

# An Arms Trade Treaty

By Bill Frilay <sup>1</sup>

After a month-long meeting in July 2012, and despite the entreaties of the Secretary-General, the UN has failed to reach agreement on a draft text for an Arms Trade Treaty. We're talking about a treaty which would seek to establish controls on the international trade in arms, and in particular to ban their illicit trade. It would require countries to assess whether a proposed arms export could be used to commit or facilitate a serious violation of international humanitarian or human rights law. The scope would be wide-ranging, from warships, combat aircraft, and tanks, to small arms.

The treaty would come into effect only after it was ratified by 65 countries. Although the current revised draft may be considered by the UN General Assembly later this year, it seems unlikely to come into force in its present draft form.

To the credit of successive governments, Australia - including our present Minister for Foreign Affairs & Trade, Senator the Hon Bob Carr - have been at the forefront of this initiative since 2006.

## Small arms

Why is this important? While the draft treaty covers the gamut of conventional arms, separate work on the illicit trade in small arms, in particular, has also been the focus of work by the UN Office of Disarmament Affairs (UNODA) and others. They have pointed to the dangers from small arms - light, relatively cheap, easy to handle, readily concealed, and easily transported. Following is an extract from the UN Office of Disarmament Affairs (UNODA) website:

Insurgents, armed gang members, pirates, terrorists - they can all multiply their force through the use of unlawfully acquired firepower. The illicit circulation of small arms, light weapons, and their ammunition destabilizes communities, and impacts security and development in all regions of the world.

The illicit trade in small arms, light weapons, and ammunition wreaks havoc everywhere. Mobs terrorizing a neighbourhood. Rebels attacking civilians or peacekeepers. Drug lords randomly killing law enforcers or anyone else interfering with their illegal businesses. Bandits hijacking humanitarian aid convoys. On all continents, uncontrolled small arms form a persisting problem.



United Nations Gun by Aristoteles83, flickrcc

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... A build-up of small arms alone may not create the conflicts in which they are used, but their excessive accumulation and wide availability aggravates the tension. The violence becomes more lethal and lasts longer, and a sense of insecurity grows, which in turn lead to a greater demand for weapons.

The majority of conflict deaths are caused by the use of small arms, and civilian populations bear the brunt of armed conflict more than ever. Also, small arms are the dominant tools of criminal violence. The rate of firearms-related homicides in post-conflict societies often outnumbers battlefield deaths. These weapons are also linked to the increasing number of killings of UN employees and peacekeepers, as well as workers from humanitarian and non-governmental organizations.

Small arms facilitate a vast spectrum of human rights violations, including killing, maiming, rape and other forms of sexual violence, enforced disappearance, torture, and forced recruitment of children by armed groups. More human rights abuses are committed with small arms than with any other weapon. Furthermore, where the use of armed violence becomes a means for resolving grievances and conflicts, legal and peaceful dispute resolution suffers, and the rule of law cannot be upheld.

Contemporary armed conflict is the main cause of people fleeing their homes, and is now the most common cause of food insecurity. Armed violence can aggravate poverty, inhibit access to social services, and divert energy and resources away from efforts to improve human development. Countries plagued by armed violence are behind in attaining the Millennium Development Goals. High levels of armed violence impede economic growth. According to the World Bank, nothing undermines investment climates as much as armed insecurity.

There are no accurate figures for the number of small arms and light weapons currently in circulation globally. Sources estimate the total to be at least 875 million. The majority of small arms - generally the only category of weapons not falling under Government monopoly of possession and use - are in private hands.

A separate UN conference on these small arms will commence in late-August 2012.

## The current revised draft of the Arms Trade Treaty

What did the draft treaty propose? Essentially, it sought to put obligations on all countries (a) to secure their stockpiles of arms to prevent theft, etc, (b) to ban export or sale to illicit parties, and (c) to ensure no exports would occur which could violate any international obligations, particularly in respect of arms embargoes. It did not seek to ban all arms trade, recognising that, unfortunately, arms are required for national defence, for policing, and so on. Following are some of the clauses of the Treaty:



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A State shall not authorise any transfer or arms if the transfer would violate its obligations under a UN arms embargo, other international obligations, or for purposes of genocide or similar grave crimes (Art 3).

A State, in considering a proposed arms export, shall consider whether that export would contribute to or undermine peace and security (Art 4.1). If the assessment is the latter, the State shall not authorise the export.

Each state, when considering whether to approve arms exports “shall consider taking feasible measures ... to avoid the arms: being diverted to the illicit market or for unauthorised end-use; being used to commit or facilitate gender-based violence or violence against children; being used for transactional organized crime; becoming subject to corrupt practices; or adversely impacting the development of the importing State” (Art 4.6).

Each importing State shall put in place controls to prevent the diversion of imported arms for unauthorised use (Art 7.2).

Each State shall regulate brokering and transit and trans-shipment of arms to mitigate the risk of diversion (Arts 8-9), and maintain records for the purposes of this treaty (Art 10).

It is hard to object to any of the above, in general. However, it is possible the detail may need further work, as some have indicated.

Richard Norton-Taylor, writing a blog in *The Guardian* on 1 August, has said that an arms trade treaty seems like motherhood and apple pie. You only have to read the above extract from the UNODA website to come to that conclusion. Why, then, have talks failed? Most states favoured a strong treaty. There was a small minority of states, including Syria, North Korea, Iran, Egypt, and Algeria, who opposed arms control throughout the negotiations. However, most disappointing was that the big powers - USA, Russia, and China - all blocked it, on the basis that they needed additional time to consider it. I am somewhat equivocal about this. The claim may be genuine - treaties can be complicated, and need time. If, however, they are simply blocking progress, that would be extremely disappointing.

All of this underlines the great difficulty in reaching agreement on such issues in the UN and similar international organisations. You are trying to seek consensus across about 200 nations without that consensus being reduced to an anodyne spin document. Whether it be multilateral trade agreements, nuclear agreements, or arms trade, these issues can take years.

In an article in *The Australian* of 6 August 2012, Matthew Parris bemoaned the demise of multilateralism - the concept that the world can come together and reach common agreement on matters. He pointed to the failure of the Kofi Annan initiative to receive Security Council support for its work in Syria as the most recent example. The arms trade treaty - compared to motherhood and apple pie - could be another such example.

As the UNODA extract makes clear, there is a huge win for peace, stability, and safety for the most vulnerable of peoples if a treaty with some teeth can be achieved. Therefore, as with nuclear disarmament arrangements, notwithstanding the great difficulties of the task, it is critical for nations to persevere until an agreement is achieved. It is too important to walk away from it.

What can we do? Realistically, not a lot. But we can, as SPC, write to Senator Carr expressing our support for his actions and our disappointment at the recent outcome, and urging the government to persist on this issue.