



RESPONSE

November 20th, 2014

The Arms Trade Treaty

On 18th November 2014, Parliament ratified the Arms Trade Treaty, making South Africa the 54th state to do so, after cabinet recommended its ratification in July 2013 and after President Zuma signed the ATT in September of that year. 124 countries have signed the ATT but only 55 have ratified it.

The ATT sets out for the first time global rules for the regulation of the arms trade in order to help prevent the diversion of weapons to illicit markets. It prevents countries from selling arms to those who practise genocide, abuse human rights, or perpetrate crimes against humanity. It enjoins all states ratifying the treaty to practise transparency and accountability in their trade in this sector. The arms trade is notorious for its secrecy. It is instructive that, as recently as 2010, only 90 countries had basic national controls for the export of small arms and light weapons. Thus, a huge vacuum exists in a trade which, according to OXFAM, shrinks African countries' budgets by 15%, and impedes development to the tune of \$186 billion. It is estimated that annually \$1.5 trillion is devoted to military expenditures worldwide, equating to 2.7% of the world's GDP. It is not only the monetary value of the trade but the extent of the hardware that is so worrying. The Small Arms Survey estimates that there are around 875 million small arms in circulation, dramatically threatening peace and security.

The treaty requires countries to carry out risk assessments as to the likelihood of arms entering areas where they could be used irresponsibly, and to determine appropriate mitigation. Countries can hold each other to account for breach of their obligations under the treaty. They must submit detailed accounts of arms exports to the UN, and are required to bring their domestic law into harmony with the tenets of the treaty. They must also set up bodies to control the trade and counter diversion.

The SA government has assured the UN that the National Conventional Arms Control Act 41 of 2002, and the Firearms Control Act 60 of 2000, already deal adequately with all the requirements of the treaty. Some very minor aspects of domestic legislation will have to be brought into line with the treaty, such as the length of time required for the keeping of records. The Department of International Relations and Co-operation will now present an Instrument of Ratification to the Secretary General of the UN, and the treaty will come into effect in SA 90 days thereafter.

In a nutshell, states and groups now have a comprehensive legal framework which can be used to hold to account those who sell arms irresponsibly. The ATT closes many loopholes which sellers have traditionally used to evade aspects of national and international law. Such loopholes exist especially in the grey areas of classification where exceptions, for example for hunting shotguns, are fraudulently applied to similar types of guns that have nothing to do with sport. Loopholes also exist in national law (where such exists) with regard to the definitions of 'transfer' and 'transactions.' These will now be subject to greater scrutiny. Properly implemented, the ATT should save lives, lessen human rights abuses, and protect the livelihoods of people.

It should be noted that the provisions of the ATT do not apply to internal movements of arms within a country, nor to the international movement of conventional arms by or on behalf of state parties provided that the arms remain under the state parties' ownership. This would apply for instance to the movement of armoured cars from one country to another as part of a peacekeeping force. It is also not concerned with domestic issues such as arms obtained for self-defence or sport.

UN procedure requires ratification from 50 states before a treaty can be officially adopted by the UN and become part of international law. The 50th state ratified the ATT in September 2014, and it will thus come into effect on 24th December 2014, marking the culmination of years of campaigning by several states and civil society groups. After various unsuccessful attempts over the past decade to deal comprehensively with this issue, 90 states co-sponsored a resolution, in April 2013, asking the General Assembly to adopt the ATT. 155 states voted in favour, 22 abstained, and only Iran, Syria and North Korea opposed it. Since June 2013 the ATT has been open for ratification by states.

The church's views on this topic are well known and providentially, on 17th November 2014, Archbishop Silvano Tomasi, the Nuncio to the UN organisations in Geneva, urged states which had signed arms treaties such as the 1980 treaty, to implement their provisions. He told the organisations that “many recent conflicts in the Middle East, Africa, North Africa and Europe remind us of our responsibilities regarding explosive remnants of war and abandoned ordinance. Apart from the safety of civilians, we are witnessing national and regional destabilisation because of the lack of safety and security of stocks that the international community is unable or not prepared to prevent.”

Archbishop Tomasi also pointed out, correctly, that ultimately the political will to enforce such treaties is paramount; without it, they will remain ineffectual, to the detriment of world peace and human security.

Peter-John Pearson
Director