

## To What Extent Is the Arms Trade Effectively Regulated?

Written by Vilius Semenas

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# To What Extent Is the Arms Trade Effectively Regulated?

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VILIUS SEMENAS, NOV 7 2013

This essay will argue that, currently, despite existing regulations, arms trade is not regulated effectively, as illicit arms accumulation remains an issue. This statement will be supported and approached the following way: first, the background of arms control treaties will be overviewed, then the most important ones will be highlighted; second, the problems associated with regulating arms trade will be discussed, emphasising the complexity of interests involved; third, the emergence of small arms as the most prominent type of weapon since the 1990s will be stressed in terms of illicit arms trade; fourth, black and grey market operation will be debated, specifically in terms of inefficient trade regulation; fifth and finally, the conference on the Arms Trade Treaty will be discussed, emphasising the obstacles to implementation.

To begin, a definition of 'arms' and 'arms trade' is in order. Since 'arms' refers to a fairly wide array of weapons, these shall be categorised into five broad categories, as defined by Smith and Udis (2001: 82): (1) weapons of mass destruction, (2) major weapons systems, (3) light weapons, (4) dual-use technologies, and (5) services. With regard to 'arms trade', this essay will subsequently follow this definition and also, will use 'arms control' and 'arms transfer' interchangeably.

The first significant arms control treaties were signed after the First World War. The Geneva Convention of 1925 prohibited the use of biological and chemical weapons, whereas their production, storage and transfer were prohibited in 1972 and 1993 respectively. Numerous nuclear weapons non-proliferation and test-ban treaties have been signed since the Second World War, whilst several strategic weapons limitation and disarmament treaties have been signed bilaterally by the U.S. and USSR. Successful campaigns have also resulted in abolishment of landmines and cluster munitions, as well as other types of armaments. Furthermore, arms trade and transfer monitoring has increased significantly. The SIPRI Arms Transfers Database contains information on all official arms transfers since 1950, improving transparency. Furthermore, guidelines for international arms transfers were established by the UN in 1996. In terms of arms trade, states almost universally have individual regulations, yet although there are plenty of multilateral voluntary export and import agreements, few treaties exist which legally bind their member states.

One of the most prominent international arms control agreements is the UN Register of Conventional Arms, established in 1991. The main purpose of it is to monitor weapons flows and 'prevent destabilizing military build-ups' (Grillot, 2013: 329). Another significant arms trade control agreement is the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, which has been signed by 41 countries. It is not a binding agreement and is also far less strict than its predecessor COCOM. Notwithstanding, its key goal is to promote transparent and responsible transfers of conventional arms and dual-use goods in order to prevent destabilising accumulations of arms (WA, 2011: 2). Many other agreements exist on arms control issues such as codes of conduct on exports, brokering, production and distribution. Also, the role of NGOs campaigning for stricter regulations regarding transfers and trade of arms has significantly increased. Therefore, it is clear that since the end of Cold War there has been an increased demand for arms trade regulation.

Article 51 of the Charter of the United Nations acknowledges the inherent right of all states to individual or collective self-defence and the right to manufacture, import, export, transfer, and retain conventional arms towards that end.

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Therefore, conventional arms are legitimate tools of governments, militaries, police forces and civilians, contrary to weapons of mass destruction. The process of implementing regulations on arms trade, especially since it is related to security, is complex because it does not only involve states as exporters and importers, but also enterprises and individual interests. Since every state has its own goals and ways of security, a global, all-encompassing, regulation of arms trade is difficult to achieve in terms of its acceptability to individual states. Therefore, as argued by Grillot (2013: 331), arms trade can, and should, only be addressed by multiple agreements, programmes and treaties.

Since the 1990s, 'small arms have become emblematic of the post-Cold War international security agenda' (Stavrianakis, 2010: 52). It has been widely acknowledged that the role of small arms transfers has significantly increased in fuelling conflict and enabling terrorist networks (Hartung, 2008: 359). According to the Small Arms Survey (2005), small and light weapons account for an estimated 60-90% of the direct conflict deaths each year. What is more, they have the largest potential to be traded illicitly, given they are easy to conceal and relatively cheap. The lack of control and transparency with regard to the small arms trade and acquisition is evident, and has been strongly campaigned by NGOs. This campaigning has successfully led to the UN Conference on Curbing Illicit Trafficking of Small Arms in 2001, which formed a framework to introduce better domestic controls on the exports of SALW. However, the results of it are unclear, and there was no noticeable decrease in either arms exports, or conflict deaths. On the contrary, military expenses of major actors have peaked since the War on Terrorism started in 2001, especially that of the U.S. A big share of them, in fact, goes to foreign military aid to conflict regions such as the Middle East, for the sole purpose of 'having a strategic role in the war on terrorism', further facilitating violence and disrespect for human rights (Stohl, 2008). Thus, with regard to small arms, the inefficiency of current export regulations is clearly evident.

The extent to which arms trade regulation is not effective can also be seen in the prominence of black markets. It is estimated that every year more than \$5 billion worth of armaments is illegally sold on the black market (Mandel, 2011: 97). Black markets reflect the inefficiency of trade regulations in that they satisfy the demand for armaments to actors who cannot obtain them legally. Moreover, it is a fact that weapons sold in black markets are usually produced legally. This reveals another inefficiency of current trade regulation: after the initial legal purchase of arms, there is a number of ways for them to end up in black markets since there does not exist an efficient way of tracking weapons movements (Stohl and Grillot, 2009: 102). For example, as the majority of the weapons are owned by individuals, not by governments or armed forces, due to their irresponsibility in acts of trade or selling, weapons often reach the hands of criminal organisations and eventually find their way to black markets. This is well illustrated by the fact that 2.2% of weapons purchased in the U.S. end up in Mexico (McDougal et al, 2013: 4). Grey markets, too, illustrate the lack of efficiency in arms trade regulation, especially that of national policy. Although the majority of arms trades are legal, the Small Arms Survey (2001) estimates that around 80-90% of problems arise with, for example, governments and officials who intentionally exploit arms control regulation loopholes in order to support militant groups, or, simply, to make untaxed profits. Such markets, both black and grey, are more likely to operate in states where arms trade regulation is not elaborate and clear, such as Columbia and India (Ved, 2004).

As a matter of fact, a conference on the Arms Trade Treaty is taking place at the time of writing this paper (18-28 March 2013). So far, it has been the 'most ambitious undertaking in the field of arms trade regulation' (Hartung, 2008: 359). One side of this ambition lies in the sense that the ATT could become the first regulatory agreement which had the ability to control arms exports based on human rights violations, to prevent supply to areas of conflict with the potential of destabilisation, and to efficiently execute embargoes. Another side of the ambition is that the ATT, if it were implemented, would establish uniform standards for weapons trade control, which would significantly reduce grey market trade as well as would greatly decrease arms flow into black markets (Arms Control Association, 2011). However, even though the vast majority of the international community as well as NGOs are strongly in favour of such a treaty, the U.S., Russia and China currently opposing implementation is a major obstacle to successful arms trade regulation in the future, as the P-5 countries together with Germany account for around 74% of the global share of arms trade (Annesteus, 2012). Without the commitment of the major exporters of arms, this treaty would become largely irrelevant.

All things considered, arms trade regulation, as it exists today, is only efficient to the extent that there are voluntary agreements and codes of conduct on arms exports, whereas the major powers are generally opposing any stricter

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regulations of trade, and are in fact increasing their military spending. In terms of illicit arms trade, the current regulatory framework cannot prevent weapons' channelling into black and grey markets. This essay reached this conclusion by, first of all, examining the existing arms trade control treaties and emphasising their flawed unbinding nature. Then, it looked into the issues associated with regulating arms trade, particularly the UN Charter Article 51, and the growing importance of small arms. Further, this essay examined arms trade in black and grey markets, stressing the inefficiency of current regulatory mechanisms in terms of controlling weapon movements. Finally, the ongoing conference on the Arms Trade Treaty was analysed with regard to its ambitious plans supported by the international community, but not the major powers.

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<http://www.wassenaar.org/guidelines/docs/Guidelines%20and%20procedures%20including%20the%20Initial%20Elements.pdf>

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