

# Lessons from COP21: How the Pacific can Alter the Status Quo on Arms Trade

Written by Laura Spano and Nathan Page

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LAURA SPANO AND NATHAN PAGE, MAR 21 2016

### The Lesson from COP21 for the Pacific

Global media often represent the South Pacific as one region of unanimous coordination on climate change, particularly in the wake of Pacific leaders' beseeching the world to take action at the 2015 UN Climate Change Summit COP21 in Paris. As the executive vice president of a United States policy institute, Center for Climate and Energy Solutions stated, smaller countries with shared interests tend to cooperate in multilateral negotiations because there is strength in numbers. The Pacific's voice is loudest on this issue and it has 'often being used as the "poster-child" of climate change'.

The lesson from COP21, that ought to be applied elsewhere, is exemplified by the Africa, Caribbean and Pacific (ACP group) cooperation with the European Union to form a 79-nation joint initiative. The joint initiative pushed for transparency, monitoring and evaluation for long-term goals as well as setting some operational mechanisms for future summits and some standards that will frame agreements. The COP21 agreement resulting, in part, from ACP coordination is a great gain for the group and Small Island Developing States.

What is less reported about the Pacific and, comparatively little known, is the importance of arms control issues for the region. Nations in the Pacific also celebrate a unique consensus on security expressed through the region's Nadi framework which commits Member States of the Pacific Island Forum (PIF)—a regional organisation formed to enhance cooperation among Pacific states—to a common approach to weapons control. This is both legislatively by offering Model Arms and Ammunition Legislation, and through provisions for regional coordination of customs and police. Furthermore, some states, such as the Solomon Islands, have become world leaders in disarmament, while Nauru and Palau remain arms free.

The problematic connection between Pacific nations and small arms and light weapons (SALW) may not seem obvious. These states are, generally speaking, small importers of arms, while 12 out of 16 Pacific states' police are unarmed and ten of these countries have no military. Australia's domestic firearms regulation have seen significant decrease in deaths from registered arms and regionally Australia and New Zealand are the only Pacific states that manufacture arms, and export arm, ammunition and components.

While the geography of Pacific countries is at times a strength, allowing for an exclusive economic zone, on the flipside it can present a strategic challenge. Pacific states composed of atolls and archipelagos must secure disproportionately vast areas of maritime and coastline compared to land and population. Officials from the Melanesian Spearhead Group—a sub-regional security and trade framework facilitating cooperation amongst Melanesian Pacific states—recently identified resources gaps at one difficulty concerning patrolling territory.

While the Pacific is not a major illicit arms route, it is anticipated as an extension of a strengthening Indo-transpacific trade route. A preventative approach to illicit trade through regional cooperation is desirable, compared to remedial experiences in Solomon Islands and Bougainville. In our increasingly globalised world, illicit trade in small arms, transnational crime and terrorism, can be facilitated by inadequate legislative controls and porous borders.

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## **What Does Consensus Mean for Pacific States?**

The first Conference of State Parties (CSP1) to the Arms Trade Treaty (ATT), attended by over 100 governments, took place in Mexico in August 2015. The ATT is exciting because it is the first legally binding treaty of its kind to be negotiated by United Nations Member States in an attempt to facilitate transparency and to set rules around the USD\$100 billion trade in conventional arms. The Treaty, currently has 82 State Parties and 130 signatory states, including five of the top 10 arms producers—the United Kingdom, France, Germany, Italy and Spain.

Article six of the ATT attempts to regulate the shadier side of arms transfers by prohibiting transfer of arms in violation of UN Security Council embargos, where there is suspicion that an official client has links to illegitimate armed groups, or where there is suspicion that grave breaches of the Geneva Convention may be committed. In this regard the ATT empowers the international community's ability to use UN Security Council embargoes as a tool for deterrence and conflict prevention.

However, the ATT was heavily negotiated and much was compromised. Furthermore, some states are sceptical of the Treaty's ability to achieve its objectives. The Treaty is only effective if obligations are implemented in a transparent and accountable way. Transparency of reporting and information exchange will be crucial to the effective functioning of the ATT, and its subsequent public support.

Pacific states have been involved in, and supportive of, the ATT from the beginning. Australia, New Zealand, Samoa, Palau and Tuvalu signed the ATT as soon as signing opened, four Pacific states have ratified while a number of regional states are currently assessing the process of ratification.

Pacific countries' maritime nature means that these states will have a part to play in exercising responsible membership in the international community by enforcing the ATT within their shipping lanes and ports. Overcoming capacity gaps in some Pacific states will be a necessary challenge because transparency and information sharing will be crucial for making informed decisions about the intent of those involved in a chain of arms delivery.

The ATT can serve PIF's interests in enhancing regional security through compliant legislation that protects against existing gaps in brokering, as well as increased information sharing about arms trade in the region. These concerns can be streamlined into PIF's sustainable development and humanitarian objectives.

The illicit trade in small arms disproportionately impacts the poorest communities and often exacerbates everything from gender crime to terrorism. Papua New Guinea (PNG) and Solomon Islands serve as unfortunate demonstrations of what even a small number of arms can do to long-standing national tension. The 1999-2003 conflict of Solomon Islands caused by deep-seated traditional issues of land was largely facilitated by looting of over 1000 weapons from police armories in Honiara. While small arms and light weapons escalated tribal tensions already present in the highlands of PNG.

The conflict in Solomon Islands led to a reduction of 25 percent GDP, while PNG's 2013 National Security Policy found that transnational crimes are currently rated by law enforcement agencies as the single biggest threat to national security. The World Bank stated that poor law and order has affected PNG because it deters private enterprises from further investment.

The Pacific also needs to learn from the experience of the Caribbean—although we understand the Pacific is in a different geopolitical environment—that faces similar challenges of porous borders and vulnerabilities to the trade of illicit commodities. Six of the top 10 largest importers of arms are in Asia and the Pacific. Subsequently, in the period 2006-2010 Asia-Pacific accounted for 43 percent of the world's conventional weapons imports. If the Pacific does not, as a region, come together to ratify/accede and implement the Treaty, given its current legislative gaps on regulating arms flows, it may become an arms dealer hot spot.

## **Intention of the First Conference of State Parties**

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CSP1 in Mexico last year would have been the time to give the Treaty some teeth. Australia is already Treaty compliant and Samoa is currently drafting a new arms control bill.

Legislatively some Pacific states have some way to go, particularly on arms brokering. However, during informal discussions at the conference the obvious sticking point for Pacific states, that import small amounts of arms, is that the ATT does not bind the 70-odd countries that have signed it, but have yet to ratify, not to mention countries such as Egypt, India, and Russia that express doubts about the Treaty's feasibility.

Much of the discussion at the CSP1 revolved around the location of the Secretariat, which decided on Geneva. Other contested decisions involved transparency of baseline and biannual reporting and voting. To avoid use of a veto, decisions will be made by 2/3 majority instead of consensus. For Pacific states this provides an opportunity if the smaller island states can organise themselves toward a regional security framework, similar to what they did at COP21 and what Caribbean states of CARICOM demonstrated at CSP1.

CARICOM almost secured the CSP secretariat in Trinidad and Tobago. Collaboration between the Caribbean island states has meant that throughout the negotiation phase, as the Treaty took shape, CARICOM pushed for interpretations and implementations of the Treaty that favor their own security needs. Similarly, a Pacific voting bloc could be influential and make a difference in CSP decisions that concern Pacific Small Island Developing States (SIDs).

Australia has announced \$400,000 to assisting Indo-Pacific region on ratifying, acceding or implementing the ATT. This could be spent on capacity building for smaller states to implement Treaty obligations, such as a national arms control list. This would make ratifying the ATT a smoother process for smaller states who may lack the administrative/bureaucratic ability to do this on their own. In fact, New Zealand has already drafted a model law, while the Samoan experience may act as an example of how a Small Island State can go through the process of domesticating the Treaty into national legislation

Seven Pacific states (including Australia and New Zealand) were represented at CSP1. Only Australia, New Zealand, and Samoa had ratified at the time and therefore only these three Pacific states were able to vote during the decision making process. These are also the only three states to make a formal statement to assert their positioning during the Conference.

Because there is not widespread ATT ratification among Pacific states, the region is missing an opportunity to form a voting bloc and be influential players and regulate the arms trade of big exporters in Pacific jurisdictions. Ratification would allow small Pacific states to influence the future implementation of the Treaty. In order to do this by CSP2, states would need to accede to the Treaty by August this year. This is in their best interest, particularly if they plan to join the Treaty, because the early stages of any conference of state parties is when the infrastructure of any treaty is developed.

Furthermore, action on the ATT, including compliant legislation, would allow the Pacific to promote future frameworks similar to the Pacific Human Security Framework aimed at guiding the implementation of human security approaches by PIF Member States in peace and security initiatives. Regionally, the Asia-Pacific could benefit from Pacific political security and integrated trade law enforcement and preventative regulatory responses to transnational organized crime and terrorism.

## Implications for Pacific States

The lesson from CSP1 for Pacific states is that universal treaties, such as the ATT, don't just concern the big manufacturers and exporters of conventional arms. Nor do preventative regulatory responses only concern those States with major security and violence issues. As PNG's highland elections demonstrated even a small number of arms can undermine national security as militias supporting ethnic/tribally allied candidates prevented democratic elections in some constituencies. The ATT can help small states through reinforcing rule of law, political stability, create a secure investment environment for sustainable development, bolster state capacity to tackle transnational

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crime and terrorism. The list goes on.

Regional coordinated action—like that demonstrated at COP21—at the ATT CSP2 could allow the Pacific to become an influential player in fleshing out this young Treaty and its future implementation. Pacific states have demonstrated a consensus on arms controls. COP21 and the ACP group’s influence in reaching an agreement favorable for SIDs through strategic cooperation, demonstrates a behavior which can be transferred to other international fora.

The ATT Conference of State Parties offers one vote per State Party. The Pacific’s natural allies, Africa and the Caribbean, consist of 44 percent of current voting States. Pacific states need not be outmuscled by larger manufacturer-exporting states as their vote might just tip the *status quo*. Ratifying the Treaty and forming a voting bloc would allow the Pacific to push its agenda on arms control. Pacific states would then be strategically placed to exercise their responsibility in their maritime jurisdictions. Or, conversely, their maritime nature may create porous borders, while gaps in legislation can create an illicit trade hotspot. As always, opportunity is open to the proactive, while through inactivity opportunity can sour and become a liability.

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