "strong and robust" Arms Trade Treaty (ATT) with the "highest common standards" to control international transfers of conventional arms, to be negotiated in 2012. To help inform decisions on how to regulate the international trade in small arms ammunition through the Arms Trade Treaty, Forum for Environment and Development and Norwegian Church Aid commissioned this report from Peace Research Institute Oslo (PRIO).

The report "Small, but lethal – small arms ammunition and the Arms Trade Treaty", is written by Hilde Wallacher and Alexander Harang at Peace Research Institute Oslo (PRIO). The opinions are those of the authors, and do not necessarily reflect those of the commissioning institutions.

The report can be downloaded from www.prio.no, www.forumfor.no and www.nca.no

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Front cover photo: Somalia children watch through the window of their bullet ridden flat as convoys of a peaceful demonstration bypass through the streets of the capital Mogadishu. In Somalia and elsewhere, the widespread and easy availability of weapons and ammunition has enabled various parties to the conflict to perpetrate with impunity gross human rights abuses. (Photo: REUTERS/Scanpix)

EXECUTIVE SUMMARY

- Proliferation of conventional arms contribute to human rights violations, breaches of international humanitarian law, to intensifying and prolonging armed conflicts, and to threaten national and regional stability. Ammunition, as integral to the use of conventional weapons, has to be included in a future ATT if the instrument is to respond to these fundamental concerns. This is particularly the case because ammunition must be constantly restocked for armed actors' weapons to remain operable.

- An informed discussion about how to include small arms ammunition in the ATT depends on a clear and consistent definition of what constitutes small arms ammunition. A good working definition can be derived from existing UN terminology for ammunition. With this as a starting point, we define small arms ammunition as all powder propelled, cartridge based ammunition ranging from the smallest calibre available and up to 20mm. The type of weapons that fire such ammunition includes revolvers and self-loading pistols, rifles and carbines, assault rifles, sub-machine guns, and light/general purpose machine guns.

  The UN Register of Conventional Arms has been a starting point for many states in the scope discussions in the ATT debate. However, the register is far from comprehensive. This is because many weapons are not included in its scope due to the calibre and range limitations of the register. The register was set up as a transparency measure addressing concerns related to military capability, and does therefore not respond to export control needs or humanitarian concerns. Even if it is expanded with the categories of small arms and light weapons and its ammunition (7+1+1), the register is therefore insufficient as a reference for items to be included in an ATT.

- A comprehensive and logical approach to defining SALW for inclusion in an ATT will be to include ammunition as inherent in the definition of SALW, in line with the terminology of the 1997 GGE on ammunition and explosives. This definition includes ammunition for revolvers and self-loading pistols; rifles and carbines; assault rifles; sub-machine guns and light machine guns; heavy machine guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns; portable anti-tank guns; recoilless rifles; portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; and mortars of calibres of less than 100 mm. Following the approach of the Small Arms Survey, the category should also encompass single-rail-launched rockets and 120 mm mortars, as long as they can be transported and operated as intended by a light vehicle.

- A majority of states express a preference for the inclusion of small arms ammunition in an ATT. This view is supported by a wide range of international instruments that address transfer of arms and that include small arms ammunition, such as the legally binding UN Firearms Protocol, the Wassenaar Arrangement, and a range of legally and politically binding regional instruments. This vast body of existing international regulations provides a strong and very useful precedence for the inclusion of small arms ammunition in the ATT. Additionally, the transport of ammunition is subjected to stricter and more comprehensive national and international controls than other weapons and military goods. This is because they are in most cases classified as "dangerous goods", engaging a range of control mechanisms related to transportation and handling of these items.

- It is difficult to properly assess the current levels of resistance towards inclusion of small arms ammunition in an ATT, as states that express reservations towards such inclusion have failed to make the arguments and reasoning behind their reservations clear in the on-going ATT debate.

- Most small arms rounds used for hunting and sports shooting are originally developed for military purposes. Small arms ammunition produced for civilian and state usage is therefore quite similar. All small arms ammunition is thus in general regulated as strategic goods through national export controls. It is therefore necessary and unproblematic to include ammunition produced for both purposes in an ATT.

Worth an estimated USD 1,77 billion annually, the international trade in small arms ammunition is more valuable and less transparent than the trade in firearms. Easy availability and lack of control increases the risk of diversion to acts of crime, terrorism and human rights abuse. ***Photo:*** *Shooting Poverty/Oxfam*

ABBREVIATIONS

ATGW – Anti-Tank Grenade Weapon

ATT – Arms Trade Treaty

AI – Amnesty International

CAC – Control Arms Campaign

ECOWAS – Economic Community Of West African States

EU – European Union

GA – General Assembly

GGE – Group of Governmental Expert

IANSA – International Action Network on Small Arms

MANPADS – Man Portable Air Defense System

ML – Military List

NISAT – Norwegian Initiative on Small Arms Transfer

OAS – Organization of American States

PoA – Programme of Action

PRIO – Peace Research Institute Oslo

SADC – Southern African Development Community

SALW – Small Arms and Light Weapons

SAS – Small Arms Survey

SIPRI – Stockholm International Peace Research Institute

SME – Significant Military Equipment

UN – United Nations

USD – United States Dollar

USMIL – United States Munitions List

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INTRODUCTION

Civil society, states, and international organisations positive to the Arms Trade Treaty (ATT) initiative approach it from a plethora of priorities, goals and motivations. Common to all of these is a desire to harmonise international risk assessment for arms export controls, a sentiment echoed by UN Secretary General Ban Ki Moon who has identified as a "recurring problem" the absence of a normative framework for all states to guide decisions regarding arms transfers[1]. Behind this concern lies the common understanding that proliferation of conventional arms contribute to human rights violations, breaches of international humanitarian law, to intensifying and prolonging armed conflicts, and to threaten national and regional stability. In the words of the group of Nobel Laureates credited with initiating the process that would lead towards the current multilateral Arms Trade Treaty discussions, "[i]ndiscriminate weapons sales foster political instability and human rights violations, prolong violent conflicts, and weaken diplomatic efforts to resolve differences peacefully."[2]With this in mind, it is clear that ammunition, as integral to the use of conventional weapons, has to be included in a future ATT if the instrument is to respond to these fundamental concerns. Ammunition must be constantly restocked for armed actors to be operable, unlike a lot of weaponry which can be reused indefinitely, but only given a steady supply of ammunition. Its exclusion from the ATT will thus go a long way in turning this instrument into something entirely different from what its initiators and supporters intend it to be, causing its failure to respond to basic concerns for the humanitarian impact of conventional arms proliferation.

> "Even if there is a lack of well-developed national arms transfer control systems, current national regulations on small arms ammunition for both civilian and military use makes inclusion of small-arms ammunition in the scope of an ATT feasible and reasonable."
>
> **Hilde Wallacher and Alexander Harang, PRIO**

The Arms Trade Treaty debate has since its UN debut in 2006 centred around three interlinked topics, namely those of feasibility, parameters, and scope. It is primarily within the debate concerning scope that ammunition continues to be raised as a theme of contention, and it is the scope debate that is the focus of this paper. We will argue for an inclusive approach to the ATT scope debate. In this paper, we define small arms ammunition as all powder propelled, cartridge based ammunition ranging from the smallest calibre available and up to 20mm. The type of weapons that fire such ammunition includes revolvers and self-loading pistols, rifles and carbines, assault rifles, sub-machine guns, and light/general purpose machine guns. Most of these items are already regulated through national export controls. As Amnesty International puts it; the broad range of items already controlled by states as part of their national export-import regimes could provide a sufficient basis for broad agreement on what equipment the Treaty should cover.[3]

An ATT is necessary because the current regulatory regime for arms transfers is insufficient and plagued by inconsistencies.

We must keep in mind that a significant number of states are not party to any multilateral agreement to control arms transfers, although all states are bound by Security Council resolutions containing limitations on transfers of specific arms or of arms to specific states. Even if there is a lack of well-developed national arms transfer control systems, which indeed is an important rationale for establishing an ATT as such, this paper argues that current national regulations on small arms ammunition for both civilian and military use makes inclusion of small arms ammunition in the scope of an ATT feasible and reasonable. In fact, one may argue that "a weak treaty would legitimise low national arms transfer controls, and set back efforts to control the global arms trade for years to come".[4]
The main goal of this paper is to provide policy makers and activists

[1]Cited on the UN – Towards an Arms Trade Treaty website at http://un.org/disarmament/convarms/ArmsTradeTreaty/html/ATT.shtml, accessed 07.02.2011.
[2]Nobel Peace Laureates' International Code Of Conduct On Arms Transfers May 1997, available from http://www.wagingpeace.org/articles/1997/05/00_nobel-code-conduct.htm, accessed 07.02.2011.
[3]Brian Wood and Alberto Estevez: "Towards a bullet- proof Arms Trade Treaty", page 2

Drawing fire: *Childrens drawings from Darfur.*

with a better understanding of the role of ammunition in the Arms Trade Treaty process. This paper attempts to address the momentums and possibilities of including small arms ammunition in the scope of an ATT. We hope this will aid the discussions on scope and on the specificities of small arms in the ATT context. It is first of all crucially important to ensure that discussions related to ammunition are firmly based on detailed, comprehensive definitions. In the first chapter, we will therefore offer a typology of all ammunition, discussing the specifics of small calibre ammunition definitions within the UN terminology. In the second chapter, we address the scope debate of the ATT process to ascertain how small arms ammunition has been dealt with by participating states. The third chapter will go on to connect these definitional issues with existing political and legal regulatory instruments. The fourth chapter addresses the tenuous differentiation between small calibre ammunition for civilian and military uses in the context of an ATT. In this chapter we discuss similarities and differences in ammunition and its export controls, illustrating the need for comprehensive controls.

[4] *As pinpointed by Hannah Wright, Advocacy Officer at Saferworld in her article "Time to export our arms controls to the UN", 17th of January 2011, available at: http://www.parliamentarybrief.com/2011/01/time-to-export-our-arms-controls-to-the-un#all*

Ch. 1: Ammunition: Types and Categories

Ammunition is a concept that encompasses a great variety of items. Many of these items are generally seen as uncontroversial in international arms trade debates. However, it is still of significant importance that we have a clear perspective of which types of items we refer to as ammunition. Therefore, we start off by providing you with a typology of items that constitutes ammunition in the ATT context. The tables below are set up to provide non-specialists with an overview of the more significant types of ammunition systems. This categorisation is drawn from Bevan and Wilkinson's listing of generic types of conventional ammunition as formulated in "Conventional Ammunition in Surplus - A Reference Guide", chapter two.[5] The calibre range indicated for each type is derived from Jane's Ammunition Handbook[6] , if other references are not given.

SMALL AMMUNITION:			
Type:	**Small arm ammunition**	**Projected grenade**	**Hand grenade**
Calibre:	**Up to 20 mm[7]**	**Up to ca 40 mm**	**Not applicable**
Characteristics:	**Cartridge based ammunition, firing a powder propelled bullet**	**Projected from grenade launcher attached to rifle barrel or muzzle launch**	**A great variety of types are produced, both lethal and non-lethal**

MEDIUM SIZE AMMUNITION:			
Type:	**Cannon**	**Unguided light weapon**	**Tank / Anti-tank[8]**
Calibre:	**Ca 20 – 57 mm**	**Less than 82 mm[9]**	**Ca 60[10] – 125 mm**
Characteristics:	**Cartridge based light weapon**	**Bombs for light mortars**	**Primarily for defeating armoured vehicles**

[5]Bevan (Ed): "Conventional ammunition in surplus- a reference guide", chapter 2 by Bevan and Wilkinson: "Generic types of conventional ammunition", Small Arms Survey 2008

[6]Ness and Williams: "Janes Ammunition Handbook 2006-2007", Colsdon: Janes Information group, 2006

[7]The 1999 group of governmental experts on ammunition and explosives report to the UN General Assembly, UN document A/54/155 of 29 June 1999, (from hereon referred to as "GGE 1999"): Page 5, point 13: " The types of ammunition most commonly encountered in conflict areas and illicit activities are small arms ammunition (i.e., ammunition for weapons such as pistols, rifles and machine-guns below 20 mm in caliber)"

[8]In the "Facilitators summary for scope", a report from the working group on scope to the ATT prep com in NYC, July 2010, it is was also pinpointed by states that anti tank weapons such as these are not included in the UN registers Category 3, see page 4

[9]The GGE 1997 defines mortars below the caliber of 100 mm as light weapons, ref paragraph 24

[10]In the UN Register´s general definitions, category 1, "Battle tanks", are defined as equipped with a main gun of 75 mm calibre or more

LARGE AMMUNITION:			
Type:	Naval / costal guns	Heavy mortars[11]	Field artillery[12]
Calibre:	Ca 75 – 130 mm	100 mm and above	Ca 75 – 250 mm
Characteristics:	Cartridge based anti-air or surface ammunition	Bombs from less than 10 kg up to ca 130 kg	Cartridge based, providing indirect fire

ROCKET PROPELLED AMMUNITION[13]:			
Type:	Free flight rockets	Guided light weapons[14]	Guided missiles
Calibre:	Ca 50 - 400 mm	Up to 120 mm	120 mm and above
Characteristics:	Unguided, solid fuel rocket motor	Man portable missiles for anti-tank and aircraft[15]	Bigger missiles for the same purpose

OTHERS TYPES OF AMMUNITION:			
Type:	Mines	Explosives	Pyrotechnics
Calibre:	N/A. Land-based types carry from ca 250 g to ca 7,5 kg of explosives	N/A.	Almost any
	Anti-personnel, vehicle, helicopter and sea mines	Explosive materials are categorized by the speed at which they expand	Main purpose is to produce sound, smoke, light, heat, decoy etc.

The tables above cover thousands of specific items of ammunition currently in use. Many of these ammunition types do not seem to be understood as problematic to include in the scope of an ATT by any state. However, in the current ATT debate the issue of including ammunition is still among the controversial ones. This has to do with the small ammunition rather than the larger ammunition.

[11]The GGE 1997 defines mortars below the caliber of 100 mm as light weapons, ref paragraph 24

[12]In the UN Register´s general definitions, category 3, "Large calibre artillery systems", are defined as of 75 mm calibre or bigger

[13]In the UN Register´s general definitions, category 7, "Missies and missile launchers", guided or unguided rockets that are included all must have a range of at least 25 km to be included.

[14]The UN register does not include these types of weapons when they have an effective range of less than 25 km.

[15]The only one of these types covered by the UN registers category 7 is MANPADS. All other ground to air missiles are not included in this category.

[16]In regard to small arms ammunition only, there are more than 1500 cartridge types available for the civilian market alone. See Frank C. Barnes in "Cartridges of the world, 11th edition", Gun Digest Books 2006.

CONT. Ch 1: Ammunition: Types and Categories

Digging into the states views as expressed since the ATT process started at the UN in 2006, we find no examples of worries or precautions voiced by states in this matter in regard to i.e. field artillery. We will explore the current ATT debate in regard to ammunition in greater depth later, but already at this point we should note that while the inclusion of small arms ammunition raises controversy, the inclusion of most of the larger ammunition categories does not seem to cause any stir in the current ATT debate.

A general definition of ammunition can be a useful point of departure to further distinguish the smaller and more controversial ammunition from the other categories. An example of such a definition is that ammunition is a complete device (e.g. missile, shell, mine, demolition store, etc.) charged with explosives; propellants; pyrotechnics; initiating composition; for use in connection with offence, or defence, or training, or non-operational purposes, including those parts of weapons systems containing explosives (cf. munition). [17]The weapons covered in UN terminology as small arms that do not use any powder propelled ammunition, such as clubs or knives, will be left out of the SALW concept[18] of this paper as they do not use ammunition. The reference to a distinction between ammunition and munitions also needs to be addressed. In the current ATT debate, this distinction is seldom made, and the terms are used in a rather blurry manner. At the ATT symposium in Boston in September 2010[19], the question of how to distinguish between ammunition and munitions in this ATT context were therefore raised to the states, academics and civil society attending the conference. The conference asked: "Does the term "ammunition" or "munitions" best serve the purposes of an ATT? Is "munitions" too wide both for scope and reporting purposes?"[20]. As implied in the question, munitions are commonly understood as a wider category than ammunition. The US department of defence defines munitions as "A complete device charged with explosives, propellants, pyrotechnics, initiating composition, or nuclear, biological, or chemical material for use in military operations, including demolitions. Certain suitably modified munitions can be used for training, ceremonial, or nonoperational purposes. Also called ammunition (Note: In common usage, "munitions" [plural] can be military weapons, ammunition, and equipment.)"[21] In common usage of the term munitions, it refers only to military weapons, ammunition and equipment. However, a number of ammunition specialists use the term to refer solely to complete rounds of ammunition, and this interpretation also tends to include small arms ammunition for civilian use. Looking at the etymology of the munitions term, we find that confusion between meanings referring to "munitions" as all military supplies, and meanings that solely refers to ammunition, prevail both in the French and the English language. Hence, the SALW ammunitions definitions used in current UN terminology, as explained below, are of a very inclusive nature, in that it includes both explosives and cartridge based ammunition, and that it does not distinguish between civilian and military ammunition. Our understanding is therefore that it is easier not to be misunderstood in the ATT context using this broad definition of the ammunition term rather than the less conclusive munitions term.

Small arms is indeed a special category of weaponry in terms of the ATT. Even though these weapons and their ammunition, as the main class of infantry weaponry, are of great strategic importance to states, they are also highly relevant to civilian life, especially for hunters, sport shooters and weapon collectors. However, this civilian usage does not in any way imply that states conceive small arms ammunition as any other than a strategic good in general. Most countries with an export control system therefore demand a governmental issued license for its export.[22] We will explore the issue of civilian versus military usage of small arms ammunition further later in this paper, but first we have a look at the UN attempts of defining this category of ammunition.

In the UN terminology, ammunition is most often understood as part of the small arms and light weapons concept. The 1997 Group of Governmental Experts (GGE) on ammunition and explosives put ammunition as a third sub-category in SALW. It holds that ammunition and explosives form an integral part of the small arms and light weapons. This is explained in the following way: "Ammunition and explosives form an integral part of the small arms and light weapons used in conflicts. The availability of ammunition is an important independent element, since weapons can be rendered useless without appropriate ammunition."[23]

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[17]Bevan (Ed): "Conventional ammunition in surplus- a reference guide", Small Arms Survey 2008, Glossary xix

[18]GGE 1997 paragraph 27: "Small arms and light weapons range from clubs, knives and machetes to..."

[19]You can read about the event and find the Symposium materials at this web site: http://www.mccormack.umb.edu/arms_trade_treaty_conference.php

[20]The Boston Symposium on the Arms Trade Treaty, working paper entitled: "Discussion Questions: Scope", 29 September 2010, bullet point three from top. This paper is found on the web sight referred to above.

[21]US Department of Defense: "The Dictionary of Military Terms", Skyhourse Publishing 2009, page 362

[22]Some differences exists in national practices regarding civilian small arms, like some exempt hunting and sporting shotguns and rimfire ammunition for sporting purposes from their strategic controls and similar exceptions exists with regard antique weapons in some states.

[23]UN document A/52/298 of 27 August 1997, paragraph 27. This document is referred to as GGE 1997 from here on.

The ammunition sub-category was in this document understood to include cartridges, shells and missiles for anti-tank or tank systems, hand grenades and explosives.[24] This was not explained thoroughly.[25] The second GGE on ammunition and explosives, reporting to the General Assembly (GA) in 1999, defined the ammunition and explosives separately. Here, ammunition was described as a by-product of both explosive and non-explosive ingredients and it served as a generic name for all devises and missiles both for offensive and defensive use. Accordingly the 1999 GGE refers to ammunition as "complete round/ cartridge or its components, including bullets and projectiles, cartridge cases, primers/caps and propellants that are used in any small arms and light weapons". The 1999 GGE also gave a list of ammunition, and described explosives as they belong to "the general definition of ammunition".[26] The panel also includes military high explosives, industrial explosive and improvised explosives in the sense of SALW. No distinctions are made from the intended civilian/ military use of the product in this regard.

Defining small arms ammunition, we also need a calibre limit in the upper end to the category. It is universally accepted that small arms ammunition starts from the smallest cartridge based powder propelled ammunition there is, and we therefore need no such limit the other way around. The 1997 GGE is often understood as limiting the small arms ammunition category to any ammunition below 12,7 mm.[27] This upper limit was set to 20 mm by the 1999 GGE[28], which makes much more sense in the ATT context. The main reason for this is that there are many weapons in use today that shares the characteristics of a small arm listed in GGE 1997, that has a calibre of between 12,7 mm and 20 mm. The technical developments in the field of small arms over the last decade also suggests that the use of such large calibre rifles, designed for use of the individual soldier, will continue to increase in popularity. According to most authorities on the matter, a 20 mm upper limit is therefore more up-to-date and practical.[29] When referring to small arms ammunition, we therefore strongly advise to include all powder propelled cartridge based ammunition of 20 mm calibre or less. Counter-intuitive for many observers, hand grenades[30] certain explosives[31] and mines[32] are also understood as light weapons ammunition in UN terminology. This is why we also need

Ammunition and explosives form an integral part of small arms and light weapons used in conflicts. ***Photo:*** *Hege Opseth/NCA*

to keep the "other ammunition" types listed above in mind when referring to SALW ammunition in the ATT context.

In conclusion, we would suggest operationalising the SALW ammunition category in the ATT context the same way as the Small Arms Survey (SAS) does in their work. SAS derive their categorisation from the 1997 GGE, and use the term "small arms" to refer to small arms and light weapons, as well as their ammunition and parts and accessories. The term "light weapons", however, always refers just to those items. The term "firearms" comprises small arms and heavy machine guns. The following categories in the GGE 1997 are listed as "small arms": revolvers and self-loading pistols, rifles and carbines, assault rifles, sub-machine guns and light machine guns. Light weapons is similarly listed as encompassing heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems; portable launchers of anti-aircraft missile systems; and mortars of calibres of less than 100 mm. In addition to this, the Small Arms Survey adds single-rail-launched rockets and 120 mm mortars here, as long as they can be transported and operated as intended by a light vehicle.[33] This also seems like a reasonable approach in the ATT context.

[24]GGE 1997, above at 6, at 12
[25]Zeray Yihdego: "The arms trade and international law", Studies in International Law Oxford and Oregon, 2007, page 40
[26]GGE 1999
[27]Zeray Yihdego: "The arms trade and international law", Studies in International Law Oxford and Oregon, 2007, page 40-43
[28]GGE 1999, Page 5, point 13: " The types of ammunition most commonly encountered in conflict areas and illicit activities are small arms ammunition (i.e., ammunition for weapons such as pistols, rifles and machine-guns below 20 mm in calibre)"
[29]For example within NATO: in the alliance current standardization for ammunition marking, the STANAG 2316, all small arms ammunition is grouped up to 20 mm
[30]Included in the term "light weapons" in GGE 1997, Paragraph 26, c) iv)
[31]Ibid c) v)
[32]Ibid, c) vi)
[33]Small Arms Survey, see their web sight at: http://www.smallarmssurvey.org/weapons-and-markets/definitions.html

Ch. 2: The ATT scope debate and the case for including small arms ammunition

During the ATT Prep Com in New York in July 2010, a working group was established to discuss the possible scope of the ATT. The facilitator's report gives a certain insight to what states understand as most relevant in this regard. This section provides a brief overview of this debate, relating it to the question of including ammunition in the ATT scope.

As explained in the introduction to this paper, the possible exclusion of ammunition from a future ATT seems counter-intuitive in reference to the motivating factors behind the wish for such an instrument and its intended effects. However, SALW and its ammunition, alongside a range of other weapons categories, are not included in the UN Register of Conventional Arms. This register covers seven categories of weapons for which states are requested to report on procurements and transfers, and references and explanations of which weapon types are included in the UN register can be found in footnotes to our ammunition typology tables. This exclusion of SALW and its ammunition happens in spite of the fact that these weapons are part of targeted weapon categories, like ATGWs, or ground to air missiles not covered by MANPADS. As the CAC correctly points out, the register is far from comprehensive.[34] This is because many weapons are not included in its scope due to the calibre and range limitations of the register. In this context, note that the register was set up as a transparency measure addressing concerns related to military capability, and does therefore not respond to export control needs or humanitarian concerns.[35]

States have made more references to the UN register than to any alternative inspiration for the categories needed to be included in the ATT scope so far in the debate. The register has been a starting point for many states in the scope discussions in the UN ATT debate, and has provided a lowest common denominator in the discourse. Most often the states refer to the seven categories of the register, asking whether these are feasible as a basis for the scope of an ATT, and whether they should be accompanied by a + 1 category, the SALW, or even another + 1 category, including ammunition. Hence, the relevant UN register approach for including ammunition in the ATT scope is referred to as the 7 + 1 + 1 view. In plain English this means that an ATT should include "ammunition and munitions for all included arms and systems".[36] This perspective on scope also includes the SALW category of weapons, as explained above. Additionally, states have been suggesting that "explosives specifically designed or modified for military purposes"[37] should be included in the ATT scope. In line with the category of "other types of ammunition", as seen in our typography, this inclusion is necessary for the instrument to encompass all ammunition.

It is not necessarily the case that states want the scope of a treaty to remain locked in these seven (or eight or nine) categories. A majority of states have expressed the view that the scope should remain adaptable to accommodate regular reviews and updates in light of technological developments in the future. In this context, it was proposed that the treaty could have an annex outlining categories related to the ones included in the scope, allowing for flexibility in adapting to future technological developments.[38] It is also worth noting that a number of states have chosen to report on small arms ammunition transfers through their voluntary reporting to the register. This implies that several states already sees it as appropriate to include small arms ammunition in their understanding of the seven categories of the register.

A significant bulk of states has argued for the inclusion of "all conventional weapons"[39] from the first time they were asked to provide their views on a future ATT in 2007.[40] According to Amnesty International, 57 out of 92 states analysed expressed that this would encompass SALW as well as ammunition.[41] However, ambiguity in the use of technical terms makes it hard to measure this with certainty, as a thorough search of the submitted statements reveals that only 13 states clearly mentioned SALW ammunition for inclusion. Many but not all of these states have over the course of the ATT process expanded or specified their view so that it is in line with the so-called 7+1+1 scope, including ammunition for small arms and light weapons.

A few states, most notably Russia and the US, have at some point expressed their unwillingness to include small arms ammunition in an ATT. A Russian statement from the preparatory Committee session of Thursday 15th of July 2010 suggests that they oppose

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[34] *Arms Trade Treaty Steering Committee, "Scope: Types of Equipment to Be Covered by an Arms Trade Treaty", Position Paper No. 2, July 2009.*
[35] *Ibid.*
[36] *The "Facilitators summary for scope", a report from the working group on scope to the ATT prep com in NYC, July 2010, page 5*
[37] *Ibid. page 5*
[38] *Ibid. page 1*
[39] *Amnesty International: "What States Want", October 2007*
[40] *Report of the UN Secretary General, Towards an Arms Trade Treaty: Establishing Common International Standards for the Import, Export and Transfer of Conventional Arms, A/62/278 (part I&II, addendum 1-4),*
[41] *What States Want, pp. 16-17*

Some states have proposed an Arms Trade Treaty should be limited to the seven categories of the UN Register of Conventional Arms and small arms and light weapons. Yet apart from the rifle carried by one of the soldiers, none of the arms, ammunition and military equipment in this picture would fall within this limited proposed scope for an ATT. ***Photo:*** *Control Arms Coalition.*

the inclusion of small arms ammunition on the grounds that it will "complicate consensus."[42] This can be read as a signal that Russia, and possibly other sceptics, want to maintain the UN register focus, that including SALW is a compromise that might be reached, but that including ammunition could be a step too far. Whether this is a derailing tactic or a legitimate viewpoint can of course be up for debate. Other sceptical states such as Egypt have argued in similar ways about restricting the scope of an ATT in order to preserve "universality."[43] Regarding Egypt, they have become increasingly vocal against the inclusion of small arms and light weapons in the scope of an ATT, a position that will also by extension exclude small arms ammunition. Additionally, states such as China, Cuba and Israel have expressed ambiguity regarding the inclusion of ammunition, though a lack of clearly stated opinions on the matter makes assessing the current support for inclusion of small arms ammunition in an ATT somewhat difficult.

In addition to Russia, the US has on several occasions stated that they oppose the inclusion of ammunition in an ATT. The US is a very important player in the ATT process, and it is worth taking a closer look at their arguments against the inclusion of small arms ammunition. In chapter 4, we will get back to the US when we address aspects of its domestic regulations as it pertains to particularities of US ammunition export control policies.

[42] *Statement made by Russia to the ATT preparatory committee on 15.07.2010, available from http://un.org/disarmament/convarms/ATTPrepCom/Statements-MemberStates.html, accessed 04.02.2011.*

[43] *Statement referenced by NGO observers, reported at http://armstradetreaty.posterous.com/day-4-principles-and-scope, accessed 04.02.2011.*

The ATT scope debate and the case for including small arms ammunition

In a summary report from a US policy dialogue seminar held on 21. June 2010, it is stated that "The inclusion of ammunition, in particular small arms and light weapons ammunition, which is strongly favoured for inclusion by many States and civil society, will be difficult for the United States to accept in an ATT."[44] This objection is argued as based on a stated risk of conflict with existing national law and regulations. Later on in the summary report, this is reiterated and expanded when they state that "The United States is not willing to accept changes to US law and practice to implement or comply with an ATT, even though US law and practice has been amended in the past and the future of the US export control system is unclear." They go on to state that one of the "red lines" for the US government is that "Small arms and light weapons ammunition will not be included in the scope of the ATT."[45] Seeing this in the context of the argument above, and also in light of another relevant red line position stating that an ATT cannot undermine US 2nd Amendment rights, it becomes clear that at least one component of the US unwillingness to include small arms ammunition in an ATT is related to how this may impact civilian gun policies and practices in the US. Informal discussions with US sources suggests that one aspect of this position is worries about how end use control of ammunition in an ATT will conflict with US practices and regulations regarding civilian ownership of firearms. It is however worth noting that several other states such as the Czech Republic have relaxed regulations on civilian gun ownership without opposing the inclusion of ammunition in an ATT. It is also reported that including ammunition would be problematic from the US standpoint, citing the problems of monitoring end-use when large volumes of goods are transferred.[46] This argument needs to be further elaborated from the US side to be encountered.

Concerns are also expressed regarding small arms ammunition in the possession of the military, and the restrictive impact an ATT would have in operative situations when ammunition may be distributed among entities and to allies on a fairly informal basis. It should be noted that these arguments have not been given formally by US representatives in the ATT process. In a similar vein, the mere logistical challenges of properly controlling small arms ammunition in such quantities that this product usually entails has been informally raised by the US as a reason for excluding it from an ATT. This concern was also raised by the World Forum on the Future of Sport Shooting Activities in their statement to the preparatory committee on the 16th of July 2010. This organisation encompass the Manufacturers Advisory Group, representing the firearms industry in the WFS., They stated that "any attempt to include ammunition in any international regulatory regime, whether an ATT or anything else, is doomed to failure [....] It is not feasible because of the sheer volume"[47] This argument is in line with that of the US, but the rationale behind this volume-based argument is not elaborated upon and is thus difficult to properly address.

A great number of states have made statements that read as support for the inclusion of small arms ammunition without making it explicit, for example formulations supporting the inclusion of "all conventional arms, including small arms and light weapons, and ammunition". Other states are very explicit about their support for the inclusion of small arms ammunition, including for example the UK, Brazil, Mexico and the EU. The Mexican statement from the meeting in the Preparatory Committee on the 12th-23rd of July 2010 is particularly illustrative and relevant for the discussion at hand. Its delegation stated that "The ATT cannot be understood without a commercial regulation of the parts of the weapons, especially munitions."[48] This is in line with the reasoning that ammunition is essential for weapons to continue to function, and places an emphasis on the importance of ammunition not just for the sake of comprehensiveness, but for its own merits. The statements also holds that "[a]ll conventional arms must be included in this regulation, regardless of their purpose; there is no distinction between arms created for sports and those created for military use when in the hands of criminals."[49] This statement suggests that arms and ammunition should not be divided into civilian and military categories to be treated differently in the ATT debate. This is a particularly interesting point in the case of small arms ammunition, as one and the same type of ammunition can have both civilian and military uses, not just hypothetically but based on numerous empirical examples. We will get back to this topic in the fourth chapter of this paper.

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[44]Policy Dialogue: "The Arms Trade Treaty – Policy Issues for the United States – Summary Report", 21.06.2010, pp. 2, available from http://www.state.gov/documents/organization/148527.pdf, accesses 03.02.2011.

[45]Ibid. p3.

[46]Kenneth Epps: "Towards Arms Trade Treaty Negotiations", Project Ploughshares briefing 20/2, May 2010, page 5

[47]Statement made by the World Forum on the Future of Sport Shooting Activities to the ATT preparatory committee on 16.07.2010. Available from http://un.org/disarmament/convarms/ATTPrepCom/Statements-NGOs.html, accessed 04.02.2011.

[48]Statement made by Mexico to the ATT preparatory committee on 13.07.2010. Available from http://un.org/disarmament/convarms/ATTPrepCom/Statements-MemberStates.html, accessed 04.02.2011.

[49]Ibid.

CAP.3: Ammunition in existing international instruments

In the practices and regulations of most arms exporting states, as well as in most conventional arms export control documents, regimes and instruments at the international and regional level, ammunition is part and parcel of the definitions of controlled goods. Arguably, ammunition is subjected to stricter and more comprehensive national and international controls than other weapons and military goods, as they are in most cases classified as "dangerous goods", engaging a range of control mechanisms related to transportation and handling of these items. While international regulations in this area fail to be legally binding, there is still strong consensus and adherence to the *Model Regulations* developed by the *UN Economic and Social Council's Committee of Experts on the Transport of Dangerous Goods*.[50] These regulations include ammunition and most of its parts and components, including gunpowder and smokeless powder, cartridges, and other key components of ammunition of all categories.[51] Additional to these regulations, the transport of ammunition falls under the auspices of regulations adopted by specialised international organisations such as the International Civil Aviation Organisation,[52] the International Air Transport Association,[53] the International Maritime Organisation,[54] and the Intergovernmental Organisation for International Carriage by Rail.[55] It thus follows that the international transport of ammunition is already widely controlled, albeit in respect of its qualities as dangerous goods rather than their likely impact on peace, stability, human rights and the humanitarian situation in their place of destination.

This is not to say that transfers of ammunition are not widely controlled with respect to its likely impact post-transfer. Regional and international regulatory and best practice documents addressing transfers of conventional arms generally as well as those specifically dealing with firearms and small arms and light weapons for the most part include ammunition in the same way as the other military goods.

The EU Common Position on exports of military technology and equipment[56] sets out legally binding standards for export control based on eight criteria for assessment, reflecting the human rights and humanitarian law as well as concerns broadly related to peace and stability, development, and risks of diversion. The instrument is intended to be comprehensive in the scope of equipment covered, and relies on definitions set out in the fairly detailed EU Military List.[57] Ammunition is covered under the Military List point 3, defined by reference to weapons listed in the two previous paragraphs. This means that all the categories of weapons and those of ammunition are mutually inclusive, in the sense that for each type of weapon covered by the export regulations, all corresponding ammunition would be covered as well. The same holds true for the control list of the Wassenaar Arrangement Munitions List,[58] which precedes and mirrors the EU military list. It is however worth noting that these lists exclude rimfire and shotgun ammunition intended for civilian purposes. This encompasses a range of ammunition used for civilian purposes, such as ammunition for biathlon[59] and shotgun ammunition for clay pigeon shooting.[60]

ML3 Ammunition and fuse setting devices, as follows, and specially designed components therefore:

a. Ammunition for weapons specified by ML1, ML2 or ML12;
b. Fuse setting devices specially designed for ammunition specified by ML3.a.
Note 1:Specially designed components specified by ML3 include:
a. Metal or plastic fabrications such as primer anvils, bullet cups, cartridge links, rotating bands and munitions metal parts;
b. Safing and arming devices, fuses, sensors and initiation devices;
c. Power supplies with high one-time operational output;
d. Combustible cases for charges;
e. Submunitions including bomblets, minelets and terminally guided projectiles.

These two regulatory systems have a significantly overlapping constituency, with a total of 41 states adhering to one or both of these two instruments. Among these states we find significant arms exporting states such as Russia, the US, the UK, Germany and France. Significantly, this represents a pre-existing willingness and ability to control the export of ammunition under multilateral harmonising export control instruments, notwithstanding the qualitative content of the regulatory frameworks. As we do not yet know how an ATT will look or what qualitative criteria it will

[50] *UN Recommendations on the Transport of Dangerous Goods - Model Regulations, Sixteenth revised edition, 2009, available from http://www.unece.org/trans/danger/publi/unrec/rev16/16files_e.html*
[51] *See ibid. Chapter 3.2, Dangerous Goods list, pp 182-295*
[52] *See Technical Instructions For The Safe Transport of Dangerous Goods by Air (Doc 9284), available from http://www.icao.int/anb/FLS/DangerousGoods/TechnicalInstructions/*
[53] *IATA Dangerous Goods Regulations manual.*
[54] *International Maritime Dangerous Goods (IMDG) Code, http://www5.imo.org/SharePoint/mainframe.asp?topic_id=158*
[55] *Regulations Concerning the International Carriage of Dangerous Goods by Rail, Dangerous Goods list, Chapter 3.2, available from http://www.per.hqusareur.army.mil/services/safetydivision/Hazmat/Rail/RID%202005%20English.pdf*
[56] *European Union Council common position defining common rules governing the control of exports of military technology and equipment, 15972/1/08 REV 1.*
[57] *Common Military List of the European Union, 2010/C69/03, EU Council 15.03.2010.* [58] *Available from http://www.wassenaar.org/controllists/index.html.*
[59] *Rimfired cartridges (mostly calibre .22, but also .17 and other very small caliber ammunition)* [60] *12, 16 and 20 gauge ammunition.*

CONT. Ch 3: Ammunition in existing international instruments

Campaigners outside the UN illustrate that bullets manufactured in Greece, China, Russia and the USA have been found in the hands of rebel groups in the Ituri District of eastern Democratic Republic of Congo (DRC), which is under a UN arms embargo. ***Photo:*** *Shooting Poverty/Oxfam*

encompass, objections against including ammunition must be based on reservations against including ammunition as such in a multilateral regulatory framework, a position which is difficult to accept given such precedence as those instruments mentioned above.

Internationally, the *Firearms Protocol*[61], an annexed protocol to the UN Convention against Transnational Organised Crime, is the only legally binding instrument with a global reach that addresses aspects of conventional arms proliferation. Additionally, as the protocol is a legally binding instrument that includes ammunition, it is a very important precedent for the ATT. In the context of the Convention, the Protocol is geared towards addressing different aspects of the relationship between firearms and organised crime, and it is as such not an export control instrument. Still, there are definitional aspects worth taking into account. The definition of ammunition is given as "the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles that are used in a firearm, provided that those components are themselves subject to authorization in the respective State Party." Here, the definition of ammunition depends on that of firearms, creating a certain consistency in the type of goods to be controlled.

The *Organisation of American States (OAS)* adopted its *Firearms Convention*[62] in Washington in 1997, and the instrument entered into force in 1998. This treaty is primarily aimed at fighting the illicit trafficking and production of arms and ammunition, though

[61]Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, A/RES/55/255.
[62]The Inter-American Convention Against The Illicit Manufacturing Of And Trafficking In Firearms, Ammunition, Explosives, And Other Related Materials, adopted in Washington DC 14.11.1997.
[63]Ibid. Article 1 (4). [64]Ibid. Article 6 [65]International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Matter, Illicit Small Arms and Light Weapons, A/CONF.192/15 [66]Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.

it includes harmonised export control measures as an important tool in this many-faceted effort. The Convention defines ammunition as "the complete round or its components, including cartridge cases, primers, propellant powder, bullets, or projectiles that are used in any firearm"[63], meaning that it does not distinguish between ammunition for military and civilian firearms or uses. All the provisions of the OAS Convention apply equally to ammunition and to firearms, explosives and related materials, except for the provision regarding marking and tracing[64], which is only applicable to firearms. At the time when the Convention was adopted, the technology necessary for such marking was not widely available or accessible, although significant progress has been made in this area over the last decade.

The same line of reason can be extended when looking at the exclusion of ammunition from the *International Tracing Instrument*.[65] This instrument was created under the auspices of the Programme of Action on Illicit Small Arms and Light Weapons (PoA)[66] and adopted by the General Assembly in 2005. As an instrument focusing only on marking and tracing, ammunition was excluded. While it is possible to see that technological developments would allow for an inclusion of ammunition under such an instrument, it is nevertheless possible to see why the marking and tracing of individual bullets or even rounds of ammunition could pose a significant logistical challenge to some states. However, this exclusion of ammunition in ATT is hardly a relevant precedence for an export control instrument such as the ATT. In fact, it may be worth noting that the lack of adequate tracing procedures for ammunitions makes it even more pertinent that the transfer of ammunition is controlled under a global instrument that harmonises export and transfer controls.

Another interesting regional precedence can be found in the *SADC (South African Development Community) Protocol on Firearms*.[67] This document, as is the case with the OAS Convention, is designed to help combat illicit trafficking and production of firearms, ammunition and related materials,[68] but also in a wider sense to combat "their excessive and destabilising accumulation, trafficking, possession and use in the Region." It defines ammunition an a way which to an extent is dependent on the definition of the corresponding firearms," "ammunition" means the complete cartridge including the cartridge case, unfired primer, propellant, bullets and projectiles that are used in a firearm, provided those components are themselves subject to authorisation in the respective State Parties".[69]

Similar language can be found in the *ECOWAS Convention*[70] where it's said that "Small Arms And Light Weapons [i]n this Convention this shall be deemed to include ammunition and other related materials," and where ammunition is defined as "[d]evices destined to be shot or projected through the means of firearms including among others: cartridges; projectiles and missiles for light weapons; mobile containers with missiles or projectiles for anti-aircraft or anti-tank single action systems."

In addition to the obligations contained in this vast body of instruments and regulations, ammunition is a good that is controlled nationally in some way by most states with the capacity and resources to do so. Their import and export is controlled in line with other sensitive goods, as this type of control will be seen as necessary for national security and national strategic interest.[71] As of 2005, at least 107 states have some kind of regulation of export of small arms and light weapons, and at least 133 states have legislation controlling import[72], according to IANSAs and the Biting the Bullet project's comprehensive review of the implementation of the UN Programme of Action on SALW.[73] According to the same source, it is "generally understood" in the context of the PoA that the term SALW encompasses relevant ammunition.[74] We therefore assume that the control instruments listed in this publication in its great majority includes ammunition.[75]

In conclusion, we see that different international and regional instruments regulate states' export of small arms ammunition in different ways. This tells us that there is strong legal and political precedence stemming from these instruments for including small arms ammunition the scope of an ATT. These instruments will be important building blocks for the future treaty, and illustrate the extent and the depth of existing state obligations and policies in this regard.

[63]Ibid. Article 1 (4). [64]Ibid. Article 6 [65]International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Matter, Illicit Small Arms and Light Weapons, A/CONF.192/15 [66]Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.
[67]South African Development Community Protocol on Control of Firearms, Ammunition and other related materials, Blantyre 14.08.2001.
[68]Ibid. Article 3 [69]This definition is in its entirety taken from the UN Firearms Protocol.
[70]ECOWAS Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials, Abuja, 14.06.2006.
[71]A list of national legislative texts submitted to the UN can be found at http://un.org/disarmament/convarms/NLDU/html/NLDU.shtml (accessed 03.02.2011)
[72]These figures refer only to those states that replied to the questionnaire for the study in question (footnote 73)
[73]Biting the Bullet project, 2005 – Examining Implementation of the UN Programme of Action, International Action on Small Arms 2005, p 31.
[74]Ibid. p 7. [75]See Small Arms Survey 2010, Gangs, Groups, and Guns, pp10-12.

Ch. 4: Small Arms Ammunition for Civilian versus State Agency Usage

While no civilians are allowed to own major conventional weapons (with a very few exceptions) the vast majority of all the small arms in the world are legally held by civilians, not the military, police, or other branches of the state. According to the UN Comtrade data, the value of all documented small arms ammunition transfers in 2007 was 1,6 billion USD.[76] This figure reflects transfers of small-calibre cartridges[77] and parts worth 960 mill USD and shotgun shells and parts worth 641 million USD. In addition, the Small Arms Survey estimates the undocumented trade in small-calibre cartridges to account for an additional 169 million USD.[78] One of the most striking developments in SALW transfers over the last decade has been an increase in the value of the documented trade in small arms ammunition. The value of small-calibre ammunition transfers from 2000 to 2006 (in constant 2006 USD) increased with 50 %, while the corresponding value shotgun shells increased with 96 %.[79] The substantial increase in shotgun shell transfers is mainly due to an increasing civilian demand.

As we all know, ATT is meant to regulate all legal arms trade. Its main focus is to regulate all state sanctioned trade in war materials. An ATT can still affect the ability of civilians to purchase imported weaponry, because standards are put in place by which the exporting state might not allow certain arms exports even when the material is only intended for civilian use. When small arms ammunition is included in the ATT, the risk for having cases where such goods are addressed through an ATT in the future rises from almost none to rather likely. Because national gun laws vary a great deal around the world, it is also likely that countries with very different gun cultures will evaluate the risk of an ammunition export intended for civilian use according to the ATT criteria and standards rather differently. We will still make the argument that an ATT including ammunition in its scope does not imply hampering civilian legal use of firearms in general.

Some regulations of civilian ownership of firearms are in place in the vast majority of states.[80] Without pre-empting the make-up of a future ATT, it seems likely that such an instrument will be connected to these national structures in a meaningful way, at the same time as it would impose obligations to harmonise national transfer controls to bring them in line with the

[76] *Small Arms Survey 2010, page 20*

[77] *In these statistics, small calibre ammunition refers to handgun and rifle ammunition below 20 mm.*

[78] *The method for calculating the documented small-caliber transfers has been developed by the Norwegian Initiative on Small Arms Transfers (NISAT), and it is explained together with the method used by the Small Arms Surveys estimate on such undocumented transfers in Small Arms Survey 2010, page 18*

[79] *Small Arms Survey 2009, Figure 1.2, see page 13-17*

[80] *See for example Small Arms Survey 2007, Guns and the City, Chapter 2.*

A boy holds a cartridge from the Brazilian ammunitions producer CBC. Almost half of the weapons in circulation in Brazil are illegal, according to a 2010 report by the NGO Viva Rio and the Subcommittee on Arms of the National Congress. ***Photo:*** *Walter Mesquita/NCA*

requirements of the treaty. In the case of civilian ownership, an important question for some states is whether the ATT will pose any requirements for the states in terms of how they should regulate this matter within their own territories. This may be particularly pertinent regarding end user controls, as it will be very difficult to account for the civilian end user at the time of the import of ammunition or firearms for the civilian market. This is simply because the shop serving the civilian market cannot know who will buy the ammunition in advance of the sale. The UN debate up until this point has emphasised the sovereignty of states to create and enforce their national legal structures for dealing with arms trade. This can be glanced for example from the Chairman's draft paper of July 2010, the preamble of which contains the following text: "Recognising the sovereign right of states to determine any regulation of internal transfers of arms and national ownership exclusively within their territory, including through national constitutional protections on civilian ownership;" and "[r]ecognising the responsibility of all states to effectively regulate and control the import, export and transfer of conventional arms and related items." Reflecting these sentiments, a likely approach within an ATT is for end user considerations for civilian weapons to be handled with reference to the importing actor such as a civilian firearms trader, not the civilian end user itself. It thus logically follows that firearms ammunition for civilian end use will be controlled in the same way. This will then not challenge the way in which states govern civilian firearms possession, but it will at the same time not remove the obligation for exporting states to carry out risk assessments in line with the criteria of the treaty before licensing export of firearms and ammunition for civilian purposes. This point is particularly pertinent when ammunition is concerned, as a lot of ammunition can have potential uses that are both civilian and intended for use by military, police or other branches of the state.

During the last scope debate at the ATT Prep Com in July 2010, many references were made to both civilian and state usage of small arms and their ammunition, and whether it all should be included in the ATT scope. Even though military equipment is the main focus of the ATT talks, or infantry weapons in terms of the SALW debate, states also chose to center aspects of the scope

Afghanistan: On the road between Mazar-i-Sharif and Kabul.. Afghanistan has one of the highest concentrations of guns per person in the world. It is believed that

discussions at the ATT Prep Com on i.e. sporting and hunting rifles for recreational use and antique weapons that civilians are collecting.[81] In these discussions, states also suggested that conventional arms and equipment used in law enforcement and internal security operations should be included in the scope of an ATT.[82] This again indicates that the states do not necessarily make any sharp distinction between civilian and military usage of the small arms ammunition when discussing whether it should be included in the scope or not. This is a very reasonable point of departure from a technical perspective.

Most small arms rounds used for hunting and sports shooting are originally developed for military purposes.[83] Commonly used rounds like the 9 mm Parabellum and the .308 Winchester or the 30.06 Springfield, are therefore both standard issued military

[81] *The "Facilitators summary for scope", a report from the working group on scope to the ATT prep com in NYC, July 2010, point 3, p 2*
[82] *Ibid, page 5*
[83] *Frank C. Barnes in "Cartridges of the world, 11th edition, a complete reference for over 1500 cartridges", Gun Digest Books 2006, page 341*

there are up to 10 million guns circulating amongst a population of 23 million. ***Photo:*** *Guy Tillim*

rounds as well as among the most commonly used rounds for sport shooting with pistol and for big game hunting. Even though a large variety of bullets are constructed specifically for hunting purposes, the caliber applied for these rounds are still mostly the same as military rounds. Military ammunition represents one of the most highly developed categories of metallic cartridge. Military ballisticians have spent much larger sums in research to determine the most efficient combinations of primer, case powder and bullet than their civilian counterparts. This is the main reason why the civilian markets for sporting ammunition tend to adopt their standard national military chambering.[84] Since few states prohibit the civilian use of either bullets or complete rounds of military ammunition, civilian sport shooters and hunters can legally acquire rounds that are technically the same for their purposes as are in use by state agencies. These types of military issue ammunition are in particular commonly used for training purposes for both hunters and sport shooters. This is also crucial to why states strategic controls overwhelmingly tend to include small arms ammunition, regardless of whether it is designed for military or civilian use.

Not even the states that have the least restrictive national gun laws tend to treat small arms ammunition as non-strategic goods when it is produced for civilian usage. A useful example for illustrating this point is the USA, who is both a major importer and exporter of small arms ammunition and a key player in the ATT debate. The United States Munitions List (USMIL) lists military articles the export of which is controlled for reasons of national security and foreign policy in the US.[85] USMIL lists all non-automatic, semi-automatic and fully automatic firearms up to caliber 12,7 mm and the ammunition for these, as strategic goods.[86] By weapon category, this means that the ammunition for all revolvers, pistols, rifles, carbines, fully automatic rifles, submachine guns, machine pistols and machine guns up to caliber 12,7 mm and combat shotguns are included in this scope. The only ammunition for civilian use that is excluded from this list is other shotguns with barrels 18 inches or longer, BB, pellet, and muzzle loading (black powder) firearms[87] as well as certain non-lethal ammunition.[88] In practical terms this still implies that most categories of small arms ammunition for civilian use,[89] i.e. centre-fired ammunition for all hunting rifles and sport shooting pistols, are covered by the USMIL list. The only substantial exception from the list made for civilian ammunition is made for non-combat shotgun ammunition. The ammunition included in the USMIL list is even deemed as more crucial than other articles subject to strategic export control, since the entire category of firearms ammunition is designated as "significant military equipment" (SME). Export license applications for SME are subject to more stringent requirements than ordinary defense equipment.[90] In some cases such exports even require prior approval of The Directorate of Defense Trade Controls.[91] In conclusion, all small arms ammunition exports from the US are already regulated by the US government.[92] We are thus left with the impression that an ATT that regulates small caliber ammunition does not need to have more than a marginal impact on civilian ammunition procurement in the US.

[84]Ibid. [85]Yann Aubin and Arnaud Idiart: "Export control law and regulations handbook, a practical guide to military and dual use goods , trade restrictions and compliance", Kluwer Law International 2007, page 364 USMIL § 121.1, Category I, point a) and Category III, point a)
[86]USMIL § 121.1, Category I, point a) and Category III, point a)
[87]Ibid § 121.9 [88]These are listed in USMIL § 126.1 as follows: "Cartridge and shell casings are included in Category III unless, prior to export, they have been rendered useless beyond the possibility of restoration for use as a cartridge or shell casing by means of heating, flame treatment, mangling, crushing, cutting, or popping"
[89]Department of Commerce has jurisdiction over certain types of ammunition intended for civilian use, see the full list at http://www.bis.doc.gov/licensing/exports-offirearms.htm [90]Yann Aubin and Arnaud Idiart: "Export control law and regulations handbook, a practical guide to military and dual use goods , trade restrictions and compliance", Kluwer Law International 2007, page 364 [91]Such prior approval is required for certain transactions involving SME for sale exceeding the value set forth in ITAR § 126.8 a)(1) [92]Most are regulated by the Department of State, with some, including shotgun ammunition, is regulated by the Department of Commerce.

Rio de Janeiro, Brazil, 2010. ***Photo:*** *Shooting poverty/Oxfam*

CONCLUSION

The main goal of this paper has been to provide policy makers and activists with a better understanding of the role of ammunition in the Arms Trade Treaty process. As this paper has clearly demonstrated, attempting to exclude any type of small arms ammunition will cause significant loopholes to the treaty, and leave it significantly weakened in its ability to prevent arms transfers that risks contributing to human rights violations or other humanitarian problems. This paper has addressed the momentums and possibilities of including small arms ammunition in the scope of an ATT, attempting to aid discussions on scope and on the specificities of small arms in the ATT context.

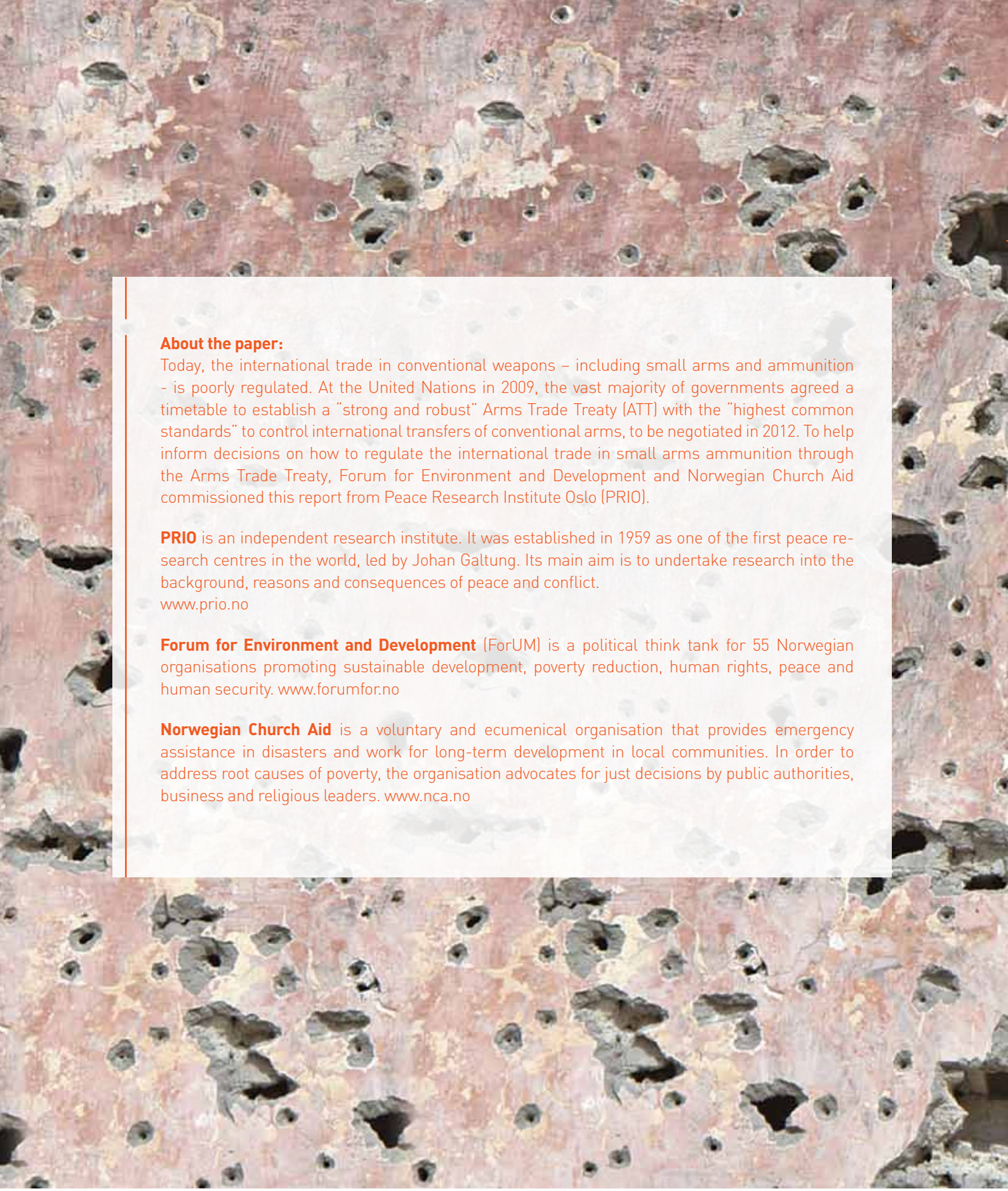
In the first chapter, we presented a typology of all ammunition, discussing the specifics of small arms ammunition definitions within the UN terminology. We conclude that the UN terminology for ammunition is of an inclusive nature and less confusing within the ATT scope debate than the more problematic "munitions" term. We therefore derive our definition of small arms ammunition from this UN terminology, and define small arms ammunition as all powder propelled, cartridge based ammunition ranging from the smallest calibre available[93]
and up to 20mm. The type of weapons that fire such ammunition includes revolvers and self-loading pistols, rifles and carbines, assault rifles, sub-machine guns, and light/general purpose machine guns.

In the second chapter, we discussed the ATT scope debate and the case for including small arms ammunition. We demonstrated the insufficiency of the seven categories of the UN Register as a point of departure for the ATT scope debate, and showed that a majority of states support a wider scope that encompasses small arms ammunition. The third chapter investigated the position of small arms ammunition in various existing international instruments. This chapter provides the reader with two important lessons. First, that ammunition is subjected to stricter and more comprehensive national and international controls than other weapons and military goods. This is because they are in most cases classified as "dangerous goods", engaging a range of control mechanisms related to transportation and handling of these items. Second, that this vast body of existing international regulations provides a strong and very useful precedence for the inclusion of small arms ammunition in the ATT.

In the fourth chapter we investigate the small arms ammunition for civilian versus state agency usage. In technical terms, we find that small arms ammunition produced for civilian and state usage is quite similar. All small arms ammunition is therefore in general regulated as strategic goods through national export controls. We argue that this should serve as an inspiration and as precedence for the ATT framework. There is no need to distinguish between centre-fired cartridge based small arms ammunition for civilian and for state agency use in an ATT.

> "People don't die of gun wounds, they die of bullet wounds. An ATT without ammunition in its scope would be like a gun without bullets – it would not serve the purpose it was designed for."
>
> **Daniel Mack, Sou da Paz**

[93] *Daniel Mack, Instituto Sou Da Paz, Brazil, talk given at a Geneva Forum Seminar on the ATT, April 12th 2010.*



About the paper:
Today, the international trade in conventional weapons – including small arms and ammunition - is poorly regulated. At the United Nations in 2009, the vast majority of governments agreed a timetable to establish a "strong and robust" Arms Trade Treaty (ATT) with the "highest common standards" to control international transfers of conventional arms, to be negotiated in 2012. To help inform decisions on how to regulate the international trade in small arms ammunition through the Arms Trade Treaty, Forum for Environment and Development and Norwegian Church Aid commissioned this report from Peace Research Institute Oslo (PRIO).

PRIO is an independent research institute. It was established in 1959 as one of the first peace research centres in the world, led by Johan Galtung. Its main aim is to undertake research into the background, reasons and consequences of peace and conflict.
www.prio.no

Forum for Environment and Development (ForUM) is a political think tank for 55 Norwegian organisations promoting sustainable development, poverty reduction, human rights, peace and human security. www.forumfor.no

Norwegian Church Aid is a voluntary and ecumenical organisation that provides emergency assistance in disasters and work for long-term development in local communities. In order to address root causes of poverty, the organisation advocates for just decisions by public authorities, business and religious leaders. www.nca.no

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