STATE OF THE ARMS TRADE TREATY: 
A YEAR IN REVIEW JUNE 2015–MAY 2016

BACKGROUND

While the negotiation and adoption of the Arms Trade Treaty (ATT) followed more than a decade of campaigning and United Nations (UN) processes, the 50 ratifications needed for it to become binding international law were secured in only 21 months. This has been one of the shortest timelines ever for a multilateral UN treaty and a clear indication of the importance that all stakeholders placed on its potential for reducing human suffering by imposing comprehensive checks and balances on the global trade in arms and ammunition.

This review covers the period between 1 June 2015 and 31 May 2016, up to and including the deadline for the first annual transfer reports. It explores some of the key events and milestones during the past year, and assesses their impacts on the overall performance of States Parties.

This review first takes stock of universalization efforts around the world in 2015–16. It then explores some of the key organizational and procedural agreements reached this past year to make the Treaty an effective instrument.

The review then tracks compliance by States, and assess how far the cumulative actions have made progress in realizing the objective of the Treaty of reducing human suffering.

UNIVERSALIZATION

There was good progress in broadening the membership of the Treaty in its first year as international law. Between 31 May 2015 and 31 May 2016, 14 countries ratified it and two acceded. As of 1 June 2016, 82 countries were States Parties to the ATT and a further 52 were Signatories. African States Parties formed the majority of the ratifications and accessions in the past year, accounting for nine of the 16 new Treaty members. The continued growth in membership is a strong indication of the importance of the Treaty.

However, universalization efforts remain uneven. Analysis by the UN Office for Disarmament Affairs shows that Treaty membership is high in Western Europe (where 24 of 27 countries are States Parties), Eastern Europe (18 of 23), and Latin America and the Caribbean (21 of 33). On the other hand, despite the progress made in the last year, less than half the countries in Africa are States Parties (19 of 54) and just five out of 56 in Asia.

1 The ATT was adopted by a United Nations (UN) General Assembly vote on 2 April 2013, and opened for signature on 3 June 2013. The 50th Instrument of Ratification – the threshold outlined by Article 22.1 of the ATT – was deposited on 25 September 2014. Ninety days later, on 24 December 2013, the Treaty entered into force.
2 Throughout this report the term ‘ammunition’ should be read as referring to ‘ammunition/munitions’ as defined in Article 3 of the ATT, unless explicitly stated otherwise.
6 Ibid.
7 Ibid.
RATIFIED/ACCEDED: Albania, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Central African Republic, Chad, Costa Rica, Côte d’Ivoire, Croatia, Czech Republic, Denmark, Dominica, Dominican Republic, El Salvador, Estonia, Finland, France, Germany, Ghana, Greece, Grenada, Guinea, Guyana, Hungary, Iceland, Ireland, Italy, Jamaica, Japan, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Mali, Malta, Mauritania, Mauritius, Mexico, Moldova, Montenegro, Netherlands, New Zealand, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Poland, Portugal, Romania, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Togo, Trinidad and Tobago, Tuvalu, United Kingdom, Uruguay.

SIGNED: Andorra, Angola, Bahrain, Bangladesh, Benin, Brazil, Burundi, Cambodia, Cameroon, Cape Verde, Chile, Colombia, Comoros, Congo (republic of), Cyprus, Djibouti, Gabon, Georgia, Guatemala, Guinea-Bissau, Haiti, Honduras, Israel, Kiribati, Lebanon, Libya, Madagascar, Malawi, Malaysia, Mongolia, Mozambique, Namibia, Nauru, Palau, Philippines, Republic of Korea, Rwanda, Sao Tome and Principe, Singapore, Suriname, Swaziland, Tanzania, Thailand, Turkey, Ukraine, United Arab Emirates, United States of America, Vanuatu, Zambia, Zimbabwe.

NOT YET JOINED: Afghanistan, Algeria, Armenia, Azerbaijan, Belarus, Bhutan, Bolivia, Botswana, Brunei Darussalam, Canada, China, Cuba, DR Congo, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gambia, India, Indonesia, Iran, Iraq, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Laos, Maldives, Marshall Islands, Micronesia, Morocco, Monaco, Myanmar, Nepal, Nicaragua, North Korea, Oman, Pakistan, Papua New Guinea, Qatar, Russia, Saudi Arabia, Solomon Islands, Somalia, South Sudan, Sri Lanka, Sudan, Syria, Tajikistan, Timor-Leste, Tonga, Tunisia, Turkmenistan, Uganda, Uzbekistan, Venezuela, Vietnam, Yemen.
Some of the ratifications and accessions over the past year had additional significance. Cyprus’s ratification in May 2016 means that all the countries of the European Union (EU) are now States Parties to the ATT.8 Tuvalu’s deposit in September 2015 was the only ratification in the Asia-Pacific region this past year.9 The two accessions in this period were in Africa (Mauritius and the Central African Republic).10 Three members of the Economic Community of West African States ratified this past year, as a result of which 11 of its 15 members were States Parties by 31 May 2016.11

Efforts to encourage universalization (particularly in regions with slow progress) have been a high priority for States Parties and civil society during the past year. For example, consistent and positive civil society engagement with government officials and politicians in Zambia has contributed to the country’s ratification in May 2016.12 Regional training workshops have brought together representatives from different countries, such as in South East Asia where eight countries (Cambodia, Fiji, Malaysia, Papua New Guinea, Philippines, Thailand and Vanuatu) met to explore the legal and institutional requirements for becoming treaty-compliant.13 National-level activities bringing together a diverse group of stakeholders (international organizations, UN agencies, civil society and experts from governments with functioning arms-control systems) have also taken place in several countries this past year, including Fiji,14 the Democratic Republic of Congo15 and Peru.16

Cooperation and assistance activities over this past year have also been established to aid in the objective of universalizing membership of the ATT. Several mechanisms have been used to provide technical, material and financial assistance to States Parties and those in the process of ratifying or acceding to the Treaty. This includes funding mechanisms such as the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR) and the EU ATT Outreach Project, as well as bilateral assistance provided directly, and many initiatives from civil society.

UNSCAR funding was awarded to UN agencies, international and regional organizations, non-governmental organizations (NGOs), and research institutes – including, among others, the UN Institute for Disarmament Research, the Caribbean Community Implementation Agency for Crime and Security, the League of Arab States, the West African Action Network on Small Arms and the Stimson Center.17

The EU ATT Outreach Project – run by the German Federal Office for Economic Affairs and Export Control – is intended to assist States Parties directly. It focuses on designing and implementing tailored national assistance programmes, providing ad hoc support activities to align national systems with requirements of the Treaty and facilitating regional seminars to foster cooperation.18

**SYSTEMS AND PROCEDURES**

States Parties have made progress between 31 May 2015 and 31 May 2016 in establishing the systems, institutions and procedures necessary to ensure the effective functioning of the ATT. Five meetings were held during this period, including the final Preparatory Committee Meeting for the first Conference of States Parties (July 2015), the first Conference of States Parties (August 2015), an Extraordinary Meeting of States Parties (February 2016), and two Preparatory Committee Meetings for the 2016 Conference of States Parties (April and May 2016).
The first Conference of States Parties (CSP) was held in August 2015 in Cancún, Mexico, with 119 countries attending including 67 States Parties, 40 Signatories, 11 Observers and one recent ratifier. In addition, 75 representatives of civil society attended as part of the Control Arms Coalition, as well as 12 other NGO participants and four industry representatives. The most controversial and time-consuming issue proved to be the location of the headquarters of the ATT Secretariat, which was eventually decided as Geneva, Switzerland, after an intense competition between three countries. Dumisani Dladla from South Africa was confirmed as the interim head of the Secretariat. Another significant issue agreed by States Parties were the Rules of Procedure, which govern how a Conference of States Parties should run, including on participation and decision-making.

States Parties also agreed budgetary and financial mechanisms that will sustain the ATT Secretariat, facilitate meetings of States Parties, and encourage implementation and assistance. A Management Committee was also established at CSP 2015 to provide oversight on financial matters as well as on other matters related to the Secretariat with the aim of ensuring maximum accountability, efficiency and transparency.

CSP 2015 also confirmed Ambassador Emmanuel Imohe of Nigeria as the president-designate for CSP 2016. Costa Rica, Finland, Montenegro and New Zealand were designated to serve as vice presidents.

States Parties did not agree on reporting templates, and debate continued over interpretations of the Treaty text as to whether reports should be mandatorily public.

An Extraordinary Meeting of States Parties was held in Geneva on 29 February 2016, which was attended by 77 States (50 States Parties, two Ratified but not in force, 22 Signatories, and three Observers), along with more than 30 NGO and UN representatives. States Parties agreed that the ATT Secretariat would be located in the offices of the Geneva Centre for the Democratic Control of Armed Forces, housed in the World Meteorological Organization building, and would be staffed by a head of Secretariat, a technical expert and an administrative expert.

The overwhelming focus on process this past year left little space for any discussion on substantive issues of arms transfers and their negative consequences. For example, the entire agenda for the Extraordinary Meeting of States Parties in February 2016 was devoted to procedural and organizational issues. The only suggestion for discussion of matters pertaining to arms transfers and adherence to Treaty obligations came from Control Arms, which requested discussion of arms transfers in the context of the humanitarian crisis in Yemen. The president’s response suggested that CSP 2016 would be a more appropriate time to discuss this issue.

REPORTING ON IMPLEMENTATION AND COMPLIANCE

As States Parties did not agree on reporting templates at the first CSP, work on this has continued throughout this past year. This included work on both the Initial Report on implementation activities and on Annual Transfer Reports. Though the drafts developed through consultations in the lead-up to CSP 2015 did not get adopted at by States Parties in Mexico, the majority of the reports submitted subsequently this past year did make use of these provisional templates. At the Extraordinary Meeting of States Parties in February 2016, a new mandate was given to Sweden to establish an Informal Working Group on Reporting, with the objective of presenting amended templates for approval at CSP 2016.

20 Ibid., paragraph 25, p. 5.
21 Ibid., paragraph 27, p. 5.
24 Ibid., paragraph 38, p. 7.
INITIAL REPORTS
By 31 May 2016, 63 States Parties were expected to submit their Initial Report on ATT implementation. Of these, 47 (75 per cent) did so, with 45 making them publicly accessible. For in-depth analysis of the content of these reports, and what they reveal in terms of ATT implementation and compliance, see Chapter 3.1.

States Parties have used different templates for Initial Reports since they failed to adopt a standardized one at CSP 2015. Of the submitted reports, forty used the Provisional Report, six submitted their ATT Baseline Assessment Project (BAP) surveys as their Initial Report and one used their own bespoke format. This has made the task of analysis and comparison of implementation activities a more complicated and difficult job. In the long run, this may have negative implications on marshalling limited assistance resources, as analysts will struggle to distil clear recommendations from implementation reports offering divergent and discrepant data. Chapter 3.1 provides a more detailed analysis of Initial Reports and explores some of the methodological concerns resulting from a lack of consistency in information provided by States Parties.

ANNUAL TRANSFER REPORTS
Each year, on 31 May, all States Parties are required to submit an annual report on their transfer activities.29 A template for this report has not yet been agreed either. Of the 63 reports expected,30 32 were submitted on time (50 per cent),31 of which 30 were publicly accessible, and two were marked ‘secret’. This early rate has fallen short of the findings from the ATT Monitor Report 2015, which found that 82 per cent of countries had previously submitted some form of public report on arms transfers between 2009 and 2013.32 For in-depth analysis of these reports, and what they reveal in terms of ATT implementation and compliance, see Chapter 4.

Accurate, systematic and comprehensive reports on implementation and transfer activities, submitted on time, can be critical tools to measure how well States Parties are living up to their Treaty obligations.

Concern remains that States Parties may not agree to mandatory public reporting, which would run counter to ensuring public transparency. It would also risk undermining a growing trend of public reporting on the arms trade through voluntary or national mechanisms such as the UN Register on Conventional Arms (UNROCA), the UN Commodity Trade Statistics Database (UN Comtrade) and the vast majority of national reports.33

TAKING STOCK – DID STATES PARTIES LIVE UP TO THEIR OBLIGATIONS?
Much work has been done procedurally to establish all the structures and processes necessary to facilitate the work of the ATT. The rate for submitting Initial Reports was, more or less, consistent with global reporting trends, with 75 per cent of States Parties meeting their legal obligations to submit one, leaving 25 per cent in abrogation of their obligations. The percentage of States Parties submitting their Annual Transfer Reports is much lower at 50 per cent.

However, there was a concerning lack of emphasis by some States Parties and Signatories on abiding by the rules of the Treaty’s transfer regime. Despite credible evidence of the use of arms and ammunition in contravention of international human rights and humanitarian law, arms transfers have continued to countries involved in conflict and humanitarian crises.34

30 The ATT Monitor applies the 90-day period between submission of Instruments of Ratification/Accession, and the entry into force of the Treaty and the requisite reporting deadline. We therefore take the Annual Report timeline to apply to one calendar year, and expect states to report on activities between 31 May 2015 and 31 May 2016. We then apply the 90-day period for entry into force – dating back to 1 March 2015 – and determine that 63 States Parties have deposited their Instruments of Ratification/Accession by this date.
31 The ATT Monitor will operate on a two-week ‘grace period’ before it considers the reporting deadline to have been missed.
33 Ibid., pp 98-101
34 See Chapter 2.2 for more information on transfers to these countries, and on the types of evidence that is readily and openly available assessing the humanitarian impacts of these transfers.
In particular, since the ATT came into force, sale of all manner of conventional arms and ammunition to countries involved in the Yemen conflict stood out as an area where several States Parties and Signatories acted in contravention of their Treaty obligations this past year. A case study published by the ATT Monitor in February 2016 found that nine States Parties (France, Germany, Italy, Montenegro, Netherlands, Spain, Sweden, Switzerland and the UK) and two Signatories (Turkey and the US) completed arms sales to Saudi Arabia in 2015 amounting to more than US$25 billion. This estimate was based on a limited pool of data available at the time of publication. The case study also includes information from trusted sources that clearly point to violations of international human rights and humanitarian law in relation to the Yemen conflict. (See Box 1.)


36 Ibid.


38 The vote itself is not a legally binding decision on EU member states, but it is a strong political signal. Civil-society campaigning and expert testimony on the Yemen conflict in countries like the UK, the Netherlands and Italy in particular ultimately created enough momentum to secure this politically significant vote.

Importers as well as exporters have legal obligations under the Treaty, not least ensuring that their actions do not undermine its Object and Purpose, which includes reducing human suffering. For example, importing Signatories like the United Arab Emirates, based on their role in the Yemen conflict, appear to be in violation of their responsibilities with specific reference to weapons and systems sourced after their signing the Treaty.37

Civil society organizations have thus far been active in attempting to hold their governments to account over their ATT obligations. For example, a coalition of pan-European NGOs actively lobbied members of the European Parliament in advance of a vote to impose an arms embargo on Saudi Arabia, which was won by a large margin.38 Civil-society campaigning and expert testimony on the Yemen conflict in countries like the UK, the Netherlands and Italy in particular ultimately created enough momentum to secure this politically significant vote.39

CONCLUSION

Though the pace of universalization remains positive, progress has been inconsistent between regions. Much more work needs to be done in regions like Asia, and the Middle East and North Africa – which are lagging behind other regions. Africa produced the largest number of ratifications and accessions this past year. This trend needs to be encouraged and supported as new States Parties begin to implement the Treaty provisions within their own national contexts.

States Parties need to redouble their efforts to ensure effective – and meaningful – implementation. States Parties and Signatories must continue to make conscious efforts to change and amend their arms-transfer practices to reflect their Treaty obligations. They must ensure that their transfer control systems reflect the ATT’s Object and Purpose to reduce human suffering. If there is a significant risk that transfers of arms will violate human rights or international humanitarian law, these transfers must not be authorised.

Effective implementation of the Treaty will also serve to inspire confidence amongst countries that are yet to ratify or accede to the ATT. The Treaty has established a strong mechanism that has every opportunity to make a positive impact and reduce human suffering. The onus is on States Parties and Signatories to adhere to the legal, political and ethical obligations that are enshrined in the Treaty, and that they have adopted into their national laws and systems.

SUMMARY OF THE ATT MONITOR REPORT 2016

This report has four chapters. Chapter 1 is a special thematic section focused on the experience of African countries, and their specific challenges and opportunities as they strive to implement and adhere the ATT. This focus on Africa has been chosen to coincide with the Nigerian Presidency of the 2016 Conference of States Parties.

Chapter 1.1 provides an overview of the international arms trade as it concerns Africa, particularly the issue of diversion and unauthorized seizure of arms from government stockpiles. It also reflects on the very low levels of transparency and reporting by most African countries. Chapter 1.2 explores the challenges that face States Parties in Africa as they attempt to faithfully implement the ATT, and questions why progress has been slow in some African countries and sub-regions in particular. Chapter 1.3 outlines the wide range of international cooperation and assistance activities involving countries in sub-Saharan Africa. It argues that the majority of ongoing efforts are not directly focused on arms-transfer controls but on related areas, and highlights the synergies between the ATT, the UN Programme of Action on small arms and light weapons, and other arms control instruments.

Chapter 2 explores the concept of risk as it relates to the ATT. Chapter 2.1 examines how risk is formulated in the ATT and how major arms exporters currently understand and integrate this concept in their existing export assessments. Chapter 2.2 introduces “Risk Watch”, a tool developed by ATT Monitor to gather and synthesize credible expertise on arms transfer-related risks in order to provide guidance to States Parties and to both governments and civil society in their analysis of developing licensing practices.

Chapter 3 analyses the first tranche of publicly available Initial Reports submitted by States Parties in accordance with Article 13.1 of the ATT. It lists key findings from analysis of the reports, and provides recommendations to enhance reporting on measures taken to undertake the Treaty. Chapter 3.2 investigates the central issue of scope, and clarifies the definitions of the main categories of arms/ammunition regulated by the Treaty.

Finally, Chapter 4 provides a summary assessment of the Annual Transfer reports, the first of which were due on 31 May 2016. As the deadline for transfer reports is so close to the Conference of States Parties and conflicts with ATT Monitor’s own production timeline, a special report will be produced later in the year containing a detailed assessment of the contents of the Annual Transfer Reports.

The Annex Tables summarize the responses by States Parties made in their Initial Reports as per their obligations under Article 13.1 of the ATT.