

CHAPTER 1.2: ARMS CONTROL INITIATIVES IN ACTION IN AFRICA

This chapter questions why action to implement the obligations in the Arms Trade Treaty (ATT) has been far more convincing in some African countries and sub-regions than in others. This chapter explores some of the possible impediments to implementation and ratification among African countries, which include but are not limited to, institutional will, capacity and resources, and political contexts within countries and regions. Each country faces its own unique context and set of implementation challenges, and this chapter outlines some case studies that explore the most pervasive challenges in putting the ATT into action more effectively.

STATUS OF THE ATT IN AFRICA

Progress on implementation of the ATT in Africa remains unclear. Eight African States Parties were due to submit initial reports on implementation measures by 31 May 2016. Five States Parties had done so by this date, but three of these reports have been kept confidential (see Chapter 3.1 for more details).¹ This is reflective of poor public reporting standards across Africa generally, as explored in Chapter 1.1.

The reluctance of African countries to report on their implementation progress and challenges has already been shown in their self-assessment to the Stimson Institute's Arms Trade Treaty Baseline Assessment Project (ATT-BAP).² Only seven out of 54 entered a self-assessment file, and the majority of the country profiles are withheld from the public on the ATT-BAP website.

This is reflective of a wider lack of transparency among government institutions tasked with security and defence in many African countries. This attitude towards reporting makes it difficult to assess how African States Parties are implementing a treaty that they helped bring into existence.

In the absence of publicly available reports it becomes necessary to draw on a range of complementary and relevant sources in order to build up a more detailed picture of implementation progress made by African States Parties. For example, over the past decade-and-a-half, a relatively large number of African countries have voluntarily contributed National Reports to the UN Programme of Action on small arms and light weapons (PoA).³ The institutions, regulations and procedures that countries detail in these reports will also be relevant to the control of the wider range of conventional arms as contained in the scope of the ATT.

SUB-REGIONAL ACTION

This chapter provides a brief snapshot of the status of the ATT across each region of Africa, presented in order of the level of political support for the Treaty as of 31 May 2016. This is based on the composition of regional organizations and multilateral institutions, membership of which may overlap.

WEST AFRICA

As of 31 May 2016, 11 of the 15 members of Economic Community of West African States (ECOWAS) had ratified the ATT and three others are Signatories. Mauritania, the one non-ECOWAS country in West Africa, became a States Party to the ATT in September 2015. Prior to its ratification, Mauritania already had strong operational (if unwritten) procedures in place.⁴

The high level of support for the ATT across West Africa reflects a long history of arms proliferation and armed violence, and an equally long track record of regional action on arms control. ECOWAS put in place a moratorium on small-arms imports in 1998. This means that its members could not import small arms and light weapons and munitions without notifying and obtaining permission from the ECOWAS secretariat. By 2006 the moratorium had become embedded in the legally binding Convention on Small Arms and Light Weapons, their Ammunition and other Related Materials.⁵ Significant efforts to push ECOWAS members towards ratification and implementation of this convention

1 Reporting status and access to the reports that are made publicly are available at ATT Secretariat (2016). "Reporting and deadlines". Accessed 29 June 2016. <http://thearmstradetreaty.org/index.php/en/resources/reporting>

2 Stohl, R. (2014). "The ATT Baseline Assessment Project - Initial Findings and Current State Practice". Stimson Center, 22 October 2014. <http://www.armstrade.info/database>. For more information on the ATT-BAP see Chapter 3.1.

3 UN Programme of Action on small arms and light weapons (PoA) Implementation Support System. <http://www.poa-iss.org/Poa/poa.aspx>

4 Based on primary data gathered by GRIP during its 2014 field missions in Mauritania, findings of which are summarized in Poitevin C. (2015). "Arms Transfer Controls in Sub-Saharan Africa: Lessons for the implementation of the Arms Trade Treaty". Group for Research and Information on Peace and Security (GRIP), 24 August 2015. <http://www.grip.org/en/node/1811>

5 ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and Other Related Materials. (adopted 14 June 2006, entered into force 29 September 2009). <http://www.poa-iss.org/RegionalOrganizations/ECOWAS/ECOWAS%20Convention%202006.pdf>

in turn prompted the creation and development of national commissions to get involved – if not take the lead – on the ATT. Despite this, public reporting on the ATT thus far has been limited. As of 31 May 2016, only Sierra Leone have made their Initial Report publicly available.⁶

SOUTHERN AFRICA

Five of the 15 countries belonging to the Southern African Development Community (SADC) were States Parties to the ATT as of 31 May 2016. Another eight were Signatories.

The rate of public reporting on implementation in Southern Africa is as disappointing as that in West Africa. South Africa was the sole country in the sub-region to file its Initial Report in an open and timely manner. The Democratic Republic of the Congo (DRC) and South Africa also conducted ATT-BAP self-assessments, but only the latter made its report public.

CENTRAL AFRICA

Of the 11 members of the Economic Community of Central African States (ECCAS) two are States Parties, Chad and the Central African Republic. Another seven countries in the region are Signatories. By mid-2016 accession to the ATT regime was reported to be on the DRC's legislative calendar, meaning that it may soon become the third States Party in this sub-region.⁷

Central Africa's experience is similar to that of West Africa. Many countries in the sub-region suffered from armed violence throughout the 1990s in much the same way as several ECOWAS countries did, and continue to do so today. Arms embargoes are still in place for certain non-state actors in the DRC and the Central African Republic. Unlike ECOWAS, ECCAS has never put in place a moratorium on imports of small arms and light weapons in order to foster arms-control capacity and institutionalization. Nevertheless, the 11 ECCAS

members are potentially covered by a convention similar in scope and ambition to the 2006 ECOWAS one – the Central African Convention for the Control of Small Arms and Light Weapons, their Ammunition and all Parts and Components that Can Be Used for their Manufacture, Repair and Assembly.⁸ This convention was negotiated by the UN Standing Advisory Committee on security questions in Central Africa (UNSAC) and adopted in 2010 at a meeting in Kinshasa (and is therefore commonly referred to as the Kinshasa Convention).

However, the Kinshasa Convention is not yet in force as it still needs to be ratified by two-thirds of its signatory states, including the DRC.⁹ There can be no doubt about the impact that an effective arms-transfer-control mechanism would have in the DRC and its neighbours. Not only is the UN Security Council upholding an arms embargo on part of the country, the DRC also borders nine countries, two of which are currently placed under similar restrictive measures.¹⁰ The DRC is also a known entry and/or end point for trafficking routes for two more embargoed parts of the wider vicinity (Somalia and Sudan's Darfur area). Nevertheless, the DRC has not yet signed up to the ATT despite having received assistance from the international community, including support to a National Commission on Small Arms and Light Weapons in DRC (Commission nationale de contrôle des armes légères et de petit calibre et de prévention de la violence armée – CNC-ALPC).¹¹

EAST AFRICA

Unlike in West, Southern and Central Africa, matters relating to arms control in East Africa have been coordinated by a dedicated organization rather than by an existing regional economic integration entity. The Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA) was established in 2005 and has 15 members.¹²

6 Côte d'Ivoire made their initial report public in June 2016. Three other States Parties from the region have submitted their initial reports but have not made them public. For more information see Chapter 3.1.

7 Information received from personal communication with the head of the DRC's Commission nationale de contrôle des armes légères et de petit calibre et de réduction de la violence armée, 8 June 2016.

8 Central African Convention for the Control of Small Arms and Light Weapons, their Ammunition and all Parts and Components that Can Be Used for their Manufacture, Repair and Assembly. (adopted 30 April 2010, not in force). <https://treaties.un.org/doc/Treaties/2010/04/20100430%2001-12%20PM/xxvi-7.pdf>

9 See details on the convention and its ratification status at <http://disarmament.un.org/treaties/t/kinshasa>

10 The UN Security Council has upheld an arms embargo on the Central African Republic since 2013. South Sudan is under an arms embargo and related restrictive measures (assets freeze and travel ban for certain nationals) from the European Union since 2015. See Group for Research and Information on Peace and Security (GRIP), (2016). "Base de données: les embargos sur les armes." <http://www.grip.org/fr/node/1612>

11 The legal and institutional challenges to arms control in the DRC are explored in PoA- and ATT-relevant GRIP desk studies and field missions from 2015, as well as in Acharya, N., Grumel, O. and Vranckx, A. (2016) (forthcoming 2016). "Practices and approaches towards arms and ammunition management in the DRC's Equateur and North Obangui Provinces", Bonn International Center for Conversion.

12 The Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA). <https://recsasec.org>

Only two RECSA members are States Parties, while another five are Signatories.

Implementation of the ATT in this sub-region will need to build on the groundwork laid out by the 2000 Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa. Several of RECSA's current 15 member states are also part of other regional integration efforts that are less specifically geared at promoting control over small arms. Countries in this region will likely require sustained cooperation and assistance efforts to ensure that arms control initiatives are effective.¹³

NORTH AFRICA

There are no States Parties to the ATT in North Africa so far, and only one of the five countries in the region, Libya, has signed the Treaty. This lack of regional engagement with the ATT is reflected in the fact that none of the five countries has reported a baseline for where they are on implementing the Treaty and what it would take for them to make implementation a reality.

Despite being under UN and EU arms embargoes, Libya signed the ATT in 2013, since when the security situation in the country has deteriorated significantly.¹⁴ This has prevented Libya from participating in a project, funded by the flexible multi-donor UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR), to assist with its implementation of the Treaty and other arms-control regimes, as had originally been intended.¹⁵ Once the security situation improves, Libya would undoubtedly benefit from assistance for moving implementation forward.

Given a recent history marked by excessive and mostly uncontrolled arms transfers into its territory, few countries could be more convinced than Libya of the importance of installing an effective arms-transfer-control regime.

AFRICAN COUNTRIES' POSITION IN THE MARKET FOR CONVENTIONAL ARMS

Almost all sub-Saharan African countries are modest importers of arms and required little convincing to sign up to the ATT. This is consistent with the belief that the Treaty imposes far fewer obligations on them than on exporting countries.¹⁶ While there are fewer obligations on importers, as defined in Article 8 of the Treaty, countries found them to be more significant than anticipated.¹⁷ This might explain why universalization and implementation progress has been slow.

The first African States Parties have had to recognize that existing controls put in place to implement other UN instruments to combat the illicit trade of small arms – i.e. the PoA and UN Firearms Protocol – were not enough to meet the requirements of the ATT.¹⁸ As noted in Chapter 1.1, imports into Africa increasingly include major conventional arms systems, and are no longer restricted to the small arms and munitions that the other UN instruments cover. In fact, the awareness of additional reporting obligations can be inferred from the repeated public lament by certain African officials that additional ATT reporting would add pressure on their countries' already burdened institutional capacity.¹⁹

It is not necessarily the case that African States which produce and export arms would be harder to persuade to sign up to the ATT. Although Egypt and Sudan, two of the continent's larger importers, producers and exporters of arms, have thus far stayed outside of the Treaty regime, South Africa and Nigeria, the two other countries with industrial military production capabilities, are already States Parties to the ATT.

ARMS EMBARGOES

African countries have suffered a large share of the world's armed conflicts since the end of the Cold War and the international community responded to many of these crises by imposing arms embargoes. More than half of the 22 arms embargoes that the United Nations (UN) imposed in the past two decades concerned African countries.²⁰ Around one-third

13 RECSA has received assistance from UNSCAR for the purposes of expanding membership to the ATT by countries in the sub-region. For more information, please see: <https://www.un.org/disarmament/unsscar/2013-recsa/>

14 See Group for Research and Information on Peace and Security (GRIP), (2015). "Libye". Last updated 8 May 2015. <http://www.grip.org/fr/node/1496>

15 See Group for Research and Information on Peace and Security (GRIP) and Small Arms Survey (SAS), (2015-16). "Building Roadmaps for Harmonised Implementation of the ATT and the PoA". <http://www.grip.org/en/node/1732>

16 For more information on the ATT's obligations for importers see Control Arms (2015). "ATT Monitor 2015". 25 August 2015, Chapter 1.3, pp. 64-71. <http://armstreasurymonitor.org/current/wp-content/uploads/2015/08/Full-Annual-Report.pdf>

17 Ibid. See also, Bromley, M. and Holtom, P. (2011). "Import Controls and an Arms Trade Treaty", Stockholm International Peace Research Institute (SIPRI), July 2011. <http://books.sipri.org/files/misc/SIPRIBP1107b.pdf>

18 The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime. (adopted 31 May 2001, entered into force 3 July 2005). https://treaties.un.org/doc/source/RecentTexts/18-12_c_E.pdf

19 Group for Research and Information on Peace and Security (GRIP) and Small Arms Survey (SAS), (2015-16). "Building Roadmaps for Harmonised Implementation of the ATT and the PoA". <http://www.grip.org/en/node/1732>

20 Group for Research and Information on Peace and Security (GRIP), (2016). "Base de données: les embargos sur les armes." <http://www.grip.org/fr/node/1612>

of African countries have been at some point placed under an arms embargo or related restrictive measures that were imposed by an international organization such as the African Union, the Arab League, ECOWAS, the EU or the UN.²¹

Although often used as blunt political tools, embargoes have had the inadvertent outcome of helping to bring arms control systems more into line with international obligations in both the country under embargo and in neighbouring countries. Reports by some UN Security Council Sanctions Committees show that arms trafficking patterns routinely involved the territory, and in many cases also certain authorities, of neighbouring countries not themselves under embargo.²²

The case of Burkina Faso is illuminating here. While the country was never subject to restrictive measures by an international organization, it has come up repeatedly in reports of UN Sanctions Committees. In 2000, the experts appointed to monitor the embargo on Sierra Leone revealed the Revolutionary Front in the country was being supplied with arms from Burkina Faso, Liberia and Niger.²³

Several other expert-panel reports have brought to light how easily irresponsible arms transfers rely on official documents from countries in the vicinity of embargoed countries. This was more specifically the case with end-use certificates allegedly produced by Burkina Faso, which were reputedly easy to falsify. For instance, in 1999 an end-use certificate produced in Burkina Faso authorized a brokering company registered in Gibraltar to obtain 68 tonnes of military equipment and munitions. The panel of experts on Liberia documented that this materiel was re-exported from Burkina Faso to Liberia in blatant violation of the UN Security Council embargo.²⁴

However, lessons were learned and action was taken. In 2001, Burkina Faso created the Haute autorité de contrôle des importations d'armes et de leur utilisation (HACIAU) in response to the implication of Burkinabé nationals in illicit transactions to supply arms in neighbouring conflict zones.²⁵



ALTHOUGH OFTEN USED AS BLUNT POLITICAL TOOLS, EMBARGOES HAVE HAD THE INADVERTENT OUTCOME OF HELPING TO BRING ARMS CONTROL SYSTEMS MORE INTO LINE WITH INTERNATIONAL OBLIGATIONS IN BOTH THE COUNTRY UNDER EMBARGO AND IN NEIGHBOURING COUNTRIES.

Burkina Faso is the only country in its sub-region to have an institution in place that is specifically dedicated to the control of arms into and from its territory.²⁶ The HACIAU has proved insufficiently robust to help prevent a more recent case of trafficking, however. In a recent case, the territory, and at least one high-placed Burkinabé, was implicated in an illicit transfer of arms sourced from Sudan and supplied to the Forces Nouvelles rebel groups in northern Côte d'Ivoire, despite the country being placed under a UN embargo.²⁷

This experience may help explain the commitment of Burkina Faso vis-à-vis the ATT and to moving implementation forward to the maximum extent. The country signed the Treaty on the day it opened for signatures and deposited ratification exactly one year later. It then swiftly signed up to the EU-ATT Outreach Project to be assisted in implementation.

The case of Chad is, to a degree, similar. Like Burkina Faso, it has never been under an arms embargo but it is located between countries that are or were. Unlike Burkina Faso, Chad has not been pointed out for failing to prevent diversion of arms to embargoed neighbours. The mechanisms it has had in place since the 1990s appear to have been sufficiently robust for controlling at least the legal imports of arms into the

21 Ibid. See also Stockholm International Peace Research Institute (SIPRI). "Arms Embargoes". <https://www.sipri.org/databases/embargoes>

22 Each embargo upheld by the UN comes with a Sanctions Committee. Most of their reports are made available through the UN sites specific to each embargo separately. For instance, reports by the Sanctions Committee that monitors compliance with the UN arms embargo on Libya are available at <https://www.un.org/sc/suborg/en/sanctions/1970/committee-reports>

23 UN Security Council (2000). "Report of the Panel of Experts appointed pursuant to Security Council Resolution 1306 (2000), paragraph 19, in relation to Sierra Leone". S/2000/1195, December 2000. <https://mondediplo.com/IMG/pdf/un-report.pdf>

24 UN Security Council (2002). "Report of the Panel of Experts appointed pursuant to Security Council Resolution 1408 (2002), paragraph 16, concerning Liberia". S/2002/1115, 25 October 2002. <http://reliefweb.int/sites/reliefweb.int/files/resources/D5FA5B63184345C5C1256C7E00456BF3-un-sc-lib-25oct.pdf>

25 Government of Burkina Faso (2012). "Décret n°2012-1032 portant composition, attributions, organisation et fonctionnement de la Haute Autorité de Contrôle des Importations d'Armes et de leur Utilisation (HACIAU)". Accessed 16 May 2016. http://www.legiburkina.bf/m/Sommaires_JO/Decret_2012_01032.htm

26 Ibid. South Africa is the only other country on the continent to have an institution in place with similar functions.

27 UN Security Council (2013). "Rapport final du Groupe d'experts sur la Côte d'Ivoire, établi en application du paragraphe 16 de la résolution 2045 (2012) du Conseil de sécurité". S/2013/288, 17 April 2013, p. 17. <http://www.reseau-rafal.org/sites/reseau-rafal.org/files/document/externes/rapport%20experts%20CI%20170413.pdf>

country's vast territory, and to effectively monitor what exports left the country, if any. Analysis of these mechanisms revealed that decision-making on arms imports into Chad is a matter solely for the head of state's inner family circle.²⁸

From the scant evidence that is publicly available, this approach seems to work quite effectively despite a gap in laws and regulations. As is the case in a number of neighbouring countries, Chad's laws governing matters of arms control, including imports, are outdated, imperfect and incomplete (typically excluding transfers on behalf of the armed forces).²⁹ However, Chad signed and ratified the Treaty with little apparent hesitation. Whatever its formal legal shortcomings, the country's history of efforts to avoid having its territory used to source unauthorized transfers to countries under embargo proves it can, so far, meet the obligations this ratification entails on effective transfer control.

While the interest in serious implementation is clear for countries bordering countries under embargo, whether countries with an embargo experience would be least likely to align with the ATT is an important question. The DRC, Eritrea, Ethiopia, Somalia, South Sudan and Sudan are or have been at least partly under an arms embargo, and none of them has thus far signed up to the Treaty. On the other hand, the Central African Republic acceded to the ATT in October 2015 while under a UN Security Council arms embargo imposed in 2013.³⁰ Liberia, under embargo since 2003, and Sierra Leone, under an embargo from 1988 to 2010, swiftly signed and ratified the Treaty. Côte d'Ivoire ratified it in February 2015, about a year before the UN Security Council entirely phased out the embargo that had been in place since 2004. Côte d'Ivoire, moreover, has filed a public Initial Report with the ATT Secretariat.³¹ This shows that the country has relatively robust arms-transfer-control-mechanisms in place, which can be explained, at least in part, by the long period it has been under an embargo and the lengthy presence on its territory of international peacekeepers from the UN Operation in Côte d'Ivoire.³² Transfers of arms to these peacekeepers, as well as re-exports of these arms as they withdrew, were monitored and controlled closely. The procedures created and the capacity built for this purpose put Côte d'Ivoire in a better position than most other countries in Africa to seriously implement the Treaty.

THE STATE OF IMPLEMENTATION AND THE WAY FORWARD

The level of ratification is better explained by sub-regional dynamics, such as ECOWAS's long record in arms control, and the instruments created to that end than by whether or not a country has had an embargo experience, or whether it produces and exports arms rather than only imports them for its defence needs.

It is difficult to determine whether or not the culture of secrecy helps prevent diversion and other sources of illicit proliferation. In monitoring, it is difficult, if not impossible, to appraise the growth or decline in irresponsible arms transfers. If irresponsible transfers take place, there is no guarantee of getting evidence of it, least of all from public sources. As such, it will remain difficult to measure the effect of ATT implementation, even in the narrow definition of avoiding irresponsible transfers within Africa.

The very limited transparency that almost all African security and defence establishments allow coincides with problematic levels of corruption, as found by Transparency International.³³ High levels of corruption are detrimental to cost-efficiency in arms procurement and to how the defence and security sectors as a whole are run. Transparency is one issue that arms-export-control authorities in other continents should bear in mind when examining export licence applications to end-users in Africa.

To avoid seeing their possibilities to import arms restricted because of transparency issues, African State Parties should see it as strongly in their interest to report openly on their transfers as well as make their Initial Reports public. These Initial Reports would also allow potential assistance and cooperation programmes to be designed and offered to African State Parties so that they can move implementation forward.

In order to ensure that these initiatives are sustained, there is a need to mobilize effective cooperation and assistance mechanisms in Africa. The next chapter explores some of these mechanisms, including reviewing some of the initiatives that have already taken place to assist implementation efforts.

28 Chad was the subject of PoA and ATT-relevant desk studies and field missions carried out by the Group for Research and Information on Peace and Security (GRIP) in 2013 and 2015. See for example, Poitevin C. (2015). "Arms Transfer Controls in Sub-Saharan Africa: Lessons for the implementation of the Arms Trade Treaty". Group for Research and Information on Peace and Security (GRIP), 24 August 2015. <http://www.grip.org/en/node/1811>

29 Ibid.

30 Group for Research and Information on Peace and Security (GRIP), (2016). "Base de données: les embargoes sur les armes." <http://www.grip.org/fr/node/1612>

31 Report from a research and assistance mission to Côte d'Ivoire conducted in May and June 2016 by Group for Research and Information on Peace and Security (GRIP).

32 For more information, see <http://www.onuci.org/en.php3>

33 Transparency International Defence & Security (2016). "Regional Results Africa – Government Defence Anti-Corruption Index, 2015". <https://government.defenceindex.org/downloads/docs/GI-Africa-results-web.pdf>