3D Weapons and the Arms Trade Treaty

By Alex Catalán Flores
OVERVIEW

- The Arms Trade Treaty (2014)

- Firearms and 3D Manufacturing (or, should I throw out my child’s computer?)

- 3D Printing meets The ATT

- Addressing the Problem
THE ARMS TRADE TREATY
THE ARMS TRADE TREATY

- Adopted in 2014, Australian-led effort.
- 130 signatories
- Focus is state-to-state transfers
- Unprecedented in its scope. Covers the full spectrum of **conventional weapons**, as well as ammunition and components.
- Creates institutional organs: the Conference of States Parties, and the Secretariat
- But, what is prohibited?
Article 2(1) specifies:

• Battle tanks;
• Armoured Combat Vehicles;
• Large-Calibre Artillery Systems;
• Combat Aircraft;
• Attack Helicopters;
• Warships;
• Missiles and missile launchers; and
• *Small Arms and Light Weapons.*
SMALL ARMS & LIGHT WEAPONS

- Broadly speaking, ‘small arms’ are weapons designed for individual use, while ‘light weapons’ are designed for use by two or three persons serving as a crew.
FIREARMS & 3D PRINTING

Or, should I throw out my child’s computer?
THE MAIN PLAYER

The Liberator (Defense Distributed, 2013)

- Entirely plastic – except for a metal firing pin
- Fires one round before reloading, up to 11 before structural failure. Hence the nickname ‘The Assassain’
- NSW Police declared it, after testing, a lethal firearm (2013)
THE MAIN PLAYER

The Liberator (Defense Distributed, 2013)

- No engineering knowledge required to manufacture.
- Controversy after publishing CAD files online
- Controversy after two *Daily Mail* journalists smuggled one on a passenger train past airport security.
THE ISSUES

1. Does the ATT adequately address 3D-printed firearms?

2. Does the ATT adequately address 3D-printed components?

3. Does the ATT adequately address digital design files?
3D PRINTING MEETS THE ARMS TRADE TREATY
1. FIREARMS

Definition

- SALW means any **man-portable lethal weapon** that **expels** a **bullet** or projectile by the **action of an explosive**

Analysis

- A 3D-printed firearm such as The Liberator or the 1911DMLS would be classified as a ‘small arm’ because it is a man-portable lethal weapon for individual use that expels a bullet by the action of an explosive.

- So, ATT provision apply
2. COMPONENTS

Definition

- The only exports of components that States Parties are required to regulate are those where the export is in a form that provides the capability to assemble a conventional arm – ATT Article 4

Analysis

- Capability to assemble? Example.
- HUGE loophole.
- The Geneva Academy believes that states’ must always act in ‘good faith’ and thus cannot exploit this loophole.
2. COMPONENTS

The Geneva Academy

- The ‘good faith’ obligations that bind states prevent them from exploiting the loophole.

Analysis

- So is the provision then useless?

- The Principle of Effectiveness (or ‘effet utile’) says that provisions should be interpreted so as to render them effective.

- Interpreting Article 4 so as to neutralise the potential for circumvention and thereby render it *effet utile* would be an excessively intrusive exercise, as it would require reading into the provision an opposing meaning to the ordinary meaning of the terms.
“If the relevant words in their natural and ordinary meaning make sense in their context, \textit{that is the end of the matter}.”

— ICJ in \textit{Competence of the General Assembly for the Admission of a State to the United Nations}
2. COMPONENTS

That’s manifestly absurd!

- Yes, probably.

Analysis

- In this case, recourse can be had to supplementary means of interpretation, such as the *travaux préparatoires*, in order to determine the meaning of Article 4.
- But what did the framers really think?
3. DIGITAL DESIGN FILES

Where do they fit?

- ATT covers conventional weapons, ammunition, and components. No mention of digital technology.
- Best fit: components.

Analysis

- United States Munitions List refers to ‘technical data’ used in the manufacture or production of firearms.
- The framers made a conscious decision to exclude ‘Technology and Equipment’ from the scope of the final text.
THE CONFERENCE OF STATES PARTIES

- 82 States Parties

- Variety of powers, including:
  - Power to consider amendments to the ATT
  - Power to interpret the ATT
THE CONFERENCE OF STATES PARTIES

Power to consider amendments

- Decisions must be reached by consensus or, as a last resort, a 75% majority.
- So, limited power.

Power to interpret

- Uncertain if this allows the CSP to provide definitive interpretations of the meaning of certain provisions.
- ATT specifies that States Parties should seek external dispute resolution for matters of interpretation.
- Up to States Parties to decide.
Such is the challenge for States Parties at their 2016 plenary conference. They may choose to ignore the problem, or act to give the Conference of States Parties more proactive powers of interpretation.
THANK YOU

alex.catalan.flores@gmail.com