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## THE ARMS TRADE TREATY: MAKING THE GUNS FALL SILENT

The ongoing financial crisis is different from all the previous ones in one important way: it has not affected the world's military spending. During the previous crises, defense contracts were cancelled and military programs axed. This time around, global defense spending continued to rise from \$1,330 billion in 2007 to \$1,460 billion in 2008<sup>1</sup> and an estimated \$1,500 billion-plus in 2009. In the past decade, the figure has increased by almost 50 percent.

The United States accounts for nearly half of it. The wars in Iraq and Afghanistan have been a major factor. But nations in the Americas, the Middle East, Asia and Africa have also increased spending on their armies. International arms trade turnover has reached \$45–50 billion. It is hard to keep track of the number of arms contracts being signed every year, but it is currently estimated at over 100,000. In the five years from 2003–2007, Sweden alone made 42,375 arms exports deliveries.<sup>2</sup> *Rosoboronexport*, the Russian arms trade monopoly, signs up to 1,700 contracts every year.<sup>3</sup>

The year 2008 was unprecedented in terms of the number of arms export contracts signed. Their combined value is estimated at \$101,314 billion, up from \$89,039 billion in 2007 and \$68,500 billion in 2006. By the middle of the next decade, the size of the global arms market is expected to more than double.

That accelerating growth has given rise to serious concerns among the international community. The humankind would like to be able at least to keep track of—if not limit—what has become known as a *destabilizing accumulation of arms*.

That term figures in a number of international documents. In 1992 the United Nations created the Register of Conventional Arms. World governments undertook a voluntary commitment to report statistics about their arms exports and imports to that register. As part of the Wassenaar Arrangement on exports controls for conventional arms and dual-use technologies, member-states have adopted a founding document called “Elements for Objective Analysis and Advice Concerning Potentially Destabilizing Accumulation of Conventional Arms”.

But for all the UN, OSCE and EU documents, for all the regional agreements regulating arms exports, there are no effective international instruments capable of preventing regional or domestic armed conflicts. Not a single arms exporter, including Russia, would ever admit that the weapons it had sold have contributed to a destabilizing arms buildup or triggered a military conflict.

### WEAPONS DOWN

*The United States is committed to actively pursuing a strong and robust treaty that contains the highest possible, legally binding standards for the international transfer of conventional weapons.*

Hillary Clinton<sup>4</sup>



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On October 30, 2009 the First Committee of the UN General Assembly voted in favor of the Arms Trade Treaty (ATT). According to that resolution, passed by 153 votes, a four-week UN conference will be held in 2012 to produce a draft of the treaty containing “the highest possible standards for the international transfer of conventional weapons.” Preparatory meetings ahead of the Conference will be held in the UN framework in 2010 and 2011.<sup>5</sup>

The General Assembly’s resolution was backed by some of the biggest arms exporters, including the U.S., UK, France and Germany. Nineteen countries abstained, including Russia, China, India, Pakistan and Venezuela. Zimbabwe gave the only no vote.<sup>6</sup>

In a move that radically altered the situation with the proposed ATT, the U.S. representative voted in favor of the resolution. Up until October 2009, the U.S. was the main opponent of the treaty. Back in 2006, it was the only country to vote against the ATT at the General Assembly. Now, the new U.S. administration could well become the main driving force behind the treaty. According to Hillary Clinton, “The United States is prepared to work hard for a strong international standard in this area by seizing the opportunity presented by the Conference on the Arms Trade Treaty at the United Nations.”<sup>7</sup>

But for all the international support the proposed treaty has garnered, for all the media coverage it has received, few of its advocates —let alone opponents—truly understand the essence and the meaning of the initiative.

To illustrate, in the U.S. the ATT statement by Hillary Clinton triggered a storm of indignation among the owners of firearms, and newspaper headlines such as “The First Step Towards Taking Away Our Rights.” The press seized upon the words of the former U.S. representative at the UN, John Bolton: “The administration is trying to act as though this is really just a treaty about international arms trade between nation states, but there’s no doubt—as was the case back over a decade ago—that the real agenda here is domestic firearms control.”<sup>8</sup> Firearms owners in America now suspect the proponents of the treaty of a fiendish plot against the Second Amendment, which guarantees their right to own and carry guns.<sup>9</sup> Based on these suspicions, the more extravagant of these articles sometimes end up calling for the abolition of the UN.

In Russia, meanwhile, the proposed ATT remains below the radar of the public opinion. There is no secret plot here—the Russian public simply does not seem all that interested. The Russian officialdom also appears not to care all that much for the proposed treaty. Indeed, the initiative has raised certain suspicions, which is quite understandable. Russia is the world’s second-biggest arms exporter, so it is wary of any attempts at imposing some external restrictions in this area.

The official Russian position is evasive. In and of themselves, agreed multilateral mechanisms of arms transfers cannot prevent weapons from being trafficked illegally or falling into the hands of terrorists and extremists. That is why Russia has proposed that the reasons for the inefficiency of the existing controls should be analyzed before discussing a new global agreement.<sup>10</sup> Moscow believes that arms controls should focus primarily on preventing illicit arms transfers.<sup>11</sup> The Russian delegation therefore abstained during the vote on the ATT at the UN.

Russia’s position means that for the time being, it will withhold its support for the ATT proposal. Moscow believes that the international community will not be able to agree on global rules for all conventional arms transfers without damaging legitimate arms trade and restricting the nations’ right to self-defense.

Proponents of the treaty have no doubts about the meaning of the language used by the Russian diplomats. Until late 2009, the world public opinion thought of Russia as one of the secondary opponents of the ATT. But now that the U.S. has crossed the floor, Moscow has become the main naysayer and the primary target for criticism from governments and nongovernmental organizations (NGOs).

Apart from Russia, the list of abstentions includes China and India, the entire Arabic Middle East, Pakistan, Iran, Venezuela, Cuba, Yemen, Sudan, Libya and Belarus. In other words, Russia has found itself in a very distinguished company.

Meanwhile, the 153 nations who supported the ATT initiative make up a convincing 80 percent of the UN members.<sup>12</sup> Let us take a closer look at this big majority. Apart from the United States and the EU nations, it includes the entire African continent (apart from four Arabic states—Egypt, Libya, Yemen and Sudan—plus Zimbabwe, which gave the only vote against the resolution), the

Americas (apart from Venezuela, Nicaragua and Cuba), and all the Asia-Pacific countries apart from China, which abstained, and Vietnam and North Korea, whose representatives were absent during the vote. It is worth noting that the list of ATT backers includes Armenia and Azerbaijan, who are in a state of conflict, Eritrea, on which the UN has subsequently imposed an arms embargo, and Burma.

Of the former Soviet republics, Turkmenistan, Tajikistan, Uzbekistan and Kyrgyzstan all failed to take part in the vote, in what seems like a rather strange coincidence. Belarus abstained.

The ATT vote at the General Assembly showed a clear geographical divide. Europe, the Americas, Asia-Pacific and Africa supported the initiative; the Middle East, most of Asia and the actual countries which risk being affected if the treaty is adopted all refused to sign up. Opposition to the ATT seems to have a clear Asian tinge.

## A BAND OF BROTHERS

*It was a great pleasure for Zambia to be among the initiators of the Arms Trade Treaty resolution adopted by the First Committee in October 2006 and the General Assembly in December 2006.*<sup>13</sup>

*Official commentary by Zambia on the ATT*

What are the motives of the ATT supporters? The initiator of the treaty in its current form and its main global engine is the EU, with the U.K. playing a leading role. The EU provides not only political backing but also financial support: some €836,260 was budgeted in 2009 for developing the treaty's provisions and holding various PR events.<sup>14</sup>

The EU already has a fairly efficient instrument called the EU Code of Conduct on Arms Exports. It now wants the rest of the world to adopt the principles and mechanisms of that code.

Based on its own internal rules, the EU has imposed an arms embargo on China, Iran, Syria, Burma and Sudan. Until recently that list also included Uzbekistan and Belarus. Both are Russia's long-standing partners in arms trade. The EU believes that one of the key purposes of the ATT is to make sure that the list of the countries subject to international arms embargos matches the European Union's own list.

But the EU is only 27 countries. What are the motives of the other 126 nations that support the treaty? Most of the African countries hope that the ATT will help to stem the uncontrolled flows of weapons criss-crossing the continent en route to yet another conflict zone.

The principle of transparency, which is one of the key pillars of the ATT, means that the member states must submit detailed annual reports about all their international arms and ammunition transfers covered by the treaty to the relevant registration bodies.

Such bodies already exist, including the Wassenaar Arrangement and the OSCE. The main mechanism of international reporting is the UN Register of Conventional Arms.<sup>15</sup> Under the existing procedure, UN member states are required to submit annual reports about their exports and imports in the following seven categories:

- Battle tanks;
- Armored combat vehicles;
- Large-calibre artillery systems;
- Combat aircraft;
- Attack helicopters;
- Combat ships; and
- Missiles and missile launchers (including the Man-portable air-defense systems – MANPADs).

Official UN statistics indicate that in 2008, only about 40 per cent of the 192 UN member states submitted any information whatsoever to the register. That is less than half of the 153 states that



voted for the ATT. If the European nations are subtracted from the tally, that proportion falls to 30 per cent. The register is now receiving even less information than it did in 1992, when it was set up.

Alarming as it is, the Figure 1 does not even reflect the full gravity of the situation. The 2009 figure includes the so-called zero reports, which declare that no arms exports or imports operations were conducted in the reported period. The number of nations that have actually provided meaningful reports giving an accurate picture of their arms exports and imports is much lower than the headline figure suggests. The list of weapons deals submitted by the exporting countries often does not match the list submitted by the importers. The magnitude of that discrepancy varies, but normally remains in the range of 65 to 80 percent. As a result, even the regular reports submitted by the participating nations cannot automatically be deemed accurate. According to the latest review of the register's operation<sup>16</sup>, only 43 nations have been submitting their reports every single year since it was created.

The average number of exports and imports reports remained unchanged in recent years. Over the period of 2005–2008, annual exports reports were regularly submitted by about 70 nations (including the zero reports), and imports reports by less than 60 (also including zero reports). In 2008, some 72 nations submitted their exports and/or imports data (including zero reports).<sup>17</sup> The more recent figures will probably be the same. Notably, if the zero reports are excluded from the tally, the number of annual exports and imports reports submitted to the register will be only about 25 to 30.

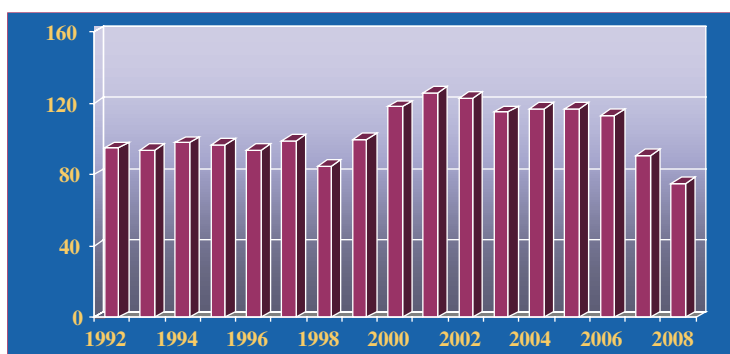
Meanwhile, information about national arms stockpiles was submitted to the register by 27 countries in 2005, 28 in 2006, 26 in 2007 and 24 in 2008.

With such lackluster participation, the register clearly cannot be an effective instrument. Many of the nations who support new transparency measures in arms trade are failing to honor their existing commitments in this area. And cautious new transparency initiatives usually fizzle out at the very early stages.

For several years now the Government Experts Group has been unable to achieve the inclusion in the register of several additional arms categories, such as the “armed atmospheric unmanned aerial vehicles,” the market for which is growing rapidly, or “small arms and light weapons,” which are the most deadly and dangerous arms ever invented.<sup>18</sup>

Formally, Russia submits regular arms exports reports to all the relevant international organizations, although these reports are not complete. To illustrate, unlike most of the NATO countries Russia does not report information about its arms stockpiles or small arms contracts<sup>19</sup> to the Register, although it does submit regular reports on small arms to the OSCE<sup>20</sup> and the Wassenaar Arrangement. In their public pronouncements, Russian officials say that the country maintains “military and technical cooperation” with some 60 nations or even more—but the Russian annual reports to the register contain information about arms deliveries to only 10 to 12 countries.

**Figure 1. Participation of UN Member States in the UN Register of Conventional Arms**  
**Source:** UN Participation Register, 2009, [www.un.org](http://www.un.org)



It is therefore clear that the UN Register of Conventional Arms, the primary instrument of international controls over conventional arms transfers, is not working as it should be.<sup>21</sup>

The other international document that is comparable to the ATT in terms of its scope and significance was adopted in 2001. It is called the *Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons*. A review conference held five years after the program was launched showed that of the 191 UN member states who signed up, only the following numbers have actually honored their commitments:

- ❑ 79 countries have passed laws on illicit arms trade;
- ❑ 53 mark all the small arms they produce; and
- ❑ 37 have special controls over arms trade intermediaries.<sup>22</sup>

All of that suggests that most nations are not prepared to disclose the secrets of their arms transfers. Unfortunately, only those countries that are the most secure militarily and well-off financially can afford to reveal their own and their partners' military secrets. But even that luxury has its limits. Unmanned aerial vehicles are still not covered by the existing agreements. The same is true of other advanced weaponry such as anti-missile systems, high-precision weapons, electronic warfare equipment and many other instruments of future warfare. That situation seems unlikely to change any time soon.

## KEY PRINCIPALS OF ATT AND RUSSIA'S INTERESTS

*Russia has long earned itself a reputation for breaking international law on arms trade. It has no moral authority to accuse any other country of lack of transparency in their arms transfers.*<sup>23</sup>

*Yury Kostenko, member of the Verkhovna Rada (Ukrainian parliament)*

Let us now take a closer look at the proposed treaty and see whether any of its provisions are in conflict with Russia's interests. Let us consider the key principles proposed by the ATT advocates.

The core of the ATT is the principle of *responsibilities of states*. It stipulates that in each individual case the exporter must make sure before going ahead with the arms transfer that the weapons will actually end up in the hands of the intended recipient. The exporters shall undertake not to allow the deal to go ahead so long as there are any suspicions about its true nature. That approach is supposed to minimize the chances of weapons being received by anyone other than the legitimate buyer.

It is safe to say that Russia has already implemented that principle in practice. In fact, it has gone even further than that. On October 6, 2006 the Russian government issued Resolution No. 604 "On Approving the Provision on Supervising the Implementation by the Relevant Agencies of Foreign Countries of their Commitments Regarding the Intended Use of Some Types of Military Goods Supplied by the Russian Federation." The provision introduces controls not just before the weapons have been shipped from Russia, but also after they have been received by the foreign buyer.

Under the provision itself and the amendments introduced in 2009<sup>24</sup>, in certain cases a Russian government commission can travel to the foreign country in question to ascertain the presence on the territory of that country of the Russian weapons sold to it. The commission is also authorized to make sure that those weapons are being used as per their intended purpose, which is stated in the sales certificate.

Obviously, the buyers who pay good money for their weapons were not enthralled by the prospect of foreign commissions nosing about their military facilities. In many cases, Moscow had to push hard to persuade the foreign customers to sign an agreement on preventing the misuse of the weapons imported from Russia. Such an agreement was signed with Syria in 2006, and with Egypt and Jordan<sup>25</sup> in 2007.

Similar mechanisms have been used for Russian exports to the CIS nations.<sup>26</sup>

In this particular regard, therefore, the ATT does not introduce any mechanisms that Russia's existing controls are now lacking. In fact, Moscow could well propose that some of these internal



Russian mechanisms be reproduced internationally. That would substantially augment the existing international controls over arms transfers.

Under another basic principle of the ATT, *express limitations*, arms and ammunition transfers will not be allowed if they are in contravention of explicit commitments under international law. These commitments include UN resolutions, international agreements and embargos, as well as universal and binding principles of international humanitarian law.<sup>27</sup>

In Russia, international bans are enacted through presidential degrees, which are issued to put into effect UN Security Council resolutions.<sup>28</sup>

From the legal point of view, Russia can hardly be accused of breaking international law. International restrictions on arms transfers are always stated very unambiguously, with a clear list of the nations or types of weapons subject to such restrictions (for example, weapons that cause superfluous injury or unneeded suffering). Of course, there may be some room for interpretation, partly due to the reasons of insufficiently clear terminology. That is a serious problem that will have to be addressed by the authors of the ATT. But right now, Russia complies with all the existing restrictions to no lesser degree than any democratic country in Europe.

The principle of comprehensive scope means that the ATT mechanisms will apply to:

- All conventional munitions, arms and materials of any types for army, secret services and police use; components, technology and equipment for producing and using these items; dual-purpose goods that can be used by the armed forces, secret services or the police;
- All imports, exports, re-exports, temporary transfer and transit of conventional arms and munitions;
- All international transfers of conventional arms and munitions conducted by: dealers and trading agents, arms brokers and entities offering technical assistance, services in training, transportation and storage of weapons, financing, insurance, maintenance, safety and security services and other services that are part of the arms transfer operations.

One well-known feature of the Russian system of controls is the state monopoly on arms exports. Only a handful of state-owned Russian companies hold the license to export weapons. The situation is very different in many other countries, including the leading Western nations. In the United States, Britain and France, arms export licenses are issued to private sector companies. One can argue about the economic merits of state monopoly of arms exports, but there is no arguing that the system has essentially outlawed arms dealers, agents and brokers. Russia has therefore gone further than most other countries in the practical implementation of the principle of comprehensive scope. Few other nations would be willing to take a similar step, although it would clearly improve controls over arms transfers.

The principle of *abiding by international law and universal norms* can become a sore spot for Russia.

The wording proposed for that principle by non-governmental organizations is this:

State parties shall not authorize weapons and ammunition transfers if there is a significant risk of those weapons being involved in:

- Violations of the UN Charter and international law involving the use of force;
- Serious violations of international law on human rights;
- Serious violations of international humanitarian law;
- Acts of genocide and crimes against humanity;
- Acts of terrorism;
- Gender violence, violent crime and organized crime;
- Actions detrimental to security and stability;

- ❑ Actions detrimental to the cause of eliminating poverty or inflicting serious damage on social and economic development
- ❑ Corruption; and
- ❑ Actions in contravention of international, regional and sub-regional commitments, agreements and treaties relating to small arms, nonproliferation, arms control and disarmament.

Let us recall that the EU countries and the United States have cited human rights violations as the reason for their decision to impose restrictions on arms exports to China, Syria, Iran, Sudan, Burma, Uzbekistan and a number of other countries that are among Russia's traditional defense customers. EU representatives have been quite explicit that the requirement for arms importers to respect human rights should be one of the key principles of the ATT.

If that principle is included in the treaty, it can open the debate on Russia's exports to countries such as Sudan (where human rights organizations say Russian weapons are being used against peaceful civilians) or Venezuela, whose imports of those weapons have caused concern in Columbia and even in the U.S.<sup>29</sup>

It must be said that the provision of the ATT concerning human rights is not among the priorities for the United States and many other countries. The human rights situation in Iraq, Afghanistan and Pakistan (where peaceful civilians are being killed in American air strikes), or the policies of Israel, which buys lots of American weapons—all of that makes Washington's positions on the human rights issue fairly vulnerable.

Many governments will oppose the inclusion of the human rights clause in the ATT. Many of them could fall foul of flexible interpretation of the criteria for denying a country the right to buy weapons. These countries' weapons imports could well become hostage to various pressure campaigns that can use as a pretext any human rights incident, such as the breaking of a peaceful protest, civilians dying in an air strike, or an undemocratic election. The human rights issue is sure to trigger a heated debate at the UN.

The NGOs are well aware of the possibility that any mention of human rights might be dropped from the treaty altogether, so they are prepared to settle for milder wording such as "serious human rights violations". But inexact formulations will make it next to impossible to reach an agreement as to which violations qualify as serious enough.

As a compromise, the human rights criteria might have to be applied only to those weapons that are likely to be used for human rights violations, such as small arms, police equipment and possibly helicopters.

Russia does not have a problem with any of the remaining provisions of the agreement that fall under the requirement to abide by international and universal norms. "Destabilizing arms supplies" or "arms transfers that can threaten security in the region"—these are all fairly amorphous definitions, which every party will interpret to its own advantage, as always. Arriving at a shared definition of such terms is a hopeless task, at least for the next few years. For example, Russia is confident that the U.S. warships carrying missile defense systems in the Black Sea, the stationing of U.S. missile interceptors in Poland, the proposed missile defense radar in the Czech Republic and other ABM elements in Romania all undermine regional security. The United States itself believes just the opposite.

The authorities in China think American arms supplies to Taiwan destabilize the situation in the region. The United States argues that these supplies are instrumental for regional security.<sup>30</sup>

However, the inclusion of this provision in the ATT will create new opportunities for Russia. It will establish a new international platform for Russia to voice its own concerns over excessive arms buildup. Such a platform was needed, for example, in the run-up to the military conflict with Georgia. Maybe it would not have prevented the war itself, but the rapid militarization of that country would have become a subject of serious international discussion.<sup>31</sup>

The next principle of the proposed ATT is the development of mechanisms to ensure the implementation of the treaty. They include:

- ❑ Analysis of information and publication of detailed annual reports for each member state;



- ❑ Regular meetings between member states and an official mechanism for discussing “concerns”;
- ❑ A mechanism of monitoring compliance; and
- ❑ A provision on settlement of disputes and application of sanctions.

Most of the arms importing countries are likely to reject this particular provision of the treaty because they will be the ones to bear the brunt of the monitoring and verification. Many nations are not prepared to sign up for that principle because they want to keep their military secrets. Other countries simply cannot abide the idea of allowing foreign inspectors to their territory and letting them investigate suspected violations. It is to the arms recipients that inspections and monitoring will pose the greatest inconvenience. There is little doubt that once it comes down to detailed discussions, this principle will face stiff opposition from the totalitarian and many democratic nations alike.

The principle is also likely to be rejected by the United States—there have been numerous reports of violations during weapons supplies to the Iraqi National Guard and the Afghan troops.<sup>32</sup> The prospects for a unanimous decision being reached on the issue (and under the agreed procedure, it will take a unanimous decision to put the ATT into effect) are bleak.

But the main question now is whether the ATT will come into effect in any shape or form whatsoever. The answer will largely depend on two great powers, Russia and China. All the other nations on the list of ATT skeptics are either weapons importers (and therefore depend on the exporters) or the kind of exporters who do not usually draw any criticism from the international community (such as India).

At this point, several scenarios for the ATT seem the most likely.

*First*—the Wassenaar scenario: the new treaty will essentially become a restricted club of weapons manufacturers including the 42 current members of the Wassenaar Arrangement. The members of that club will exchange confidential information about the situation in various parts of the globe and about any decisions to deny requests for weapons supplies. They will also form control lists of sensitive goods and technologies to be applied to nations not party to the Wassenaar Arrangement. The arrangement itself will become a new iteration of the Coordinating Committee for Multilateral Export Controls (CoCom), the regime that held back the technological development of the non-members in the days of the former Soviet Union. Notably, China is not a member of Wassenaar, although its government has been pushing hard to be given membership.

Wassenaar membership will become the key that opens access to secret information being exchanged between the participants. Even more importantly, the Wassenaar club will become an instrument of discrimination by the chosen few against the rest of the nations, whose behavior will be subjected to condemnation and criticism.

This scenario is unlikely because the principle of elitism on which Wassenaar is based contradicts the principle of universal membership which forms the basis of the ATT.

*Second*—the World Trade Organization scenario: the EU countries and the U.S. will form a broad association, membership of which will require a commitment to abide by the EU standards in arms trade. Non-membership will lead to various restrictions in other markets, including the markets for food, telecommunication services and space launches.

The nations that decide to stay out of the association will face restrictions on many markets; their arms trade policies will be subjected to various investigations, criticisms and accusations of not complying with the standards adopted by the organization.

*Third*—the FATF scenario (the Financial Action Task Force on Money Laundering): members of the treaty will form an intergovernmental organization that develops and implements common rules for arms trade and monitors compliance by member states. Persistent offenders will be blacklisted.

Any nation blacklisted for breaking the rules of arms trade will face close scrutiny of its financial and transport operations. FATF experience has demonstrated that all 23 nations that were blacklisted chose promptly to implement all recommendations so as to be excluded from the list.<sup>33</sup>



*Fourth*—the U.S. Department of State scenario: members of the treaty impose targeted sanctions against the offending exports companies. That scenario is dangerous to Russia: the concentration of arms trade operations in the hands of just one state-owned company makes the Russian system fairly vulnerable. Sanctions imposed on just one company, Rosoboronexport, will paralyze all of Russia’s military exports operations. The Russian Defense Ministry’s recent interest in buying weapons abroad also creates additional risks for the national defense industry and its foreign partners, including those in the NATO countries.<sup>34</sup>

*Fifth*—the Kyoto Agreements scenario: the ATT will turn into a platform for discussing international arms trade. No agreement will be reached on introducing universal rules, but the international community will have an opportunity to discuss various problems in this area at a senior level.

## THE RUSSIAN EXCEPTIONALISM

*The U.S. policy on arms exports controls is not just a policy of double standards. It is cynical and even insolent.*

*Dmitry Rogozin, Russia’s Permanent Representative to NATO<sup>35</sup>*

Modern Russia does not particularly care for Western criticisms and reproaches:

- ❑ 153<sup>rd</sup> place in the Worldwide Press Freedom ranking<sup>36</sup>;
- ❑ In the last five years, Russia has dropped from the 90<sup>th</sup> to 146<sup>th</sup> position in the Corruption Perceptions Index<sup>37</sup>; and
- ❑ 143<sup>rd</sup> place in the Index of Economic Freedom.<sup>38</sup>

On arms exports controls, our country is also going its own way, with little regard for —and sometimes in direct contravention of—the position of the U.S. or the EU. Shortly after the West imposed sanctions on Venezuela, Russia gave that country, which is on the brink of defaulting on



**Table 1. The Stereotypes about Arms Trade in the Russian and Western Media.**

Western ideas on arms trade:	Russian ideas on arms trade:
Arms trade is extremely profitable— as profitable as the drugs trade.	Exports enable the Russian defense industry to stay afloat.
Russia is pursuing an aggressive policy to capture weapons markets.	The West is trying to squeeze Russia out of its traditional weapons markets using unfair competition and political pressure.
International embargos on arms supplies are not being observed.	International embargos on arms supplies are ineffective.
Russia is the main supplier of weapons to illegal markets.	Russia strictly abides by international agreements and has stringent controls over arms exports. A number of Western countries produce illicit clones of Russian weapons. The West is refusing to recognize this problem.
Russia sells weapons to countries that violate human rights and to the pariah states.	Russia strictly abides by international agreements and has stringent controls over arms exports.
All the richest arms barons in the world are Russians.	Russian legislation prohibits individuals from becoming involved in arms trade.
Russian arms exports are secretive and lack transparency.	Russia submits regular and detailed reports about its arms exports to international bodies.
Neither the Russian public nor the Russian parliament has any say on arms exports issues.	Although the Russian Duma does not have a role in decision making on arms contracts, Russia has state monopoly on arms exports and a presidential system of controls.

its debts, a huge loan to purchase Russian weapons. Moscow also stubbornly refuses to recognize the unfolding arms race between Venezuela and Columbia.

Prime Minister Vladimir Putin had this to say by way of explanation: “If the United States does not want to sell weapons to other countries, such as Venezuela, so much the better for us. Let them carry on. Nature abhors a vacuum.”<sup>39</sup>

In response to sanctions imposed on Russian companies, the Kremlin’s spin doctors accuse the United States of unfair competition. They also claim that the sanctions will have no effect on the Russian companies because they do not have any business interests in the United States.

With such obstinacy, it is difficult even to talk about-let alone actually reach-an understanding with our foreign partners.

On arms trade issues, the Russian and Western media are in the opposite corners of the ring, watching each other with mutual suspicion. Mistrust gives rise to myths.

Russia is not prepared to let anyone meddle in its arms exports. It is willing to expend whatever political resources are required to prevent this, and even to risk its own reputation.

Whether Russia joins the ATT initiative or rejects it, it will still have the right of veto on any restrictions because it is a member of the UN Security Council. But the refusal to join will automatically turn the country into a target for international criticism—though that does not really bother out leadership, for now.

Russia’s decision to stay outside the ATT would not come as a surprise—it seems that everyone is expecting it. The NGOs have already coined the phrase “the tyranny or the minority” for just such an occasion.

While the United States remained opposed to the ATT, Russia could stay in the shadow of the world’s biggest arms exporter. But the U-turn made by the Obama administration has changed the situation very radically. The list of the naysayers has narrowed, and Russia is now prominently at the top of it.

Will Russia really deserve that torrent of global condemnation, given that our country’s real transgressions in arms exports are not nearly as dire as many seem to believe? Will that condemnation be fair, given that Russia’s achievements in export controls are mostly unknown rather than underappreciated for reasons of mutual dislike in the media?

There is essentially nothing in the ATT that could shake the foundations of Russia’s arms trade. In the right circumstances, Russia could even become one of the leading proponents of the treaty—just as many of its current advocates opposed it yesterday and might yet make another U-turn tomorrow.

Even under its current Democratic administration, the U.S. has taken a position on the treaty that seems rather questionable to the Europeans. Washington is willing to accept a ban on arms sales by private sector brokers. But it does not want the ATT to be legally binding, and opposes a number of restrictions on arms transfers proposed in the treaty.

Against that backdrop, Russia’s proposals on improving international arms trade regulations could seem even more radical than the European initiatives:

- Introduce state monopoly on arms exports;
- Tighten controls over arms re-exports;
- Introduce the new practice of exporters monitoring the whereabouts of the most sensitive types of weapons they have sold, such as MANPAD systems, and the uses these weapons are being put to;
- Ban sales of weapons to private-sector brokers; and
- Discontinue production of arms under expired licenses from the owner of the technology, or without any license whatsoever.

It must be said that although our country is the world’s second-biggest arms exporter, experts predict that in 10 years time, many of the current net importers will become net exporters of

weapons. That includes China, Brazil, India and South Korea, who will be taking away market share from the current leaders. ATT controls over arms transfers could slow down that rebalancing process and in some ways preserve the current situation, which would be in Russia's interests.

## POWER AND SANCTITY

*The benign process of globalization is gradually depriving individual states of their sacrosanct sovereignty.*<sup>40</sup>

Zbigniew Brzezinski

The issue of arms trade goes far beyond international arms transfers. In the opinion of many governments, that issue looks—and justifiably so—like an attempt to make legitimacy of power a subject of international discussion. These governments find such an attempt outrageous.

For many countries, the ATT can really become an obstacle to replenishing their arsenals, thereby undermining the seemingly unshakeable principles of the UN Charter, including the right to self-defense, sovereign equality of all UN members and non-interference into internal affairs.

Almost any government that is not considered democratic will find itself at risk.

Nevertheless, the ATT can never become an instrument for imposing an embargo or sanctions on any individual state. That authority remains firmly with the UN Security Council. ATT member states will form a secretariat which will collect, analyze and disseminate information, as well as develop proposals on any specific decisions. Such a mechanism will enable the international community actively to intervene in arms trade, initiate global debate of new initiatives and investigate any dubious arms transfers.

The ATT debate also puts other sensitive issues on the international agenda, including Russia's commitments to its allies in the CSTO bloc; NATO's commitments to Georgia; and America's commitments to the Iraqi and Afghan armed forces, which keep misplacing the weapons they have received from abroad at an alarming rate. In the deeply politicized arms trade, it is very difficult to find a universal way of distinguishing between a sufficiency or arms and their excess.

For example, the issue of American arms sales to Taiwan becomes especially sensitive when viewed through the prism of the ATT. The Taiwanese government, which is not recognized by the UN, does not have official status. That means that technically, billions of dollars worth of American weapons are being sold to a non-state recipient.

Meanwhile, the war between Russia and Georgia can be viewed as a textbook case of a destabilizing arms build-up which happened while the international community was turning a blind eye to it.

According to Georgia's own report to the UN Register of Conventional weapons, in 2007 alone<sup>41</sup> the country bought 80 heavy armored vehicles, 10 heavy artillery systems, eight L-39 trainer jets, about 11,000 rockets and rocket launchers, and more than 20,000 small arms of different types. Georgia's military spending rocketed between 2000 and 2007 from \$15 million to \$920 million.<sup>42</sup> Meanwhile, the overall value of the American aid package to Tbilisi announced after the conflict is estimated at more than \$1 billion dollars.

In the run-up to the war, Russia repeatedly urged the international community to stop Georgia's rapid militarization. But apart from Israel, which made some noises about the need for a more cautious and stringent approach to arms sales to Georgia,<sup>43</sup> very few nations paid any heed to Russia's concerns and warnings.<sup>44</sup>

It is possible that the lessons of the Georgian–Ossetian conflict in August 2008 will make Russia reconsider its position on the need for a comprehensive treaty that would tighten controls over transfers of conventional weapons, including small arms.

The recent war in the Caucasus has put into stark relief the many failings of the existing international controls over the proliferation of conventional arms. It has also become a convincing argument in favor of creating an efficient instrument for preventing such a rapid weapons buildup in the region.



If the ATT had existed in 2007, Russia would have had additional opportunities to get the attention of the world governments and the international community so as to stop the militarization of the Saakashvili regime. Using the mechanisms of the treaty, a report about a dangerous arms buildup in the region would have been published. In line with the ATT procedure, Russia would have been able to discuss the problem in a bilateral format with Georgia and then escalate the issue to the international level.

Of course, there is no guarantee that all of those measures would have helped, even had the ATT been already adopted. Russia was taking very similar steps ahead of the war, taking its case to international organizations and trying to invoke various international agreements. But with the tacit approval of the main paymaster of Georgia's militarization (the US), the answer of the main weapons supplier to the country (Ukraine) was this: "Georgia has never been subject to any sanctions or embargos by the UN Security Council, the OSCE, the EU or any other international organizations. Ukraine's arms sales to Georgia are in full compliance with international export control regimes and the national legislation."<sup>45</sup> For its part, the Ukrainian government accused Russia of illegal arms supplies to the Caucasus.<sup>46</sup>

Russia itself took a similar line to defend its own arms sales to Iran: "Since there are no sanctions in effect against Iran, nothing prevents Russia's continued military and technical cooperation with Iran in those areas which both sides are interested in".<sup>47</sup>

In the absence of any real willingness to reach an agreement, both sides are accusing each other of double standards, i.e. making assessments based on political expediency and interpreting events in one's own favor.

Even the most stringent terms and polished wording of the proposed ATT cannot guarantee that under certain circumstances the treaty will not turn from an instrument of transparency and accord into a tool for secrecy and a cause for discord. That would lead to a repeat of the situation whereby the parties use the letter of the agreement to justify mutual recriminations. The adoption of the ATT can also trigger a new bout of secrecy, with each country trying to keep its arms contracts hidden, and parties to these contracts entering undercover agreements as to which arms supplies to report to the international bodies, and which to keep under wraps.

## THE BURDEN OF HOPES

*We hope that careful analysis of the opinions of every nation will help to highlight all the contradictions and difficulties of introducing a system of global controls over arms transfers, as well as to find the right ways of strengthening the existing mechanisms in this area - and possibly developing new ones.*

*Russia's official position on the ATT, April 2007*

In the past 65 years the international community has done quite a lot in the area of arms control and regulation. But it is too early to declare victory. Arms trade remains the only world market that is not regulated by a common set of rules. At present, there are serious differences between the various national standards in this area. Some nations have sophisticated export control mechanisms and a stringent system of enforcement. Others have detailed control procedures but inadequate enforcement instruments; still others have next to no controls whatsoever.

Given the international nature of arms trade, and the relative ease of moving arms around the globe, it is safe to say that there is no universally effective mechanism of preventing irresponsible or illicit arms transfers, including those that violate international or regional embargos.

The situation will remain unchanged until the existing national commitments are integrated into a universal and comprehensive document, and until the standards the nations subscribe to are defined in a universal and transparent system, the same for every country.

Let us hope, therefore, that Russia will not be left by the sidelines of that process. After all, Russia's latest military doctrine declares that one of the country's main objectives in preventing military conflicts is "to sign and implement agreements on conventional arms controls, and to undertake confidence-building steps."<sup>48</sup>



## NOTES

<sup>1</sup> UN Document A/64/153, July 19, 2009

<sup>2</sup> Tjäder Thomas. The Swedish Inspectorate of Strategic Products Export Control Operations – Transparency and Credibility: Challenges and Options, International Practical Seminar “Abiding by Weapons Transfers Control Commitments: Exchange of Information, Transparency and Prevention of Weapons Falling into the Wrong Hands”, Moscow, March 12–13, 2008.

<sup>3</sup> Weekly Review of Russian and Foreign Media. *Military and Technical Cooperation*. 2009, No 18019 (660), P. 7–8.

<sup>4</sup> Clinton Hillary. U.S. Support for the Arms Trade Treaty. U.S. Department of State. October 14, 2009, <http://www.state.gov/secretary/rm/2009a/10/130573.htm> (last accessed June 11, 2010).

<sup>5</sup> UN General Assembly Doc. A/C.5/63/10.

<sup>6</sup> ATT Resolution: How Did Your Country Vote? IANSA, <http://www.iansa.org/un/1com09-results.htm> (last accessed June 11, 2010).

<sup>7</sup> Tauscher Ellen. Under Secretary for Arms Control and International Security. Carnegie Endowment For International Peace, U.S. Department of State, February 18, 2010, <http://www.state.gov/secretary/rm/2009a/10/130573.htm> (last accessed June 11, 2010).

<sup>8</sup> Standing Guard: The First Step in Trampling Our Rights, *NRA Political Victory Fund*, January 23, 2010, <http://www.nrapvf.org/News/Article.aspx?ID=401> (last accessed June 11, 2010).

<sup>9</sup> The Second Amendment in part of the Bill of Rights. It was passed by the Congress in 1789 and ratified in 1791.

<sup>10</sup> For complete texts of all the responses received, see the web site of the UN Department for Disarmament: <http://disarmament.un.org/cab/ATT> (last accessed June 11, 2010).

<sup>11</sup> The Russian Federation’s opinion on the feasibility of signing, the area of application and the key provisions of a comprehensive legally binding document on adopting common international standards regarding imports, exports and transfers of conventional weapons, April 2007, <http://www.mid.ru/ns-dvbr.nsf/1fd1aeae620b1382c32576950034d50a/33b2094baf65effbc3257695004f9261?OpenDocument> (last accessed June 16, 2010).

<sup>12</sup> The UN has 192 member states.

<sup>13</sup> UN GA Doc. A/62/278 (Part II). Starting from the first report in 1999, the contents of Zambia’s reports to the Register is this: “exports - nil; imports – nil”.

<sup>14</sup> Global Partnership Working Group, Annual Report 2009. The draft proposes a founding event, six regional seminars and a final seminar for drawing conclusions, as well as meetings on the sidelines of the First Subcommittee of the 64th session of the General Assembly.

<sup>15</sup> The UN Register of Conventional Arms was created in accordance with the UN GA Resolution 46/36 L of December 9, 1991, under the headline of weapons transparency.

<sup>16</sup> UN GA Doc. A/64/296, August 19, 2009.

<sup>17</sup> UN GA Doc A/64/135, June 19, 2009 A/64/135/Add.1, September 11, 2009.

<sup>18</sup> According to the UN Security Council document No S/PV.6288 (Resumption 1) of March 19, 2010, by 2008 there were 870m units of firearms in circulation in the world, resulting in 740,000 deaths every year.

<sup>19</sup> Information about arms contracts is submitted to the Register with the consent of the importer, unless specified otherwise in the contract.

<sup>20</sup> Russian government Resolution No 556 of July 6, 2001 – On implementation of the framework document of the OSCE “On Small Arms and Light Arms” and the procedure of submitting information under that document by the Russian Federation.

<sup>21</sup> Analysis on this and other sections of the article was prepared as part of the RGNF project No 09-03-00807 a/P.

<sup>22</sup> Global Implementation of the PoA, Red Book, *Biting the Bullet*, 2006.

<sup>23</sup> Kostenko Believes that Ukraine Has the Right to Sell Weapons to Georgia as the UN Has Never Imposed Any Sanctions on Tbilisi, *Khreshchatyk*, September 9, 2009, <http://www.kreschatic.kiev.ua/ru/3599/news/1257519346.html> (last accessed June 16, 2010).

<sup>24</sup> Russian government Resolution No. 238 of March 17, 2009 “On changes to the Provision on monitoring the compliance by relevant agencies of foreign countries of their commitments regarding the intended use of



certain types of military imports from the Russian Federation”, <http://www.fsvts.gov.ru/materials/443250E345B21929C32575F900480A9C.html> (last accessed June 16, 2010).

<sup>25</sup> Gennady Kasholkin, The Russian Initiative to Improve Transparency and Responsibility in the Transfer of MANPADS, Federal Service for Military and Technical Cooperation, International Practical Seminar “Abiding by weapons transfers control commitments: exchange of information, transparency and prevention of weapons falling into the wrong hands”, Moscow, March 12–13, 2008.

<sup>26</sup> Federal law No. 85-FZ of May 7, 2009 “On the ratification of the Second Protocol on changes to the Agreement on the main principles of military and technical cooperation between members of the Collective Security Treaty Organization of May 15, 1992 and the Second Protocol on changes to the Provision on monitoring the compliance with the commitments regarding the intended use of military imports from the Russian Federation supplied under the Agreement on the key principles of military and technical cooperation between members of the Collective Security Treaty Organization of May 15, 1992”, <http://www.garant.ru/hotlaw/federal/195450/> (last accessed June 16, 2010).

- <sup>27</sup> A. Commitments undertaken in accordance with the UN Charter, including:
- (i) commitments to abide by Security Council resolutions, including those imposing arms embargos;
  - (ii) ban on the use of force or threat of force;
  - (iii) ban on interfering into the internal affairs of another country.
- B. All other binding agreements and decisions, including:
- (i) binding decisions, including embargos imposed by the relevant international, multilateral, regional or sub-regional organization of which the country is a member;
  - (ii) bans on weapons transfers resulting from individual agreements to which the state is a party (for example the UN Convention of 1980 on the prohibition or limitation of use of certain types of conventional weapons that cause superfluous injury or cannot discriminate between combatants and civilians).
- C. Universal and binding principles of international humanitarian law, including:
- (i) the ban on using weapons that cause superfluous injury or unnecessary suffering;
  - (ii) the ban on weapons and munitions that cannot discriminate between combatants and civilians.

<sup>28</sup> See, for example, Russian Presidential Decree No. 235 of February 18, 1993 “On the procedure of imposing embargos on the supplies of weapons and military equipment, defense services, the supplies of materials, equipment and transfer of military and dual-use technology to foreign countries, including CIS member states”, decrees on implementing UN Security Council resolutions: Decree No. 266 of March 6, 2001 (on UNSC Resolution 1333 of December 19, 2000), No. 968 of August 18, 2003 (Resolution 1556 of July 30, 2004), No. 117 of February 2, 2005 (Resolution 1572 of November 15, 2004), No. 719 of June 24, 2005 (Resolution 1591 of March 29, 2005), No. 665 of May 27, 2007 (Resolution 1718 of October 14, 2006), No. 1593 of November 28, 2007 (Resolutions 1737 of December 23, 2006 and 1747 of March 24, 2007), No. 682 of May 5, 2008 (Resolution 1803 of March 3, 2008), and Presidential Decree No. 64c of January 16, 2006 “On Measures to Prohibit Supplies of Military and Dual-Use Goods to Georgia”.

<sup>29</sup> Venezuela-Russia Arms Deals Unleash Turbulence in the Region. *El Universal*. April 9, 2010, [http://english.eluniversal.com/2010/04/09/en\\_ing\\_esp\\_venezuela-russia-arm\\_09A3718293.shtml](http://english.eluniversal.com/2010/04/09/en_ing_esp_venezuela-russia-arm_09A3718293.shtml) (last accessed June 16, 2010).

<sup>30</sup> U.S. Seeks Calm as China Fumes over Taiwan Arms. *Reuters*. February 1, 2010, <http://www.reuters.com/article/idUSTRE6100C720100201> (last accessed June 16, 2010).

<sup>31</sup> One of the mechanisms that failed to work is the Wassenaar Arrangement, which aims to “contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations.” During the last plenary session of the Wassenaar Arrangement in December 2009, Russia once again raised the issue of Georgia’s continued remilitarization, in which some of the members of the arrangement have participated. See: Ministry of Foreign Affairs of Russian Federation, <http://www.mid.ru>.

<sup>32</sup> Report: Pentagon Lost almost 200,000 Weapons in Iraq. *CNN*. August 7, 2007.

<sup>33</sup> High-risk and non-cooperative jurisdictions. *FATF*, [http://www.fatf-gafi.org/pages/0,3417,en\\_32250379\\_32236992\\_1\\_1\\_1\\_1\\_1,00.html](http://www.fatf-gafi.org/pages/0,3417,en_32250379_32236992_1_1_1_1_1,00.html) (last accessed June 16, 2010).

<sup>34</sup> In the past 15 years the U.S. Department of State imposed sanctions on Russian companies on more than 30 occasions.

<sup>35</sup> United States Imposes New Unilateral Sanctions on *Rosoboronexport*. *LentaCom.ru*. 2008, October 27, <http://www.lentacom.ru/reviews/482.html> (last accessed June 16, 2010).

<sup>36</sup> The rating is compiled by *Reporters Without Borders*.

<sup>37</sup> The rating is compiled by *Transparency International*.

<sup>38</sup> The rating is compiled by the *Heritage Foundation*.

- <sup>39</sup> Putin, on Visit to Venezuela, Tells the U.S.: Nature Abhors a Vacuum. *Kursk MV*. April 3, 2010, <http://mvkursk.ru/topnews/14183.html> (last accessed June 16, 2010).
- <sup>40</sup> Zbigniew *Brzezinski*. *The Choice: Global Domination or Global Leadership*. Moscow, 2005, P. 175–176.
- <sup>41</sup> Georgia did not submit its 2008 report to the Register.
- <sup>42</sup> Dmitry Danilkovich, Vladimir Shvarev. Regional Aspect of World Military Spending, *Rynki Vooruzheniy (Arms Markets)*. 2008, Vol. 8, No 4, P 13, 16.
- <sup>43</sup> ARMS-TASS, July 22, 2008.
- <sup>44</sup> For example, official record of the statement at the UN Security Council meeting on July 10, 2008 by Russian Permanent Representative Vitaly Churkin. UN Doc. S/PV.5953.
- <sup>45</sup> Accusations against Ukraine of Arms Contraband into Georgia are Absurd - National Security and Defense Council. Gulyay Pole. October 28, 2008, <http://www.politua.su/polit/277.html> (last accessed June 16, 2010).
- <sup>46</sup> Ukraine Accuses Russia of Illegal Weapons Exports to the Caucasus. *Interfax*. 2008, October 24, <http://news.mail.ru/politics/2120299> (last accessed June 16, 2010).
- <sup>47</sup> Isaykin: Bahrain Is a Gate to the Gulf for Russia. *RIA Novosti*. 2010, January 30, <http://www.rian.ru/interview/20100130/206953893.html> (last accessed June 16, 2010).
- <sup>48</sup> Russian Military Doctrine, February 5, 2010.

