



## The Arms Trade Treaty, Second Amendment and the NRA: Separating Lies from the Facts

### **Background**

*In March of 2013, the United States and the global community will have another chance to negotiate and adopt a global treaty to regulate the international trade in small arms and conventional weapons. It is imperative that eventual text of the proposed Arms Trade Treaty (ATT) be comprehensive in its scope and have robust human rights criteria. It is also essential that the United States, the world's largest arms manufacturer be a leader in negotiating the strongest possible treaty.*

*The Arms Trade Treaty (ATT) is a proposed UN treaty that aims to establish common global standards for how countries import, export and transfer conventional weapons. The poorly regulated global trade in conventional arms currently facilitates serious abuses of human rights and impedes sustainable development efforts throughout the world, especially in countries such as the Sudan and the Democratic Republic of the Congo (DRC).*

1. For more than a decade, the NRA has lobbied against an Arms Trade Treaty and riled its supporters with arguing that the ATT will threaten US Second Amendment rights.

***In fact, the ATT has no bearing on the Second Amendment.** In their 2008 report, the Group of Government Experts recommended against including domestic gun ownership within the treaty. The GGE's recommendations are reflected in the ATT text drafted in July 2012, which reaffirms "the sovereign right and responsibility of any State to regulate and control transfers of conventional arms that take place exclusively within its territory, pursuant to its own legal or constitutional systems."*

2. Substantively, the NRA has objected to the inclusion of small arms and light weapons—and ammunition—within the scope of the treaty.

***This category of weapons includes the ubiquitous AK-47, grenade launchers, and Stinger missiles: the very weapons that have been used by human rights abusers and terrorists to commit atrocities against civilians around the world.** In our view, the NRA is willing to trade in human rights and human security for an unregulated, free market in dangerous weapons.*

3. **In July 2012 the NRA gathered 51 signatures from US Senators** on a letter supporting Second Amendment rights and warning of the "dangers" of an Arms Trade Treaty.

The letter makes misleading claims, and is based on a chairperson's early draft rather than the negotiated treaty text. The *actual* draft treaty, as it stood on the final days of the negotiating conference, was substantially different.

The letter signed by 51 Senators objected to three specific provisions in the chairperson's draft – one regarding a requirement to monitor imported weapons in transit to another country, one regarding import and transit records, and one regarding efforts to prevent diversion of imported arms to the illicit market. Quite a stretch is required to imagine how such provisions, buried in an international treaty subject to Senate reservations, could possibly be interpreted as a limit to the Second Amendment right to own and bear arms, much less a "danger"! Be that as it may, during the course of the July 2012 ATT negotiations, all of the passages in question were edited to result in less stringent language.

Here's the bottom line: **Neither the NRA nor the Senators who signed its letter have raised any serious and substantive reasons why the US should not support an Arms Trade Treaty.** As the treaty text makes clear, the objective of the ATT is to establish the highest possible common standards for regulating the arms trade – and that includes preventing weapons from finding their way to those who would use them in serious violation of human rights and humanitarian law.

4. The NRA has targeted the Senate because –ultimately – the Senate's 2/3 majority vote would be required to ratify a treaty.

**But that's a LONG way off. The text of the treaty hasn't been finalized,** and that's the first step (which was the unachieved goal of the July 2012 UN conference). After the text is finalized, it will be opened for accession and ratification by all nations. At that point, the US President could sign the treaty, signaling US intentions to comply with it. Only after the President signs a treaty does it go to the US Senate, where a two-thirds majority is required for ratification. This can be a very long and drawn out affair. It took the US 40 years to ratify the Genocide Convention, and about 25 years to ratify the International Covenant on Civil and Political Rights. Several human rights treaties have been delayed in the Senate for years – including the ICESCR, CEDAW, and the Convention on the Rights of the Child. Even when treaties are ratified, the US (and any other state) can attach "reservations" to make clear its intentions.

In the meanwhile – once a treaty is ready for ratification, **other countries can go ahead and begin to observe the law.** From this perspective, the most immediate and practical implication of the treaty will likely involve the harmonization of procedures, regulations and jurisdictional claims related to the international arms trade. **None of this bears on the US Constitution's Second Amendment.**

5. When the UN negotiating conference closed without agreement on the draft treaty, the NRA claimed victory with the headlines, "NRA Stops UN Arms Trade Treaty."

And a sad victory it is, indeed. The most likely practical effect of the treaty would be to begin to close off some of the loopholes that let unscrupulous arms brokers work their way around discrepancies between various countries' national laws on weapons sales and shipments. The NRA's opposition to the treaty is unfounded, but under "rules of consensus" that have thus far governed the treaty negotiations, a US decision not to support the treaty in the negotiation phase blocks the entire process. To the extent that the NRA's rhetoric holds sway with the Senate and the Administration, **it doesn't just affect the US: it affects the whole world.** By itself, the Arms Trade Treaty won't keep weapons out of the hands of those who would use them to commit crimes against humanity, but it could be one tool – an important tool – for controlling the trade and its pernicious effects on human rights.