

# THE FINAL COUNTDOWN

A historic opportunity to deliver an arms trade treaty that saves lives

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## Summary

- In July 2012, governments have a historic opportunity to create a strong Arms Trade Treaty that saves lives and livelihoods and builds a more secure future for all the world's citizens.
- Strong treaties gain new members and set international standards; weak treaties rarely get stronger. Governments must not compromise during the final countdown for the sake of securing universal agreement.
- The Treaty must cover all conventional arms, ammunition, parts and components, and all types of arms transfers.
- It must include strong criteria that prevent arms being transferred where there is a substantial risk that they will be used in violation of international human rights or humanitarian law, or will undermine development.
- The Arms Trade Treaty must have strong measures for transparency and accountability, and an effective implementation and enforcement mechanism. These must also assist countries to effectively implement and monitor the Treaty.

## GRASPING A HISTORIC OPPORTUNITY

The arms trade is out of control. The irresponsible trade in arms is devastating lives and livelihoods around the world. In West Pokot, Kenya, Kiptela Tum's life has been irrevocably affected by the easy access to weapons and ammunition, 'Arms are a big problem because all of my three brothers have died because of guns. Now I am the only one to take care of the whole family and life is very hard'.<sup>1</sup> Nyang'ataing Yaratome, from the same community, must come to terms with the loss of his son and eight other relatives because of armed raids on their village.<sup>2</sup> These terrible life experiences are replicated around the world on a daily basis, and the world can no longer continue turning a blind eye.

The overwhelming majority of states have recognised this, and have agreed to negotiate an Arms Trade Treaty (ATT).<sup>3</sup> When governments convene in July 2012, they have a historic opportunity to achieve a common objective – to bring the arms trade under control and reduce human suffering. But they must exercise caution. **Under no circumstances should countries agree to a watered down Treaty that fails to achieve its objectives to reduce human suffering.**

There are strong lessons to be learned from the past 20 years of arms control efforts. Agreements like the Mine Ban Treaty (1997) and the Convention on Cluster Munitions (2008) were successful because they established strong, clear and unambiguous legal obligations on all states parties, and helped to create new customary international standards.<sup>4</sup>

Unless there are unambiguous and comprehensive legal obligations that apply evenly across the world, arms control mechanisms can be easily circumvented. Without a clear, strong set of rules to control the arms trade, excessive military expenditure will continue unabated, undermining global efforts to achieve development goals and reduce poverty. Without obligations on transparency, the shadowy and secretive global trade in arms and ammunition will continue unabated, fuelling corruption and hindering accountability. And without a comprehensive scope, unscrupulous arms dealers will continue to make huge profits by trading in parts and components – far more lucrative than the trade in complete weapons, systems and platforms. These challenges are considerable, but not insurmountable. To address them, the ATT must have a clear and compelling humanitarian rationale, recall the rights and responsibilities of all states to their citizens, and create a robust and comprehensive system to control the international trade in arms. Decades from now, those looking back on the 21<sup>st</sup> century should be able to judge the 2012 Treaty as a defining moment for global peace, development and security.

# WHY THIS TREATY AND WHY NOW?

## **The global arms trade is out of control**

### **There is no global regulatory framework for the arms trade.**

The absence of a global regulatory framework resulted in at least \$2.2bn worth of arms and ammunition being imported by countries under arms embargoes between 2000 and 2010.<sup>5</sup> Regional embargoes or partial UN embargoes (especially those that are specific to certain regions within countries) are destined for failure – as Syria horrifically continues to demonstrate. Despite mounting evidence of brutality and abuses, perpetrated by both sides, Russia has actively blocked all attempts to impose a comprehensive UN embargo on the Assad regime.<sup>6</sup> The only mechanism in place so far is the EU embargo, which prevents all EU member states from selling arms and ammunition to Syria. There is no such UN embargo. All non-EU countries are therefore free to sell any quantity of arms and ammunition they like.

### **Arms are pouring into conflict-affected areas, increasing armed violence, fuelling corruption, and destroying all hopes of development.**

Military expenditure in fragile and conflict-affected countries around the world increased by 15 per cent between 2009 and 2010, while Official Development Assistance (ODA) to these countries increased by only 9 per cent.<sup>7</sup> A large share of the increase in ODA and humanitarian aid was due to the Haiti earthquake in January 2010.<sup>8</sup> Once the response to this earthquake has been factored in, ODA to the remaining fragile and conflict-affected states grew by a mere 3.5 per cent. In 2010, this group of states accounted for less than 1 per cent of global wealth,<sup>9</sup> but 7 per cent of all arms sales (around \$1.7bn).<sup>10</sup>

Furthermore, Oxfam's research has shown a clear link between corruption and the arms trade. All low-income and lower middle-income countries that allocated more than 10 per cent of their central government expenditure to the military in 2009 scored poorly on global corruption indices.<sup>11</sup>

### **Much of the international arms trade remains shrouded in secrecy, particularly the trade in ammunition.**

There is little publicly available evidence to help understand the size and scale of the international trade in ammunition. Estimates suggest that the annual value of the trade in ammunition for small arms and light weapons is \$4.3bn – more valuable than the trade in firearms.<sup>12</sup> The international trade in ammunition is even less accountable and transparent than the trade in arms.<sup>13</sup> For example, there is no way of knowing just how much ammunition the Syrian authorities have imported since the start of the uprising in 2011. In fact, the discovery of a Russian shipment of several tonnes of ammunition bound for Syria in January 2012 was purely accidental.<sup>14</sup>

### **There is little control or regulation of the global trade in parts and components.**

The ATT must address this massive loophole. The ability to procure spare parts and other critical replacement components is central to the arms trade. If the Treaty does not address this, it will effectively allow countries to equip their entire armed forces outside of the Treaty. Moreover, this trade is not insignificant – the overall value of global parts and components sales was more than \$9.7bn between 2008 and 2011.<sup>15</sup> This vast stockpile of weapons parts ranges from high-end components for aircraft, down to triggers, firing pins, and other parts for small arms and light weapons. The lack of effective controls of this trade means there is no way of knowing how much of it is being diverted into the black market. In turn, the flourishing of this black market means that violators of international law and human rights can maintain their destructive capabilities with relative ease.

## **The solutions are right before our eyes**

Unless the Treaty establishes a set of strong and comprehensive global regulations, arms will still find their way into the wrong hands. A useful starting point, therefore, are the national, regional, and multilateral standards already in place.

Additionally, the ATT can build on existing regional and sub-regional initiatives; in 2012, 100 countries are already party to various regional agreements that include legally binding obligations to control the trade of arms and ammunition.<sup>16</sup> These regional initiatives are also a good means of determining what can be effective in a range of different scenarios and contexts. No globally negotiated standard should be lower than existing regional standards.

In the run-up to the July negotiations, some states have expressed concerns about the potential cost and burden of implementing the ATT. The first and most obvious answer to this is that the cost of **not** having effective global arms controls is much higher, both in terms of lives lost and economics. Beyond this, there are a number of funding mechanisms already in place that could help countries become ATT-compliant. For example, drawing on ODA funds earmarked for security sector reform (SSR) could help to strengthen the capacity of police and customs officials, while also building in strong accountability and transparency mechanisms. In 2010 alone, 101 countries received more than \$832.5m worth of SSR-related assistance of direct relevance to national implementation of the ATT.<sup>17</sup>

## **A logical solution to a complex problem**

### **1. The ATT must have robust and legally binding criteria.**

The ATT must be unambiguous in the obligations it places on member states. The Treaty must use prohibitive language that prevents states transferring arms if there is a substantial risk that these arms will:

- Be used to perpetrate serious violations of international human rights or humanitarian law;
- Undermine socio-economic development or involve corrupt practices;
- Provoke or exacerbate armed conflict or armed violence, including gender-based armed violence.<sup>18</sup>

### **2. The ATT must be comprehensive in the scope of weapons and types of transfers covered.**

The ATT must include all weapons – that is, all military, security and police arms, related equipment and ammunition, components, expertise, and production equipment. It must also include all types of transfers: import, export, re-export, temporary transfer, and transshipment, in the state-sanctioned and commercial trade, plus transfers of technology, loans, gifts, and aid. And it must include all transactions, including those by dealers or brokers, and those providing technical assistance, training, transport, storage, finance, and security.<sup>19</sup>

Precedents already exist in the form of a number of regional and multilateral instruments, such as the ECOWAS Convention, the Best Practice Guidelines on the Implementation of the Nairobi Protocol, the EU Common Position, and the Wassenaar Arrangement. These identify a broad range of weapons, transfers, and transactions to apply controls over.

### **3. The ATT must include strong, effective international assistance and co-operation mechanisms to help countries ratify and implement the Treaty.**

For many states with limited national transfer control systems, well-defined mechanisms for assistance and co-operation will be vital for effective implementation of the Treaty. The international co-operation and assistance framework proposed under the Treaty will have a critical bearing on its success. Therefore, the ATT must include effective mechanisms to identify and match needs with resources. These mechanisms should be explicitly linked to

complementary and existing initiatives (such as bilateral and multilateral assistance mechanisms, and thematic assistance like that of SSR) for maximum impact.<sup>20</sup>

#### **4. The ATT must be ambitious but realistic in terms of national implementation obligations, ratification, and dispute resolution.**

The Treaty must set the minimum requirements for national implementation, which include provisions for transparency, monitoring mechanisms, and evidence of capacity to enforce the Treaty and thereby demonstrate compliance.<sup>21</sup> Establishment of these mechanisms and processes will place states in a much stronger position to control and monitor all movements of arms and ammunition from, through, and to their national territory.

The Treaty should also outline a realistic mechanism for resolution of disputes, which may include referral to external bodies, such as the International Court of Justice, if a state party is confirmed to be in persistent and flagrant violation of the Treaty.

Finally, the Treaty must ensure that 'entry into force' requirements are not dependent on any one country or specific group of countries.

## **CALL TO ACTION AND RECOMMENDATIONS FOR NEGOTIATORS**

Above all else, states must not forget the urgent humanitarian need to bring the 21<sup>st</sup> century arms trade under control. **The core humanitarian, human rights, and development rationale for the ATT must not be compromised for universal agreement or profit.**

Evidence about what happens when the arms trade is poorly regulated is there for all to see. But the requirements for an effective arms control system are also clear to see. The ATT must produce a system that is credible and fit for purpose. The cost of failure is simply too high.

A strong Treaty must include:

- A set of strong criteria that will stop the transfer of arms to those who abuse human rights, violate humanitarian law, or seek to undermine development;
- A thorough risk assessment process to determine when transfers are likely to have serious negative repercussions;
- All conventional arms and ammunition, as well as all parts and components, in its scope, so that there are no loopholes;
- Effective mechanisms to help countries that will need assistance to comply with Treaty requirements;
- Clear and unambiguous requirements on countries to comply with the Treaty, including obligations to systematically report on all their arms transactions.

If this Treaty conference is to become a historic moment, and have a meaningful impact on the lives of millions of vulnerable people around the world, governments must keep this simple message in mind: **there can be no compromise** on the key elements needed for a strong Treaty.

To compromise would create a weak Treaty, full of loopholes and inconsistencies. A robust and ambitious ATT, on the other hand, would oblige states to exert more scrutiny over arms exports and limit the ability of unscrupulous arms dealers. It would prevent irresponsible arms transfers, limit the ability of human rights abusers to obtain deadly weapons and ammunition, and reduce the extent to which much-needed resources are diverted from essential services in order to buy arms. It would strengthen democratic control and oversight on a deadly trade still fraught with corrupt practices, which has a devastating impact on the peace and security of regions and communities. **In short, states must remain ambitious, accept no compromise, and ultimately agree an Arms Trade Treaty that will save lives. There can be no other rationale.**

## NOTES

<sup>1</sup> Interviews with residents of West Pokot, Kenya in June 2012.

<sup>2</sup> *Ibid.*

<sup>3</sup> UN General Assembly Resolution 64/48 from 2009 outlined a timeline of discussions and consultations, culminating in a four-week Diplomatic Conference on the Arms Trade Treaty to be held in July 2012.

<sup>4</sup> It must be noted that both the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (colloquially referred to as the Mine Ban Treaty) and the Convention on Cluster Munitions are prohibitions/bans, which the ATT is not. Furthermore, both have been negotiated in forums outside the UN.

<sup>5</sup> D. Basu Ray (2012) 'The Devil is in the Detail: The importance of comprehensive and legally binding criteria for arms transfers', Oxfam Briefing, Oxford: Oxfam International, May, p. 2

<sup>6</sup> J. Irish (2012) 'France to push Russia on Syria sanctions, expels envoy', Reuters, 29 May

<sup>7</sup> D. Basu Ray (2012) 'Armed Robbery: How a poorly regulated arms trade is paralysing development', Oxford: Oxfam International, June, p. 2

<sup>8</sup> In Haiti, between 2009 and 2010, development assistance increased threefold (from \$1.1bn to \$3.0bn), and humanitarian assistance increased eleven-fold (from \$142m to \$1.56bn (OECD StatExtracts 2012)

<sup>9</sup> The total cumulative gross domestic product (GDP) of this group of fragile and conflict-affected states amounted to around 0.7 per cent of total global GDP for 2010. Source: OECD StatExtracts 2012; World Development Indicators

<sup>10</sup> Composite of 2012 World Development Indicators data and OECD StatExtracts 2012

<sup>11</sup> 'Armed Robbery', *op. cit.*, p.4; Transparency International (2008) 'Corruption Perceptions Index'. <http://bit.ly/auu41z>

<sup>12</sup> B. Murphy and D. Basu Ray (2012) 'Stop a Bullet, Stop a War: Why ammunition must be included in the Arms Trade Treaty', Oxford: Oxfam International, May, p. 3

See also P. Dreyfus, N. Marsh, M. Schroeder (2009) 'Sifting the Sources: Authorized small arms transfers', in *Small Arms Survey 2009: Shadows of War*, Cambridge: Cambridge University Press, p. 7; P. Herron, N. Marsh, M. Schroeder (2011) 'Larger but Less Known: Authorized light weapons transfers', in *Small Arms Survey 2011: States of Security*, Cambridge: Cambridge University Press, p. 9

<sup>13</sup> *Ibid.*

<sup>14</sup> L. Harding (2012) 'Cyprus stops Syria-bound Russian ammunition ship', the *Guardian*, 11 January, <http://www.guardian.co.uk/world/2012/jan/11/cyprus-stops-syria-russian-ship>

<sup>15</sup> M. Butcher and D. Basu Ray (2012) 'Piecing it Together: Why the Arms Trade Treaty must also regulate parts and components', Oxfam International, June, p. 2

<sup>16</sup> 'The Devil is in the Detail', *op. cit.*, p. 4

<sup>17</sup> OECD StatExtracts 2012

<sup>18</sup> 'The Devil is in the Detail', *op. cit.*, p. 5

<sup>19</sup> Control Arms Coalition (2009) 'The Vital Components of an Arms Trade Treaty', [http://controlarms.org/wordpress/wp-content/uploads/2011/02/ATT-one-pager\\_english.pdf](http://controlarms.org/wordpress/wp-content/uploads/2011/02/ATT-one-pager_english.pdf)

<sup>20</sup> This could include, inter alia: (a) development or review of legislation and administrative procedures; (b) development or strengthening of states parties' international arms transfer control systems; (c) enhancing the capacity of law enforcement agencies; (d) development of international arms transfer data-management; (e) development of the capability to produce an annual report; (f) development of capacity to prevent diversion; (g) training of relevant personnel; and (h) victim assistance. See: Control Arms Coalition (2011) 'Promoting Implementation of the ATT', Position Paper No. 4, June, [http://controlarms.org/wordpress/wp-content/uploads/2011/06/Implementation.English.NEW\\_final.pdf](http://controlarms.org/wordpress/wp-content/uploads/2011/06/Implementation.English.NEW_final.pdf)

<sup>21</sup> *Ibid.*

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