

# Arms Trade Treaty legal blog

A legal blog on the negotiations of a United Nations Arms Trade Treaty.

Saturday, July 28, 2012

## One more push in the UN or shall we do it right?

I told you we'd be back. Though we had no idea it would be so soon. But sometimes, in the cold light of day, or, more accurately, the cold light hue of a beer or two, you see things with greater clarity. The sense of falling at the last hurdle gives you the instinctive desire to pick yourself up, dust yourself off, and have another go. If at first you don't succeed, try, try again." So goes the cliché. But there is another variant. "If at first you don't succeed, skydiving is not for you." And it is this alternative that may offer a better way forward.

Who knows whether, even if the US had not blocked, no one else would have? Who knows what sordid deals would have been conceded at 2am in order to secure a possible agreement? But one more push at the UN and we could get there, I hear you cry. I cried it myself yesterday. An ad hoc Sixth Committee (or First or Third) negotiation within General Assembly auspices could perhaps get us over the finishing line. Perhaps, perhaps. But frankly, with the record of disarmament at the United Nations since the mid-1990s, why should we have any confidence that things would be different here? The US is presumably as determined as ever to hold on to the consensus rule for the negotiations. The same spoilers will still be there, with the same, if not emboldened, resolution to spoil.

And what would we lose if negotiations were taken outside? The gladiatorial spirit of the UN's bureaucracy to promote the treaty? Gimme a break. If States that really cared about this process led from the front--were given the freedom to lead from the front--the 100 or so that truly appreciate we cannot continue near-unabated arms proliferation could elaborate an Arms Transfer Treaty worthy of the name. For there are still important debates to be had. How to deal with armed non-state actors was raised as an issue but only really discussed seriously on the last day (and without clear resolution). What mitigation measures, if any, could be effective in case of risk? What level of State responsibility under international law is appropriate for the arms trade? How can we ensure consistent application of criteria to requests for authorisation to transfer arms? And there are many others.

The political courage of Canada gave us the Anti-Personnel Mine Ban Convention. The political courage of Norway gave us the Convention on Cluster Munitions. Whose political courage will give us the Arms Transfer Treaty?

So, one more push in the UN, or shall we do it right?

Posted by ADH Arms Trade Treaty bloggers at 10:24 AM

### 14 comments:



Endo July 28, 2012 11:29 AM

In reflection, as your words implied, perhaps it is better to end this way than to have an empty treaty. There should be a peace-loving country (or contries) willing to initiate a process somewhere else? No?

Reply



Anonymous July 29, 2012 7:14 AM

We shall do it right. And the deeply needed political courage should come from Switzerland and its humanitarian tradition. Common Switzerland, show us your political courage and take the lead! Do it for our children! Prove us that this world is not only constituted by cynicism and ugliness.

Reply

## Geneva Academy of International Humanitarian Law and Human Rights

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### Documents and Analysis

- Comprehensive Draft ATT (26.07.12)
- Criteria/Parameters Chairman Paper (16.07.2012)
- Elements of provision on Scope in an ATT (13.07.2012)
- President's Discussion Paper (03.07.2012)
- Provisional Rules of Procedure
- Chairman's Draft ATT (14.07.2011)
- Chairman's Draft Paper - Implementation (11.07.2011)
- Chairman's Draft Paper (03.03.2011)
- Chairman's Draft Paper - Second PrepCom (28.02.2011)
- Boston Symposium: Official Summary Report (October 2010)
- Chairman's Draft Paper (22.07.2010)
- Facilitator's Summary for Scope (22.07.2010)
- Facilitator's Summary on Parameters (22.07.2010)
- Facilitator's Summary on Implementation and Application (22.07.2010)
- Chairman's Draft Principles (14.07.2010)
- Chairman's Draft Elements (14.07.2010)
- Informal discussions (7.07.2010) Geneva Forum
- How weapon dealers are using the UK to export illegal consignment of arms to Middle East and conflict zones (BBC report, 13.07.2010)

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**Anonymous** July 30, 2012 4:41 AM

Dear ADH bloggers, first of all I would like to thank you a lot for the hard work you put into this great and enlightened blog. Secondly, I wonder whether you could you please provide us with the latest papers and documents that turned during the last days of the negotiations. This would be wonderful, as even on the ATT website nothing have been published since the 12th of July. Many thanks in advance!

[Reply](#)

Replies

**ADH Arms Trade Treaty bloggers** July 31, 2012 3:34 AM

Thanks, Anon, we've added the draft treaty. Are there other documents that would be useful?

Also, we're preparing a short commentary on the various provisions over the next few weeks--we'll upload it as soon as it's ready.

ADH bloggers

**Anonymous** August 2, 2012 3:16 AM

Many thanks ADH bloggers, that's wonderful! In terms of other documents that could be useful, I do not see it for now, but maybe are you thinking about a specific paper or state(s) declaration(s) that could interest us here? And I really look forward to reading your Commentary on the Draft Treaty provisions. Please keep us posted about this!

**Endo** August 6, 2012 12:26 PM

Hi ADH Bloggers,

What is the content in the report of the conference? Where can I find it? Cheers.

[Reply](#)**Cynical in Geneva** July 30, 2012 5:55 AM

I say we should do it right and that includes agreeing a treaty that is robust, comprehensive and that sets the standards where they need to be and not at a level that is intended to get the major arms producer States on board in the short term. This was my concern with what was almost agreed last week. That it was a text that represented the lowest common denominator. We now have a chance, if Switzerland or any other humanitarian-minded States would care to step up, to set the standards high and bring in other States over time. Surely better that, than agreeing on a fundamentally meaningless text that will be little improved over time, review conferences notwithstanding, and which in any event offers no guarantee that those arms producing States will sign let alone ratify.

[Reply](#)**Even More Cynical** July 30, 2012 7:36 PM

Do not count too much onto Switzerland. The language of our foreign ministry (and the minds of some of its representatives) may be humanitarian. But remember that Switzerland produces and exports more arms per capita than e.g. the US or Russia. (Just as an example, bulks of recently produced Swiss-made hand grenades appeared in Syria a few weeks ago.) The Swiss government will vigorously protect its armament industry against any treaty that threatens their profits - it does so just a bit more diplomatically clever than some P5 states.

[Reply](#)**Deborah** August 7, 2012 6:58 PM

Thank you for your very interesting blog, useful to follow the negotiations from far away. We shall remain committed to see the treaty being adopted. I wanted to suggest you google analytics global traffic graph of arms trade. Very interesting  
<http://workshop.chromeexperiments.com/projects/armsglobe/>

[Reply](#)**immigration solicitors** August 8, 2012 1:31 AM

No more Arm treaty please... because all will be useful as we can see history..

[Reply](#)**BloggerADH** August 8, 2012 4:35 PM

Arms Trade ...  
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beginning or  
the beginning  
of the E...

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[jesperwaldersten.com/](http://jesperwaldersten.com/)

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**ADH Blogger** August 8, 2012 4:57 PM

Face it, consensus was never there. Move on, and try advocating for solutions that focus on root causes, not symptoms. That is unless your goal is actually to disarm civil societies so they can't rise up and fight off dictators and human rights abusing regimes.

The real problem is NOT the arms trade, small arms per se, or even weak global controls, especially with respect to trafficking. The root cause of appropriate concern related to small arms for most countries is with weak or corrupt local governance, and/or their murderous/genocidal leaders.

The US and Russia were just two visible UN P5 members that voiced their concerns. But there were numerous countries in the Middle East, Asia, and Latin America that had more serious Article 51 and sovereignty concerns about the ATT.

Many countries like Cuba, Venezuela, Algeria were quite candid and clear in writing in the run-up to the Conference. The ATT was never going to happen with the consensus only rules. All it took to end the ATT was for one country to stand up and be counted as not willing to live with the treaty for whatever reason.

Going outside the UN won't make Article 51 and sovereignty issues any less problematic. Going outside the UN will do nothing except make campaigner NGOS feel better, and maybe spur more donations and feed the humanitarian NGO industrial complex.

Besides, we all know the ATT was based on a false assumption that trafficking is actually a problem for the world.

I think there's a need for pro-ATT NGO campaigners to be honest and accept the truth that for most countries around the globe, even for most developing or fragile states, a combination of deficient domestic regulation of legal firearms possession with theft, and loss or corrupt sale from official inventories is a more serious problem than illicit trafficking across borders. (See Owen Greene and Nicholas Marsh, eds. Small Arms, Crime and Conflict: Global Governance and the Threat of Armed Violence. Routledge: 2012. P. 91)

I think the obvious change imperative is really for improving local governance with customized solutions in affected countries and regions, not developing a one-size-fits-all legally-binding global governance system for small arms and ammunition.

The much touted scourge of illicit trafficking in small arms and the push for an ATT to solve this problem is probably more realistically viewed as misguided, hyperbolic humanitarian catastrophizing.

[Reply](#)



**Anonymous** October 10, 2012 12:55 AM

thanks for sharing..

[Reply](#)



**Li Guizhi** October 15, 2012 1:17 AM

Good share. I think you give us a lot of thoughts that near our court problems. I hope can learn more from you in future. From: [Labor law posters](#)

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