

# United Nations Arms Trade Treaty's Deadly Loophole

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Foundation fellows and diplomats have lauded the overwhelming approval of the Arms Trade Treaty (ATT) by the General Assembly of the United Nations, with UN Secretary-General Ban Ki-moon describing it as a means to obstruct the illicit arms flow to warlords, pirates, terrorists, criminals and the like.

Many who have critically monitored the situation in Syria and the ramifications of foreign intervention in Libya may have difficulty swallowing Ban's words, as some would argue that the UN has itself been complicit in these crises for turning a blind eye to arms and funding going to al-Qaeda-linked rebels in various countries. Twenty-three countries abstained from the vote (representing half the world's population), including Russia, China, India, Cuba, Bolivia, Nicaragua and Egypt, while three – Syria, Iran, and North Korea – voted no. Iran's Deputy Permanent Representative to the UN Gholam-Hossein Dehqani called the treaty a political document disguised as an Arms Trade Treaty, and with highly legitimate reasons for doing so.

*"The right to acquire and import arms for their (importer states') security needs is subject to the discretionary judgment and extremely subjective assessment of the exporting states. That is why this text is highly abusable and susceptible to politicization, manipulation and discrimination,"* said Dehqani, referring to conditions that arms exporting states would be able to impose on importing states.

The pact prohibits the export of conventional arms to countries deemed guilty of violating international human rights laws and committing crimes against humanity – sure, this appears to be ethical and just at first glance, but more careful reflection is required. If we assume that the United Nations makes the call on which states qualify as human rights abusers and which states do not, then Israel would not be hindered from purchasing conventional weapons, but a country like Syria would be barred from purchasing arms to defend itself and its territorial sovereignty.

What makes the treaty not only toothless, but also particularly dangerous, is the fact that it lacks any explicit prohibitions regarding arms proliferation to terrorists and unlawful non-state actors. *"Without such provisions, the ATT would in fact lower the bar on obligations of all states not to support terrorists and/or terrorists acts. We cannot allow such a loophole in the ATT,"* said Sujata Mehta, India's lead negotiator for the ATT in a statement. What this means is that NATO and Gulf states that supply arms to opposition groups in Syria will retain the flexibility to continue to do so, while at the same time having a greater say over whether individual importing states can arm themselves in accordance with their legitimate defense and national security interests. There is no doubt that certain states would take advantage

of this loophole's vast potential for misuse.

The treaty does not recognize the rights of all states to acquire, produce, export, import and possess conventional weapons for their own legitimate security purposes. In theory, this treaty gives the United States, the world's largest arms exporter with heavy sway over the UN, much greater ability to influence whether or not an individual country is allowed to obtain weapons for its own defense. The treaty, in its glaring bias and predictability, completely fails to prohibit the transfer of arms to countries engaged in military aggression against other nations, such as Israel. *"Somebody probably wants to have free rein to send arms to anti-government groups in countries ruled by regimes they consider inconvenient... When we started work on the document, the General Assembly set the task of establishing the highest possible international standards in the area of arms transfers. In reality though, the treaty has established minimally acceptable standards,"* said Russian treaty negotiator Mikhail Ulyanov in a recent interview.

The treaty applies to the transfer of conventional weapons such as battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, small and light weapons, while the proliferation of UAV drones and other modern military technology is not addressed or scrutinized. While feel-good rhetoric prevails and politicians pat themselves on the back, the United Nations by its own admission concedes that the treaty does not ban or prohibit the export of any type of weapon. It is clear that the countries that rely most on the illicit trafficking of arms to execute their foreign policy objectives have had noticeable influence over the contents of this treaty. The treaty depends on how stringently individual countries implement it, and international arms transfers that involve barter deals or leases are also not scrutinized.

While many call it a welcomed development and the first step in regulating the \$70 billion global conventional arms trade, there is little evidence that it will accomplish anything more than increase the frequency of illicit transfers under different guises and further legitimize the 'Good Terrorist-Bad Terrorist' dichotomy – it also contains no language concerning the right to self-determination by people who are under occupation, as is the case in Palestine. The treaty contains some reasonable common-sense measures, such as introducing national systems that monitor arms circulation in countries that lack such systems, but the absence of progressive processes lends credence to accusations that the text is highly industry-friendly and serves to reinforce the status quo.

Most importantly, the treaty pays no focus to actually reducing the sale of arms by limiting global production, which should rightfully be the objective of a treaty that uses global mass causality figures to legitimize itself. According to the UN Office for Disarmament Affairs, armed violence kills more than half a million people each year, a figure that should rightfully strengthen calls to regulate and decrease global production rather than solely focusing simply on trade. Rather, the treaty institutionalizes and legalizes the arming of good terrorists while denying arms to unfriendly governments. Until the UN can cease being an appendage of a handful of the most powerful arms exporting states, there is little hope that any international arms trade treaty can reduce human suffering and have a meaningful impact on the lives of the most vulnerable in conflict zones around the world and elsewhere.

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