

# ATT MONITOR REPORT 2016



COVER PHOTO:

**ASSAULT BATTALION, 185TH AVIATION  
REGIMENT, 78TH AVIATION TROOP  
COMMAND CARRY A 155 MM HOWITZER  
ARTILLERY PIECE TO AWAITING SOLDIERS  
OF THE 1ST BATTALION, 118TH FIELD  
ARTILLERY REGIMENT DURING SLING-  
LOAD OPERATIONS.**

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PHOTOS BY STAFF SGT. MICHAEL PURCELL

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**A ROMANIAN SOLDIER, PARTICIPATING IN EXERCISE SABER JUNCTION, KEEPS AN EYE ON A WEAPONS CACHE DISCOVERED DURING A PATROL AT THE JOINT MULTINATIONAL READINESS CENTER**

CREDIT: © U.S. ARMY EUROPE PHOTO BY STAFF SGT. JOEL SALGADO





**ARTILLERY SHELLS LIE IN  
AN UNDERGROUND BUNKER  
WAITING TO BE DESTROYED  
IN DAYNILLE, SOMALIA.**

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## CONTENTS

ACKNOWLEDGEMENTS .....	3
TABLE OF CONTENTS .....	5
ACRONYMS .....	6
THE ATT MONITOR PROJECT .....	8
<b>STATE OF THE ARMS TRADE TREATY: A YEAR IN REVIEW JUNE 2015–MAY 2016</b> .....	10
<b>CHAPTER 1: AFRICA AND THE ATT</b>	
1.1: Arms Transfers, Transparency, and the ATT in Africa .....	18
1.2: Arms Control Initiatives in Action in Africa .....	30
1.3: Cooperation and Assistance in Sub-Saharan Africa .....	36
<b>CHAPTER 2: ATT MONITOR 'RISK WATCH' TOOL AND METHODOLOGY</b>	
2.1: Risk and Arms-Transfer Control .....	45
2.2: The ATT Monitor Risk Watch Tool .....	52
<b>CHAPTER 3: IMPLEMENTATION OF THE ATT</b>	
3.1: Initial Reports Review .....	65
3.2: Arms within the Scope of the ATT .....	78
<b>CHAPTER 4: BRIEF ASSESSMENT OF ANNUAL TRANSFER REPORTS</b> .....	86
<b>APPENDIX</b>	
APPENDIX 1: Methodology for Initial Reports Table .....	90
APPENDIX 2: Data from Initial Reports .....	91

## ACRONYMS

ACV	Armoured Combat Vehicles	ITI	International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons
AFRICOM	United States Africa Command	JEM	Justice and Equality Movement
ARS	Alliance for the Re-Liberation of Somalia	MANPADS	Man-Portable Air-Defence Systems
ATT	Arms Trade Treaty	MNLA	National Movement for the Liberation of Azawad
ATT-BAP	Arms Trade Treaty Baseline Assessment Project	MSF	Médecins Sans Frontières
BAFA	Germany's Federal Office for Economic Affairs and Export Control	NGO	Non-governmental Organization
CCM	Convention on Cluster Munitions	OSCE	Organization for Security and Co-operation in Europe
CNC-ALPC	Commission nationale de contrôle des armes légères et de petit calibre et de prévention de la violence armée (National Commission on Small Arms and Light Weapons)	PoA	Programme of Action on small arms and light weapons
CNDP	National Congress for the Defence of the People	PRIO	Peace Research Institute Oslo
CSP	Conference of State Parties	RECSA	Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States
DDR	Disarmament, Demobilization and Reintegration	SADC	South African Development Community
DRC	Democratic Republic of the Congo	SALW	Small Arms and Light Weapons
ECCAS	Economic Community of Central African States	SIPRI	Stockholm International Peace Research Institute
ECOWAS	Economic Community of West African States	SLA	Sudan Liberation Army
EU	European Union	SRAAM	Short-range air-to-air missile
EXBS	US Department of State Export Control and Related Border Security Programme	UAV/UCAV	Unmanned Aerial Vehicles
FNL	Forces Nationales de Libération	UCDP	Uppsala Conflict Data Program
GATIA	Groupe Autodéfense Touareg Imghad et Alliés	UDHR	Universal Declaration of Human Rights
GGE	Group of Governmental Experts	UN	United Nations
GRIP	Group for Research and Information on Peace and Security	UNAMA	United Nations Assistance Mission in Afghanistan
HACIAU	Haute Autorité de Contrôle des Importations d'Armes et de leur Utilisation	UN Comtrade	United Nations Commodity Trade Statistics Database
ICCPR	International Covenant on Civil and Political Rights	UN OCHA	United Nations Office for the Coordination of Humanitarian Affairs
ICESCR	International Covenant on Economic, Social and Cultural Rights	UNODA	United Nations Office for Disarmament Affairs
ICRC	International Committee of the Red Cross	UNREC	United Nations Regional Office for Peace and Disarmament in Africa
IHL	International Humanitarian Law	UNROCA	United Nations Register of Conventional Arms
IHRL	International Human Rights Law	UNSAC	United Nations Standing Advisory Committee on security questions in Central Africa
ISIL	Islamic State in Iraq and the Levant	UNSCAR	United Nations Trust Facility Supporting Cooperation on Arms Regulation





**BELTS OF 7.62MM AMMUNITION.**

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TECH. SGT. MICHAEL HOLZWORTH

## THE ATT MONITOR PROJECT

ATT Monitor is a project of the Control Arms Secretariat.

The project was launched in January 2015 with the generous support of the governments of Austria, Australia, Ireland, Netherlands, Norway, and Trinidad and Tobago.

The ATT Monitor serves as a trusted source of information on the implementation of, and compliance to, the Arms Trade Treaty (ATT). This includes monitoring transfer data contained in annual reports and tracking measures to embed the Treaty's obligations in national practice, such as the passing of new legislation and the development of national control systems.

The ATT Monitor produces credible qualitative and quantitative research and analysis, and explores emerging trends and practices that have an impact on the effectiveness of the Treaty and its provisions.

The ATT Monitor aims to:

- Synthesize information to advance the ATT's universalization and implementation in a user-friendly format accessible to government policymakers, civil society organizations, the media and the public.
- Promote and stimulate the sharing by countries and other actors of credible information on, and analysis of, the ATT's universalization and implementation.
- Identify key challenges in advancing global acceptance of the ATT's norms and its full implementation, and propose steps to ensure that these challenges are addressed.



**SPECIAL REPRESENTATIVE OF THE UN SECRETARY-GENERAL IN THE DRC, MARTIN KOBLER, INSPECTS WEAPONS SEIZED BY MONUSCO AND THE FARDC IN BUNIA, ITURI DISTRICT.**

CREDIT: © MONUSCO / ABEL KAVANAGH





**AVIATION STRUCTURAL MECHANIC  
3RD CLASS KYLA COLLINS DIRECTS  
AN MH-60S SEA HAWK TO LAND  
ON USS JOHN C. STENNIS' (CVN 74)  
FLIGHT DECK DURING THE RIM  
OF THE PACIFIC MARITIME EXERCISE.**

CREDIT: © U.S. NAVY / MASS  
COMMUNICATION SPECIALIST 3RD CLASS  
KENNETH RODRIGUEZ SANTIAGO

## 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.<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> As of 1 June 2016, 82 countries were States Parties to the ATT and a further 52 were Signatories.<sup>4</sup> African States Parties formed the majority of the ratifications and accessions in the past year, accounting for nine of the 16 new Treaty members.<sup>5</sup> 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).<sup>6</sup> 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.<sup>7</sup>

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.

3 As of 31 May 2016, the Treaty had not yet entered into force for two of the 14 ratifying countries and one of the two accessions. United Nations Office for Disarmament Affairs (UNODA) (2016). "ATT Status of ratifications and accessions". Accessed 29 June 2016. <https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2016/05/ATT-status-11-May-2016.pdf>

4 ATT Secretariat (2016). "Draft President's Paper on Treaty Universalization". 18 May 2016, p. 2. [http://thearmstradetreaty.org/images/Draft\\_President\\_Paper-Treaty\\_Universalization-\\_18\\_May\\_2016.pdf](http://thearmstradetreaty.org/images/Draft_President_Paper-Treaty_Universalization-_18_May_2016.pdf)

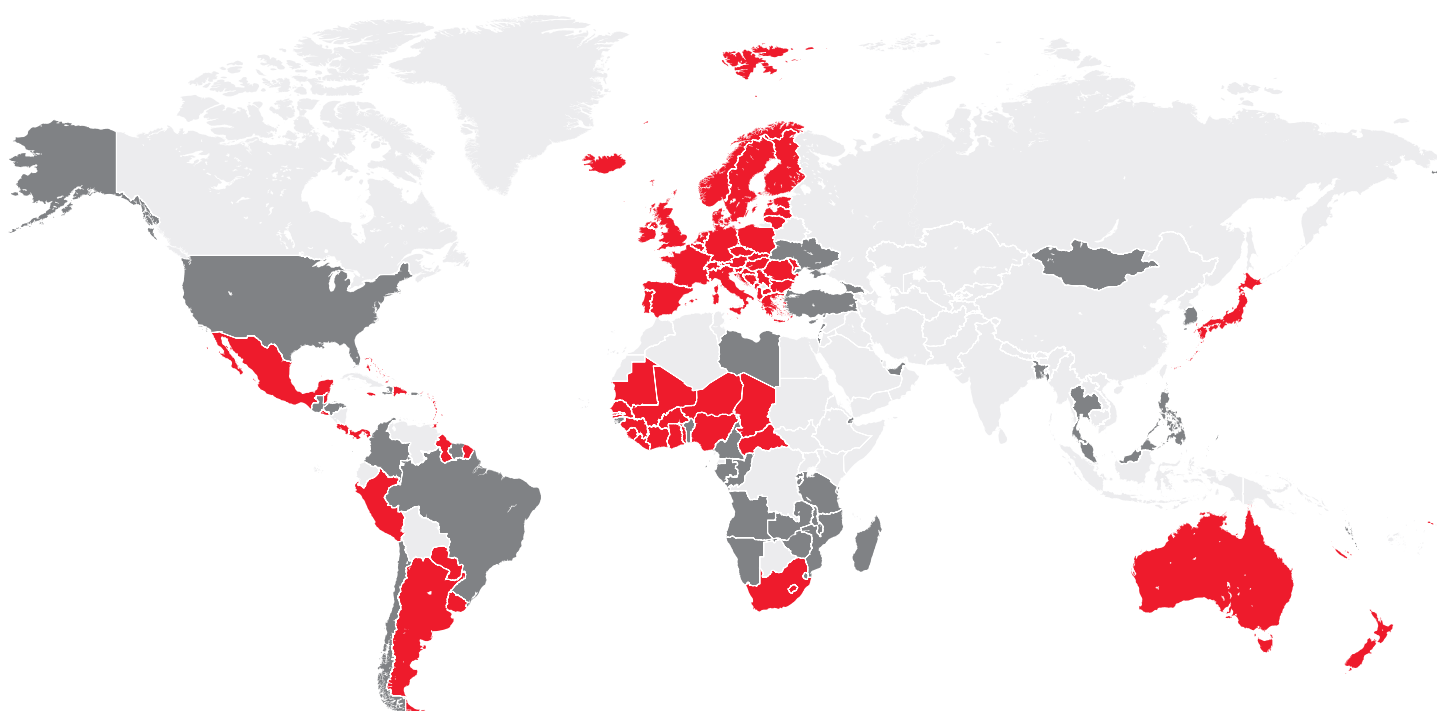
5 United Nations Office for Disarmament Affairs (UNODA) (2016). "ATT Status of ratifications and accessions". Accessed 29 June 2016. <https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2016/05/ATT-status-11-May-2016.pdf>

6 Ibid.

7 Ibid.



## MAP OF STATUS OF RATIFICATIONS AND STATES PARTIES (AS OF 31 MAY 2016)



82

**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.

52

**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.

61

**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.<sup>8</sup> Tuvalu's deposit in September 2015 was the only ratification in the Asia-Pacific region this past year.<sup>9</sup> The two accessions in this period were in Africa (Mauritius and the Central African Republic).<sup>10</sup> 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.<sup>11</sup>

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.<sup>12</sup> 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.<sup>13</sup> 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,<sup>14</sup> the Democratic Republic of Congo<sup>15</sup> and Peru.<sup>16</sup>

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.<sup>17</sup>

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.<sup>18</sup>

## 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).

8 Ibid.

9 Ibid.

10 Ibid.

11 The three states to ratify in the review period were Ghana, Niger, and Togo. Ibid.

12 See for example Mtonga, R. (2016). "Zambia inches closer to ratification of the Arms Trade Treaty". Control Arms, 29 March 2016. <http://controlarms.org/en/news/zambia-inches-closer-to-ratification-of-the-arms-trade-treaty/>

13 Control Arms (2016). "Control Arms Members work towards ATT Laws and Implementation in South East Asia and Pacific Region". 10 May 2016. <http://controlarms.org/en/news/control-arms-members-work-towards-att-laws-and-implementation-in-south-east-asia-and-pacific-region/>; Solomon Star (2016). "Solomons takes part in Arms Trade workshop". 19 May 2016. <http://www.solomonstarnews.com/news/national/10292-solomons-takes-part-in-arms-trade-workshop>

14 Mudunavonu, P. (2016). "Arms Trade Treaty awareness". Fiji Times, 17 May 2016. <http://fijitimes.com/story.aspx?id=354098>

15 Control Arms (2016). "Control Arms members push for DRC's accession to ATT". 31 March 2016. <http://controlarms.org/en/news/control-arms-members-push-for-drcs-accession-to-att/>

16 Control Arms (2015). "Peru: In the Final Stretch". 18 June 2015. <http://controlarms.org/en/news/peru-in-the-final-stretch/>

17 UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR). (2016). "UNSCAR projects selected in 2015". <https://www.un.org/disarmament/unscar-2015>

18 Federal Office for Economic Affairs and Export Control – Germany (2014). "The EU ATT Outreach Project". August 2014. p. 5. [http://www.bafa.de/bafa/en/export\\_control/eu-outreach/publications/information\\_on\\_programmes/eu\\_att\\_op\\_programme\\_overview\\_eng.pdf](http://www.bafa.de/bafa/en/export_control/eu-outreach/publications/information_on_programmes/eu_att_op_programme_overview_eng.pdf)



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.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup> Dumisani Dladla from South Africa was confirmed as the interim head of the Secretariat.<sup>22</sup> 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'.<sup>23</sup>

CSP 2015 also confirmed Ambassador Emmanuel Imohe of Nigeria as the president-designate for CSP 2016.<sup>24</sup> Costa Rica, Finland, Montenegro and New Zealand were designated to serve as vice presidents.<sup>25</sup>

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.<sup>26</sup> 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.<sup>27</sup>

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.<sup>28</sup>

## 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.

19 ATT Secretariat (2015). "First Conference of States Parties, Cancún, Mexico, 24–27 August 2015, Final Report". ATT/CSP1/2015/6, 27 August 2015, paragraphs 11–15, pp. 2–3. [http://thearmstradetreaty.org/images/ATT\\_CSP1\\_2015\\_6.pdf](http://thearmstradetreaty.org/images/ATT_CSP1_2015_6.pdf)

20 ATT Secretariat (2015). "List of participants". 26 August 2015. [http://thearmstradetreaty.org/images/PARTICIPANTS\\_LIST\\_ATT\\_CSP1\\_2015\\_5.pdf](http://thearmstradetreaty.org/images/PARTICIPANTS_LIST_ATT_CSP1_2015_5.pdf)

21 Ibid., paragraph 25, p. 5.

22 Ibid., paragraph 27, p. 5.

23 The committee is made up of the president of the Conference of States Parties and a State Party representative designated by each UN regional group. ATT Secretariat (2015). "Terms of Reference – the Management Committee". ATT/CSP1/CONF/4, 25 August 2015, p. 1. [http://thearmstradetreaty.org/images/ATT\\_CSP1\\_CONF4.pdf](http://thearmstradetreaty.org/images/ATT_CSP1_CONF4.pdf)

24 ATT Secretariat (2015). "First Conference of States Parties, Cancún, Mexico, 24–27 August 2015, Final Report". ATT/CSP1/2015/6, 27 August 2015, paragraph 37, p. 6. [http://thearmstradetreaty.org/images/ATT\\_CSP1\\_2015\\_6.pdf](http://thearmstradetreaty.org/images/ATT_CSP1_2015_6.pdf)

25 Ibid., paragraph 38, p. 7.

26 Control Arms (2016). "ATT Extraordinary Meeting Unfortunately Far Too Ordinary". 4 March 2016. <http://controlarms.org/en/news/att-extraordinary-meeting-unfortunately-far-too-ordinary/>

27 President of the Second Conference of States Parties (2016). "Proposed arrangements for the ATT Secretariat". ATT/CSP2/2016/EMWP.1.Rev.2, 29 February 2016, p. 16. [http://thearmstradetreaty.org/images/ATT\\_CSP2\\_2016\\_EM\\_WP1\\_Draft\\_MC\\_proposals\\_EM\\_inclAnnex\\_A\\_partial\\_B\\_C.pdf](http://thearmstradetreaty.org/images/ATT_CSP2_2016_EM_WP1_Draft_MC_proposals_EM_inclAnnex_A_partial_B_C.pdf)

28 Gandenberger, M. (2016). "RCW's report on the extraordinary meeting of the Arms Trade Treaty". Reaching Critical Will, 1 March 2016. <http://www.reachingcriticalwill.org/disarmament-fora/att/extraordinary-meeting/report>

## 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.



**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.**

## ANNUAL TRANSFER REPORTS

Each year, on 31 May, all States Parties are required to submit an annual report on their transfer activities.<sup>29</sup> A template for this report has not yet been agreed either. Of the 63 reports expected,<sup>30</sup> 32 were submitted on time (50 per cent),<sup>31</sup> 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.<sup>32</sup> 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.<sup>33</sup>

## 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.<sup>34</sup>

29 Arms Trade Treaty. Article 13.3 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 13(3). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

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.

32 Control Arms (2015). "ATT Monitor 2015". 25 August 2015, Chapter 3, p. 100. <http://armstreatymonitor.org/current/wp-content/uploads/2015/08/Full-Annual-Report.pdf>

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.<sup>35</sup> 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.)

**BOX 1: EXCERPT FROM ATT MONITOR CASE STUDY #2: DEALING IN DOUBLE STANDARDS: HOW ARMS SALES TO SAUDI ARABIA ARE CAUSING HUMAN SUFFERING IN YEMEN**

"There is increasing evidence of serious violations of international humanitarian law (IHL) and international human rights law (IHRL) by all parties. The UN Under-Secretary-General for Humanitarian Affairs has condemned coalition airstrikes as being "in clear contravention of international humanitarian law, and unacceptable." The International Committee of the Red Cross (ICRC) has called for fighting to take place in accordance with IHL, as hospitals have endured repeated attack from air strikes and shelling. In January 2016, a report prepared for the UN Security Council by a panel of experts on Yemen identified 119 coalition air sorties relating to violations of IHL. It states that airstrikes have targeted civilians and civilian objects, including residential areas, markets, schools, mosques, factories and food warehouses, and gatherings such as weddings."<sup>36</sup>

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.<sup>37</sup>

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.<sup>38</sup> 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.<sup>39</sup>



**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.**

35 Control Arms (2016). "Dealing in double standards: How arms sales to Saudi Arabia are causing human suffering in Yemen". ATT Monitor, Case Study 2, 26 February 2016, p. 3. <http://armstreatymonitor.org/current/dealing-in-double-standards-how-arms-sales-to-saudi-arabia-are-causing-human-suffering-in-yemen/>

36 Ibid.

37 The United Arab Emirates signed the ATT on 9 July 2013. Various sources have reported the use of armed Chinese-made drones by its forces in Yemen in 2015. See Binnie, J. (2015). "UAE, Saudi Arabia operating Chinese UAVs over Yemen". IHS Jane's 360, 18 December 2015. <http://www.janes.com/article/56742/uae-saudi-arabia-operating-chinese-uavs-over-yemen>; and Cruickshank, M. (2016). "Chinese drones: Cheap, lethal and flying in the Middle East". Middle East Eye, 7 April 2016. <http://www.middleeasteye.net/news/china-drones-1492124367>

38 Rankin, J. (2016). "EU parliament votes for embargo on arms sales to Saudi Arabia". The Guardian, 25 February 2016. <http://www.theguardian.com/world/2016/feb/25/eu-parliament-votes-for-embargo-on-arms-sales-to-saudi-arabia>

39 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 crisis is a good indicator of the public campaigns on compliance with the ATT. See, for example, "Letter to the European Parliament Joint Motion for a Resolution on the humanitarian situation in Yemen", 15 February 2016, [http://controlarms.org/en/wp-content/uploads/sites/2/2016/02/160215\\_EP\\_Letter-1.pdf](http://controlarms.org/en/wp-content/uploads/sites/2/2016/02/160215_EP_Letter-1.pdf); Rete Italiana per il Disarmo (2016). "Letter to the Italian government on the situation in Yemen", 15 February 2016. <http://www.disarmo.org/rete/a/42758.html>; Pax (2016). "PAX roept op tot wapenembargo Saoedi-Arabië", 16 February 2016. <http://www.paxvoorvrede.nl/actueel/nieuwsberichten/pax-roept-op-tot-wapenembargo-saoedi-arabië>; and "Evidence provided by Civil Society to the UK Government Committee on Arms Exports Control on the use of UK arms in Yemen", March 2016. <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/committees-on-arms-export-controls/use-of-ukmanufactured-arms-in-yemen/written/31177.pdf>



## 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

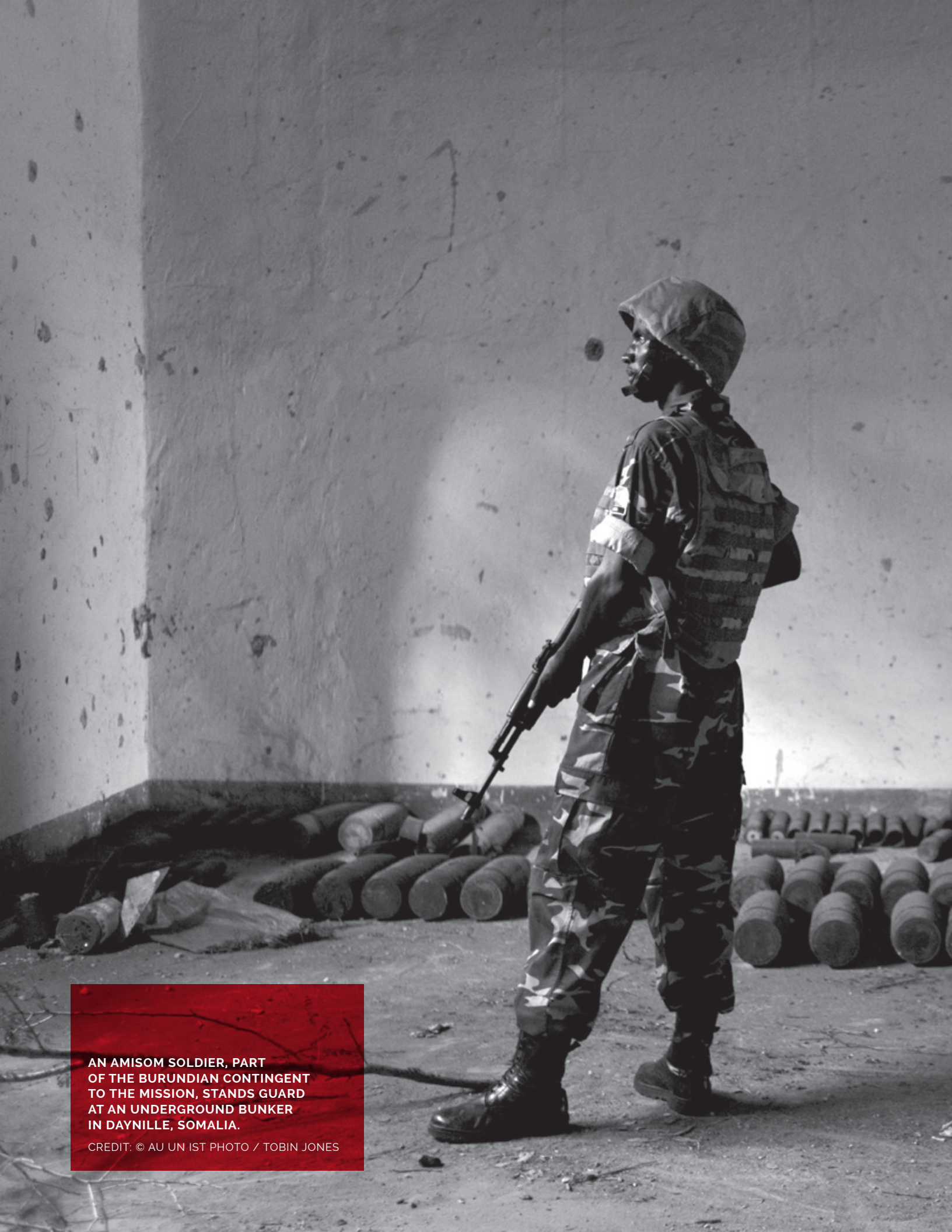
reporting by most African countries. Chapter 1.2 explores the challenges that face States Parties in Africa as they attempt to faithfully implement the ATT, and questions why progress has been slow in some African countries and sub-regions in particular. Chapter 1.3 outlines the wide range of international 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.



AN AMISOM SOLDIER, PART  
OF THE BURUNDIAN CONTINGENT  
TO THE MISSION, STANDS GUARD  
AT AN UNDERGROUND BUNKER  
IN DAYNILLE, SOMALIA.

CREDIT: © AU UN IST PHOTO / TOBIN JONES

## CHAPTER 1.1: ARMS TRANSFERS, TRANSPARENCY, AND THE ATT IN AFRICA

African countries have strongly supported the Arms Trade Treaty (ATT), first by negotiating strongly for the inclusion of certain thematic issues during its negotiations, and then by voting overwhelmingly for its adoption in 2013.<sup>1</sup> Their strong engagement has also been reflected in sub-regional initiatives, such as the agreement and establishment of the Economic Community of West African States (ECOWAS) Convention,<sup>2</sup> and the Nairobi Protocol.<sup>3</sup> These efforts have become more necessary in order to address the increasingly heavy burden of armed violence in Africa, with more than one-third of countries on the continent affected by conflict and/or armed insurgency.<sup>4</sup> The ready availability of conventional arms, in particular small arms and light weapons and their ammunition, fuels this violence.

Unfortunately since the ATT was adopted in 2013 the level of African engagement has been relatively limited. As of 31 May 2016 there are 19 States Parties in Africa while a further 20 have signed it but are yet to ratify. Implementation progress has also been slow. Chapter 1.2 explores the implementation challenges faced by African States Parties. This chapter provides an overview of the international arms trade as it concerns Africa – in terms of imports, largely from suppliers outside the continent, and in terms of the trade and circulation of arms within the continent itself. This chapter then explores how a lack of transparency and accountability in the 'legal' or government-authorized trade in arms is contributing to the 'grey' and illicit markets that fuel conflict and instability across Africa. This analysis is illustrated by a case study on the Central African Republic. The chapter concludes by exploring ways in which ATT implementation by African governments could address several of the issues and problems highlighted, thereby helping to build peace and security in the continent.

### AFRICA AND THE AUTHORIZED ARMS TRADE

Less than a dozen African countries manufacture conventional arms and/or ammunition. Of these, only South Africa could be described as a significant producer, having exported major conventional weapons to at least 30 other African countries over the past two decades.<sup>5</sup> The vast bulk of arms on the continent as a whole were originally transferred from suppliers in other regions, notably from Russia, China, the US, European Union (EU) members and other Eastern European countries.<sup>6</sup>

Arms imports by African governments are on the rise. Imports of major conventional weapons by States in Africa increased by 19 per cent between 2006–2010 and 2011–2015. Data produced by the Stockholm International Peace Research Institute (SIPRI) shows that the continent's share of the global arms trade rose in this period from 7.7 per cent to 8 per cent.<sup>7</sup> Globally, the arms trade in 2014 was estimated by SIPRI to be worth at least USD \$94.5 billion. If Africa's share of the global arms trade in 2014 was approximately the same as its share in 2011–2015, then transfers of major conventional weapons to Africa in 2014 would have been worth at least USD \$7.6 billion.<sup>8</sup>

Historically, the majority of arms sales to African States have mostly been small arms and light weapons (SALW), their parts and ammunition. African imports of SALW in 2014 were worth at least USD \$242 million, an increase of almost 50 per cent from the value of imports in 2005 according to analysis carried



**TRANSFERS OF MAJOR CONVENTIONAL  
WEAPONS TO AFRICA IN 2014 WOULD HAVE  
BEEN WORTH AT LEAST USD \$7.6 BILLION.**

1 49 of 54 countries in Africa were present for the vote, of which 47 voted Yes – and the remaining two abstained.

2 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>

3 Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa. (adopted 21 April 2004, entered into force 5 May 2006). <https://www.sipri.org/sites/default/files/research/disarmament/dualuse/pdf-archive-att/pdfs/rec-sa-nairobi-protocol-for-the-prevention-control-and-reduction-of-small-arms-and-light-weapons-in-the-great-lakes-region-and-the-horn-of-africa.pdf>

4 See, for example, University of Uppsala Conflict Data Program. <http://www.ucdp.uu.se/#/exploratory>

5 UN Register of Conventional Arms (UNROCA) began recording transfers of major conventional arms in 1992. Accessed 1 July 2016. See the individual country data at <https://www.unroca.org/>

6 Ibid.

7 SIPRI (forthcoming 2016), "SIPRI Yearbook 2016: Armaments, Disarmament and International Security", Stockholm, <https://www.sipri.org/yearbook/>

8 Ibid.



out by the Peace Research Institute Oslo (PRIO).<sup>9</sup> However, purchases of major conventional arms systems by African States have also been on the rise for at least a decade, with the volume and value of imports rising significantly in the last five years.<sup>10</sup> All of these figures may well be a considerable underestimate due to poor reporting of data, especially by some countries known to be important exporters to Africa.<sup>11</sup>

FIGURE 1:  
IMPORTS OF SALW BY AFRICAN STATES

<b>2005–2009</b>	<b>2010–2014</b>
<b>813 MILLION</b>	<b>911 MILLION<sup>12</sup></b>

Mapping the extent of the authorized arms trade among African countries is difficult primarily due to very low levels of transparency and reporting on their part. Only South Africa produces an annual public report to its Parliament on its arms imports and exports. Across the rest of the continent reporting rates under the UN Register of Conventional Arms (UNROCA) are low. Thirty per cent of African countries have never reported to the UNROCA in the 24 years since its inception while reporting rates have declined markedly in recent years: between 2010 and 2015 93 per cent of African states failed to submit any report to UNROCA.<sup>13</sup> Several countries provide information covering categories of small-arms exports/imports to the UN Commodity Trade Statistics Database (UN Comtrade)<sup>14</sup> although this is not designed as a transparency tool per se.<sup>15</sup>

Some information on arms transfers to Africa is provided by exporting countries in their national reports and/or in their returns to the UNROCA. This is often only partial, however, and sometimes contradicts other public sources of information, such as media outlets or research institutions such as PRIO or SIPRI.



**IMPORTS OF MAJOR CONVENTIONAL  
WEAPONS BY STATES IN AFRICA INCREASED  
BY 19 PER CENT BETWEEN 2006–2010  
AND 2011–2015.**

This increase in government expenditure on arms is the result of ongoing conflict and instability in many parts of Africa, and a rise in the threat presented by armed insurgent groups in some countries. Increasing imports of arms and ammunition risks further exacerbating existing cycles of violence and arms proliferation across Africa. As long as government-sourced information concerning the intra-African trade in conventional arms remains largely absent, there will be questions as to the conduct and legality of much of this trade.

A greater commitment to transparency and accountability will be required on the part of African governments as well as by those countries supplying arms to the continent if these cycles of violence and arms proliferation are to be changed. This necessitates regular public reporting of arms imports and exports by all countries to national parliaments and in line with international commitments, so as to enable proper scrutiny of government arms-transfer policies and practices.

Box 1 (overleaf) presents a case study based on work undertaken in the Central African Republic by Conflict Armament Research. It illustrates the types of systemic failures – in exporting and importing countries – that enable the flow of arms and ammunition into zones of conflict in Africa and elsewhere.

9 Peace Research Institute Oslo (PRIO). Data obtained from the UN Commodity Trade Statistics Database (Comtrade), 2005–2014, Accessed 16 June 2016.

10 Poitevin, C. (2016). "Transferts d'armes en Afrique subsaharienne : Au-delà des idées reçues". Group for Research and Information on Peace and Security (GRIP), 1 March 2016. <http://www.grip.org/fr/node/1970>

11 The largest arms exporters to African countries between 2011 and 2015 were Russia, Ukraine and China. See Poitevin, C. (2016). Ibid.

12 Peace Research Institute Oslo (PRIO). Data obtained from the UN Commodity Trade Statistics Database (Comtrade), 2005–14, Accessed 16 June 2016. Values are expressed as inflation adjusted 2009 USD.

13 Comoros and Mauritius reported in 2010, Mozambique in 2012, and Comoros and South Africa reported in 2013. South Africa also reported in 2014. All but South Africa submitted 'Nil Reports'. According to the UN Secretary-General's 'Report on the continuing operation of the United Nations Register of Conventional Arms and its further development', 'Member States that do not have anything to report should file a "nil report" clearly stating that no exports or imports have taken place in any of the categories during the reporting period'. See: UN General Assembly (1997). "Report on the continuing operation of the United Nations Register of Conventional Arms and its further development". <http://www.un.org/Depts/ddar/Register/a52316.html>

14 See Karim, A. and Marsh, N. (2015). "State positions and practices concerning reporting and the Arms Trade Treaty". ATT Monitor. <http://controlarms.org/en/wp-content/uploads/sites/2/2015/02/States-Practices-PT1.pdf>

15 Some categories of weapons in the UN Commodity Trade Statistics Database (UN Comtrade) are highly aggregated and countries provide varying levels of detail in terms of quantities and values of arms exported. However, Comtrade can be a source of useful information on exports and imports of small arms.

**BOX 2: ARMS AND CONFLICT IN THE CENTRAL AFRICAN REPUBLIC**

Following nearly 10 years of internal turmoil in the Central African Republic, the overthrow in 2013 of President François Bozizé unleashed a spiral of violence between Muslim and Christian militias that left thousands dead. Under the opposing 'Séléka' and 'anti-Balaka' groupings these militia were able to access a diverse range of weaponry. Investigations and field documentation indicate that the sources of these weapons included:

- Poorly secured national stocks of the former regime
- Equipment ranging from small arms and light weapons to military vehicles from Chad and Sudan
- Hunting ammunition trafficked from neighbouring Cameroon.<sup>16</sup>

In all three cases, this included European-manufactured equipment exported to east and central Africa between 2010 and 2014. Much of this recent weaponry was eventually seized from state stocks by Séléka forces when they overthrew the Bozizé regime in 2013, and then found its way to Séléka splinter factions throughout the country as well as into the hands of armed civilians.<sup>17</sup> After Séléka leader Michel Djotodia left power under international pressure in January 2014 and international forces installed a transitional government,

UN and non-governmental specialists faced the task of securing weaponry seized from these groups and communities. The first step was determining the scale of the problem, i.e. identifying what proportion of the Bozizé regime's stockpiles remained within state stocks and what proportion remained in the hands of rebels or armed civilians.

This basic accounting was made challenging by the near-total absence of stockpile registers and record-keeping by the previous regime. In addition, data made public by exporting-country governments also often proved insufficient to enable reconstruction of such records since this data very rarely includes details of the exact types and models of weaponry exported or their quantities. Some governments were subsequently able to provide such information on request. For example, Bulgaria and Slovakia provided details about ammunition and weaponry exports to the Central African Republic to the EU's iTrace arms-tracking project.<sup>18</sup>

In other cases, the record-keeping of exporting-country governments did not allow tracing of the source or possible quantities of weapons found in the hands of rebel forces. For example, among the large quantities of ammunition recovered from the Séléka by French peacekeeping forces with Operation Sangaris in the Central African Republic during 2014 were approximately 100 rounds of 5.56x45mm military small-arms ammunition manufactured by a UK company in 2007.<sup>19</sup> While UK export authorities were able to confirm definitively that no such ammunition had been licensed for export to the Central African Republic since 2007,<sup>20</sup> they hold only limited information about where such ammunition had been licensed for export and more data would need to be recorded to identify any possible point of diversion to the Central African Republic.<sup>21</sup>

In light of these concerns, it is particularly encouraging to note that the Central African Republic has recently acceded to the ATT, and is in the process of addressing some of these problems through its national control systems.<sup>22</sup> The scale of challenges still facing the country will require considerable international assistance and cooperation efforts if it is to bring its system in line with their ATT obligations. See Chapter 1.3 for more information on available and ongoing activities.

16 Stocks of the former regime included Bulgarian and Slovakian materiel exported in 2010–11; transfers to Séléka from Chad and Sudan included ex-German army KAT-1 military trucks exported from the Netherlands to Sudan in October 2011; hunting ammunition used by anti-Balaka forces was exported from Spain and Italy as late as January 2014. For more information see Conflict Armament Research (2015), "Groupes Armés Non-Etatiques en République Centrafricaine", January 2015, [http://www.conflictarm.com/wp-content/uploads/2015/01/GROUPES\\_ARMEES\\_NONETATQUES\\_REPUBLIQUE\\_CENTRAFRICAINE2.pdf](http://www.conflictarm.com/wp-content/uploads/2015/01/GROUPES_ARMEES_NONETATQUES_REPUBLIQUE_CENTRAFRICAINE2.pdf)

17 Ibid. See also iTrace database. Conflict Armament Research. [www.conflictarm.com/itrace/](http://www.conflictarm.com/itrace/)

18 iTrace database. Conflict Armament Research. [www.conflictarm.com/itrace/](http://www.conflictarm.com/itrace/)

19 Conflict Armament Research (2015), "Groupes Armés Non-Etatiques en République Centrafricaine", January 2015, [http://www.conflictarm.com/wp-content/uploads/2015/01/GROUPES\\_ARMEES\\_NONETATQUES\\_REPUBLIQUE\\_CENTRAFRICAINE2.pdf](http://www.conflictarm.com/wp-content/uploads/2015/01/GROUPES_ARMEES_NONETATQUES_REPUBLIQUE_CENTRAFRICAINE2.pdf)

20 iTrace database. Conflict Armament Research. [www.conflictarm.com/itrace/](http://www.conflictarm.com/itrace/)

21 The UK export authorities do not routinely record the date of manufacture of arms or ammunition licensed for export, nor in general their lot, serial or batch numbers. In addition, the UK records only limited information regarding actual exports (as opposed to export licences), so information about the actual quantities of particular weapons types exported from the UK is often not recorded.

22 Control Arms (2015), "Critics said arms control in this African state was impossible. Now, it's joined the ATT", 29 October 2015, <http://controlarms.org/en/news/critics-said-arms-control-in-this-african-state-was-impossible-now-its-joined-the-att/>

**EXPORT LICENCE AUTHORIZATIONS (VALUE, EUROS) TO THE  
CENTRAL AFRICAN REPUBLIC FROM EU MEMBER STATES, 2006–13:**

EXPORTING COUNTRY	ML CATEGORIES LICENCED <sup>23</sup>	2006	2007	2008	2009	2010	2011	2012	2013
SLOVAKIA	1, 2, 3, 4, 6	1,129,547	0	2,351,293	2,622,062	1,697,062	0	0	0
UNITED KINGDOM	6, 13	0	0	9,240 <sup>^</sup>	0	47,960	0	0	22,879 <sup>^</sup>
FRANCE	6, 10, 13, 20, 22	21,320 <sup>*</sup>	0	0	0	109,987	28,440	0	0
PORTUGAL	10	0	0	0	0	2,869,307	239,664	287,184	207,992 <sup>*</sup>
<b>TOTAL</b>		<b>1,150,867</b>	<b>0</b>	<b>2,360,533</b>	<b>2,622,062</b>	<b>4,724,316</b>	<b>268,104</b>	<b>287,184</b>	<b>230,871</b>

(Source: annual reports according to Article 8.2 of Council Common Position 2008/944/CFSP/Operative Provision 8 of the European Code of Conduct on Arms Exports, 2006–15)

Note: <sup>\*</sup> Value of actual exports in given year    <sup>^</sup> End-user designated UN/international organization

<sup>23</sup> Relevant EU Military List Categories are as follows. ML1: Small arms < 12.7mm or components therefor. ML2: small arms/light weapons > 12.7 mm or components therefor. ML3: ammunition and fuses or components therefor. ML4: Bombs/torpedoes/rockets/missiles/other explosive devices or components therefor. ML6: ground vehicles or components therefor. ML10: aircraft or components therefor. ML13: armoured or protective equipment or components therefor. ML20: cryogenic and 'superconductive equipment'. ML22: technology for the development or use of export-controlled items.

**A BURUNDI SOLDIER  
POSTS SECURITY AT THE  
BANGUI AIRPORT, CENTRAL  
AFRICAN REPUBLIC.**

CREDIT: © U.S. AIR FORCE  
PHOTO BY STAFF SGT.  
ERIK CARDENAS





## ARMS CIRCULATION WITHIN AFRICA

As noted above, few African countries manufacture arms or ammunition. There is, however, a continual process of arms circulation within Africa, linked to the emergence of new epicentres of armed violence in different parts of the continent and the resurgence of old ones.<sup>24</sup> Evidence suggests that some African countries contribute to this process through the (re-)transfer of government-owned weapons to non-state armed groups – as illustrated by the table at the end of this chapter. The failure to prevent diversion of arms from poorly managed government stockpiles is also a significant problem.

Illicit arms transfers are those that are a) not authorized by a competent government authority, b) are authorized in a way that is inconsistent with the country's national and international legal obligations, or c) are diverted during transfer or from government stockpiles. For African governments, international obligations may derive from being a Party to one or more binding agreements,<sup>25</sup> including the ATT and sub-regional ones.<sup>26</sup> See Chapter 1.2 for further details.

As such, illicit arms transfers can be those that are authorized by a country in violation of UN arms embargoes, or that include weapons that will be used in violation of international humanitarian law (IHL) and human rights law (IHRL).<sup>27</sup> In addition they can include arms transfers that take place:

- Between unauthorized non-state groups
- Between one state authority and a non-state group located in another jurisdiction where the host state has not approved the transfer
- Between a private individual or corporate entity and another end-user (state or non-state) where either the supplier and/or recipient has not been authorized by relevant state authorities to engage in the transfer.

In addition, 'grey-market' transfers are also significant in Africa. These straddle the line between legal and illicit transfers, and include ones that may have been officially and duly authorized up to a point, but which ultimately are diverted or otherwise find their way into the hands of unauthorized end-users, or are put to illegal use by authorized end-users. The diversion and unauthorized seizure of arms from government stockpiles is a huge issue in conflict zones across Africa and elsewhere. As highlighted in the case study on the Central African Republic, poor stockpile-management security and the failure of government forces to secure arsenals against looting and capture mean that in an unstable situation arms can easily fall into the hands of non-state groups.

The existence of conflict and insurgency within significant parts of Africa, and the ease with which non-state armed groups and terrorist organizations are able to procure weapons and ammunition points to a flourishing illicit and grey-market arms trade. This understanding is confirmed by Figure 2 and the accompanying information source table at the end of this chapter, which draw on open sources and field research, and provide details of 40 separate cases of illicit arms transfers in Africa over the past decade. Over one-third of the transfers identified implicate state authorities in their execution. The remainder involve a variety of non-state groups, arms traffickers and/or individuals. Figure 2 illustrates the flow of illicit and grey-market arms transfers within Africa and, in doing so, also sheds light on an issue of global concern.

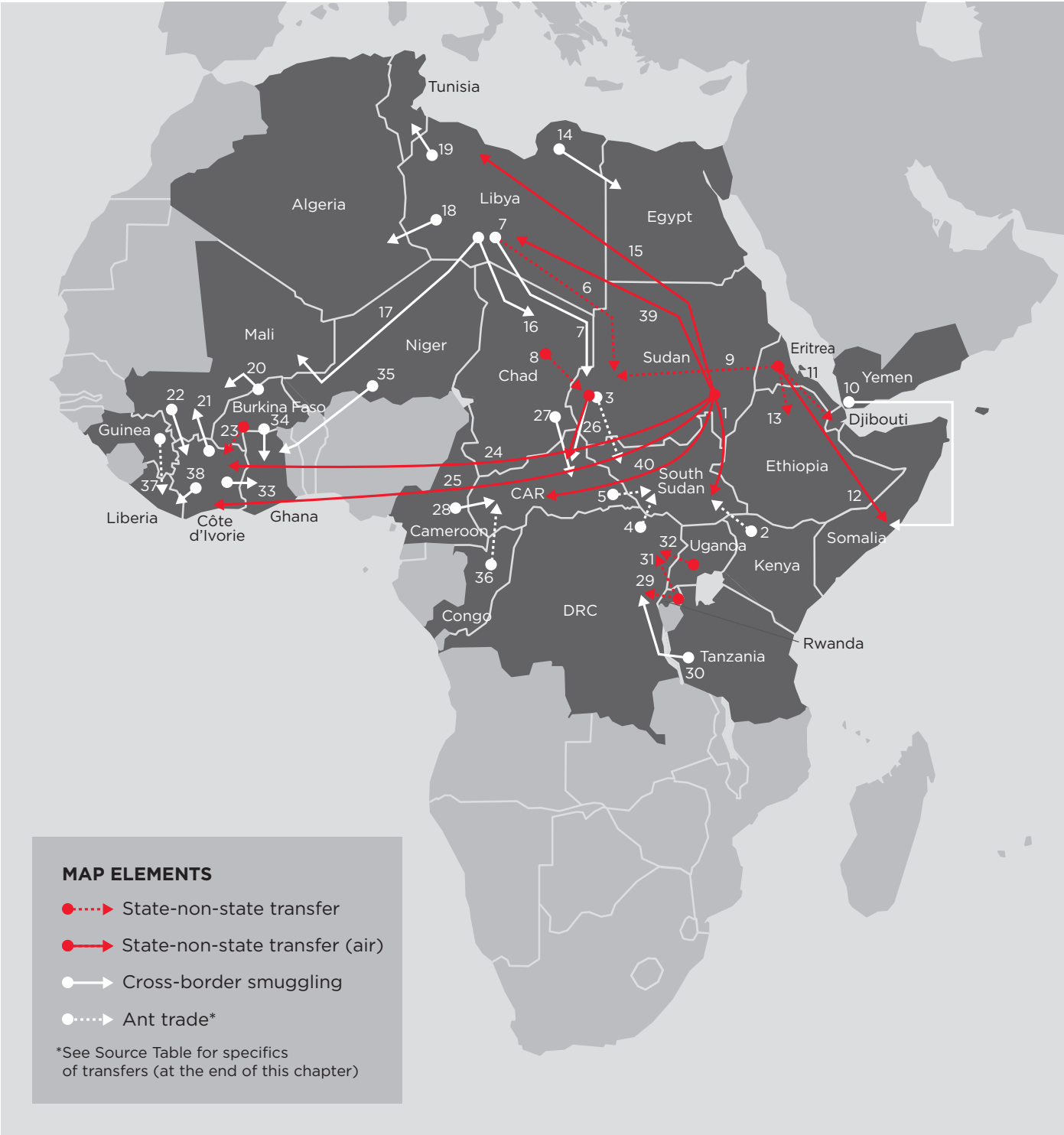
<sup>24</sup> See Kinsella, D. (2014). "Illicit arms transfers to Africa and the prominence of the former Soviet bloc: a social network analysis". *Crime, Law and Social Change*, Vol. 62, No 5, pp 523–47

<sup>25</sup> For example, 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](https://treaties.un.org/doc/source/RecentTexts/18-12_c_E.pdf); the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction. (adopted 18 September 1997, entered into force 1 March 1999). <http://www.apminebanconvention.org/>; and the Convention on Cluster Munitions. (adopted 30 May 2008, entered into force 1 August 2010). <http://www.clusterconvention.org/>

<sup>26</sup> For example, the 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>; the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa. (adopted 21 April 2004, entered into force 5 May 2006). <https://www.sipri.org/sites/default/files/research/disarmament/dualuse/pdf-archive-att/pdfs/recsa-nairobi-protocol-for-the-prevention-control-and-reduction-of-small-arms-and-light-weapons-in-the-great-lakes-region-and-the-horn-of-africa.pdf>; the Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development (SADC) Region. (adopted 14 August 2001, entered into force 3 July 2005). [http://www.sadc.int/files/8613/5292/8361/Protocol\\_on\\_the\\_Control\\_of\\_Firearms\\_Ammunition2001.pdf](http://www.sadc.int/files/8613/5292/8361/Protocol_on_the_Control_of_Firearms_Ammunition2001.pdf)

<sup>27</sup> See Stockholm International Peace and Research Institute (SIPRI). "Arms Embargoes". <https://www.sipri.org/databases/embargoes>

FIGURE 2:  
ILLUSTRATIVE MAP OF ILLICIT ARMS TRANSFERS IN AFRICA (BETWEEN 2006 AND 2016)



## MAKING THE ATT WORK FOR AFRICA

African countries, particularly sub-Saharan ones, have long been a driving force behind the ATT. Leaders such as President Ellen Johnson Sirleaf were vocal proponents for a treaty,<sup>28</sup> and Kenya was one of the seven 'co-author' countries that lead the UN process from 2006. African countries played a crucial role in treaty negotiations, and their strong voice was instrumental in ensuring that small arms and light weapons and ammunition were included in its scope and are also reflected in its Object and Purpose.<sup>29</sup> If the ATT can fulfil its mission, Africa will be one of the primary beneficiaries.

However, significant supporters of the Treaty – most notably Kenya – so far remain outside the regime. It is vital that African countries maintain and strengthen their involvement in the ongoing life of the Treaty, which has seen one African (Ambassador Emmanuel Imohe of Nigeria) elected president of the Conference of States Parties (CSP) for 2016 and another (Dumisani Dladla of South Africa) appointed interim head of the ATT Secretariat. Ensuring that the Treaty has maximum impact on the illicit and irresponsible trade in arms is even more important, and this will require renewed commitment to greater transparency and accountability in the African arms trade by all countries.

In order to make the ATT work for the continent, African countries should:

- Work towards accession and/or full implementation of the Treaty at the earliest opportunity, while recognizing that for many States, its full implementation will take time and may require external assistance to build the requisite capacities
- Support efforts towards universalization of the ATT on the continent by engaging governments at bilateral and sub-regional levels in order to build support for ratification or accession, and provide targeted assistance based on a full analysis of need
- Establish arms-transfer transparency and accountability mechanisms in governments and parliaments; including, for example, the production of an annual public report to be debated in parliament, the establishment of a dedicated parliamentary committee to oversee the policy and practice of arms-transfer control, and the development of an interdepartmental structure to co-ordinate government policy and practice

- Submit full annual returns in a timely fashion to the ATT and the UNROCA detailing all imports, exports and other relevant information under each of the relevant categories listed
- Take all necessary steps to prevent illicit arms transfers taking place from or through their territories to non-state groups and embargoed entities by, for example, establishing clear governmental procedures for authorization of arms transfers, including a comprehensive risk assessment in line with ATT obligations, and strengthened provisions for stockpile management and security.

For its part, the wider international community, and in particular ATT States Parties and Signatories, should:

- Ensure that the Treaty is implemented in spirit and letter, has a measurable impact on arms transfers, and is not used as a cover for 'business as usual' in the continuation of arms transfers to regions of conflict and instability or human-rights crisis zones
- Establish arms-transfer transparency and accountability mechanisms within governments and national parliaments (as described above)
- Submit full annual returns in a timely fashion to the ATT and the UNROCA (as described above). Support efforts towards universalization of the ATT, including those undertaken by the ATT Secretariat and civil society, in Africa and elsewhere by engaging with and addressing the specific concerns of outlier countries
- Support African countries in their accession to, and implementation of, the ATT through bilateral initiatives as well as through establishment of and support for a substantial Voluntary Trust Fund under the auspices of the ATT Secretariat. Such efforts should be coordinated with existing initiatives, such as the EU ATT Outreach Project,<sup>30</sup> so as to ensure tailor-made comprehensive and integrated needs-assessment, outreach and capacity-building programmes.

28 See Oxfam (2012). "President Ellen Johnson Sirleaf of Liberia and Nobel Peace Prize Laureate calls for a robust Arms Trade Treaty". 16 July 2012. <https://www.oxfam.org/en/pressroom/pressreleases/2012-07-16/president-ellen-johnson-sirleaf-liberia-and-nobel-peace-prize>

29 Arms Trade Treaty. Article 1 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 1. <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

30 Federal Office for Economic Affairs and Export Control – Germany (2014). "The EU ATT Outreach Project". August 2014. [http://www.bafa.de/bafa/en/export\\_control/eu-outreach/publications/information\\_on\\_programmes/eu\\_att\\_op\\_programme\\_overview\\_eng.pdf](http://www.bafa.de/bafa/en/export_control/eu-outreach/publications/information_on_programmes/eu_att_op_programme_overview_eng.pdf)



## SOURCE EVIDENCE AND DATA FOR FIGURE 2

Flow Number	Country / conflict	Weapon user	Provenance of illicit weapons	Route	Transfer type	Date(s) of illicit transfer <sup>31</sup>	Information source
1	SOUTH SUDAN	SPLA-IO	Sudan	By air, Khartoum – Jonglei	State to non-state	2014	iTrace field documentation (Conflict Armament Research)
2	SOUTH SUDAN	Armed civilians	Kenya	By land, northern Kenya Eastern and Central Equatoria	Ant trade	2006-09	James Bevan, Blowback: Kenya's illicit ammunition problem in Turkana North district (Small Arms Survey: Geneva, 2008), <a href="http://www.smallarmssurvey.org/fileadmin/docs/B-Occasional-papers/SAS-OP22-Kenya.pdf">http://www.smallarmssurvey.org/fileadmin/docs/B-Occasional-papers/SAS-OP22-Kenya.pdf</a>
3	SOUTH SUDAN	Aparanga Aguanza ('Arrow Boys')	Sudan	Likely by land from Darfur to Western Equatoria	Ant trade	2006-present	iTrace field documentation (Conflict Armament Research)
4	SOUTH SUDAN	Aparanga Aguanza ('Arrow Boys') Armed civilians Poachers	Democratic Republic of Congo	Likely by land from northern Democratic Republic of the Congo (DRC) to Western Equatoria	Ant trade	2006-present	iTrace field documentation (Conflict Armament Research)
5	SOUTH SUDAN	Aparanga Aguanza ('Arrow Boys') Armed civilians Poachers	Central African Republic	Likely by land from western Central African Republic to Western Equatoria	Ant trade	2006-present	iTrace field documentation (Conflict Armament Research)
6	SUDAN (DARFUR)	Justice and Equality Movement (JEM) Sudan Liberation Army (SLA-MM faction)	Libya	By land from Kufra region to northern Darfur	State to non-state	2006-11	UN Panels of Experts on Sudan, various years.
7	SUDAN (DARFUR)	Justice and Equality Movement (JEM) Sudan Liberation Army (SLA-MM faction)	Libya	By land from Kufra region to northern Darfur via Sudan/Chad border area	Cross-border smuggling	2011-15	iTrace field documentation (Conflict Armament Research)
8	SUDAN (DARFUR)	Justice and Equality Movement (JEM) Sudan Liberation Army (SLA-MM faction)	Chad	By land from eastern Chad to western Darfur	State to non-state	2007, 2008, 2009, 2010	UN Panels of Experts on Sudan, various years.
9	SUDAN (DARFUR)	Justice and Equality Movement (JEM)	Eritrea	Unknown (possibly by air)	State to non-state	2006, 2007	UN Panels of Experts on Sudan, various years.

31 Where dates of transfers are known through documentation, they are given as single years. Where precise dates are not known, a date-range is given indicating the logical limits of the transfer dates.

Flow Number	Country / conflict	Weapon user	Provenance of illicit weapons	Route	Transfer type	Date(s) of illicit transfer <sup>31</sup>	Information source
10	SOMALIA	Islamic Courts Union, Al-Shabaab, Hib'ul Islam, Ogaden National Liberation Front  Arms dealers Armed civilians	Yemen	By sea to various seaports in northeastern Somalia (especially Bosasso), eastern Sanaag, and elsewhere.	Cross-border smuggling	2006-present	UN Panels of Experts on Somalia, various years.
11	DJIBOUTI	FRUD-Combattant (FRUD-C)	Eritrea	By road across Eritrea-Djibouti border	State to non-state	2008-11	UN Panel of Experts on Somalia (S/2011/433)
12	SOMALIA	Islamic Courts Union, Alliance for the Re-Liberation of Somalia (ARS)	Eritrea	Eritrea	By air from Asmara to Mogadishu and other locations; by sea to various ports (2007-2009)	2006-09	UN Panels of Experts on Somalia, various years.
13	ETHIOPIA	Ogaden National Liberation Front  Oromo Liberation Front  Afar Liberation Front  Afar Revolutionary People's Democratic Front (Ugugumo)  Sidamo Liberation Front  Tigrayan People's Democratic Movement	Eritrea	By land across Eritrea-Ethiopia border (also via Somalia)	State to non-state	2006-present	UN Panels of Experts on Somalia (S/2011/433)
14	EGYPT	Private arms traffickers – ultimate end-user unknown	Libya	By land across the Libya-Egypt border	Cross-border smuggling	2011-present	UN Panels of Experts on Libya, various years.
15	LIBYA	General National Congress regime, Tripoli  Arms traffickers around Misrata – end-user unknown.	Sudan	By air to Kufrah and Tripoli	State to semi-state (contrary to embargo)	2011-present	iTrace field documentation (Conflict Armament Research); UN Panels of Experts on Libya, various years.
16	CHAD	Private arms traffickers – ultimate end-user unknown	Libya	By land across Libya-Chad border	Cross-border smuggling	2011-present	UN Panels of Experts on Libya, various years.

Flow Number	Country / conflict	Weapon user	Provenance of illicit weapons	Route	Transfer type	Date(s) of illicit transfer <sup>31</sup>	Information source
17	MALI	National Movement for the Liberation of Azawad (MNLA)  Groupe Autodéfense Touareg Imghad et Alliés (GATIA)  Al Mourabitoune  Other groups	Libya	By land via Agadez/ Tahoua/ Tillabéri axis (Niger)	Cross-border smuggling	2011-present	iTrace field documentation (Conflict Armament Research)
18	ALGERIA	Private arms traffickers	Libya	By land	Cross-border smuggling	2011-present	UN Panels of Experts on Libya, various years.
19	TUNISIA	Private arms traffickers – ultimate end-user unknown	Libya	By land	Cross-border smuggling	2011-present	UN Panels of Experts on Libya, various years.
20	MALI	Private arms traffickers – ultimate end-user unknown	Burkina Faso	By road (Gao-Gossi axis)	Cross-border smuggling	2015	iTrace field documentation (Conflict Armament Research)
21	MALI	Ancar Dine	Côte d'Ivoire	By land (northern Cdl to Sikasso region, Mali)	Cross-border smuggling	2015	iTrace field documentation (Conflict Armament Research)
22	CÔTE D'IVOIRE	Armed civilians	Mali	By land (shot-gun ammunition)	Cross-border smuggling	2009	UN Panel of Experts on Côte d'Ivoire (S/2009/521)
23	CÔTE D'IVOIRE	Forces Nouvelles	Burkina Faso	By land	State to non-state	2007-14	UN Panels of Experts on Côte d'Ivoire, various years.
24	CÔTE D'IVOIRE	Forces Nouvelles	Sudan	By air to Bouaké	State to non-state	2011	UN Panel of Experts on Côte d'Ivoire (S/2015/252)
25	CÔTE D'IVOIRE	Pro-Gbagbo forces	Sudan	Unknown, possibly by air	State to non-state	2010-11	UN Panel of Experts on Côte d'Ivoire (S/2013/228)
26	CENTRAL AFRICAN REPUBLIC	Séléka	Sudan	By land via Am Dafok (South Darfur)	State to non-state ; cross-border smuggling	2013	iTrace field documentation (Conflict Armament Research)
27	CENTRAL AFRICAN REPUBLIC	Séléka	Chad	By land	Cross-border smuggling	2013	iTrace field documentation (Conflict Armament Research)
28	CENTRAL AFRICAN REPUBLIC	Anti-Balaka  Armed civilians	Cameroon	By land	Cross-border smuggling; ant trade	2014, 2015	iTrace field documentation (Conflict Armament Research); UN Panel of Experts on the Central African Republic (S/2014/762)
29	DEMOCRATIC REPUBLIC OF CONGO	National Congress for the defence of the People (CNDP)	Rwanda	By land	State to non-state	2008	UN Panel of Experts on the DRC (S/2008/773)
30	DEMOCRATIC REPUBLIC OF CONGO	Forces Nationales de Libération (FNL) – a Burundian armed group present in DRC	Tanzania	By boat (through Lake Tanganyika)	Cross-border smuggling	2011	UN Panel of Experts on the DRC (S/2012/348)



Flow Number	Country / conflict	Weapon user	Provenance of illicit weapons	Route	Transfer type	Date(s) of illicit transfer <sup>31</sup>	Information source
31	DEMOCRATIC REPUBLIC OF CONGO	M-23	Rwanda	By land	State to non-state	2012	UN Panel of Experts on the DRC (S/2012/348, S/2012/843)
32	DEMOCRATIC REPUBLIC OF CONGO	M-23	Uganda	By land	State to non-state	2012	UN Panel of Experts on the DRC (S/2012/348, S/2012/843)
33	GHANA	Private arms traffickers – ultimate end-user unknown	Côte d'Ivoire	By land	Cross-border smuggling	2015	Information provided by Ghanaian security authorities to media, <a href="http://www.bbc.com/news/world-africa-35101131">http://www.bbc.com/news/world-africa-35101131</a>
34	GHANA	Private arms traffickers – ultimate end-user unknown	Burkina Faso	By land	Cross-border smuggling	2015	Information provided by Ghanaian security authorities to media, <a href="http://www.bbc.com/news/world-africa-35101131">http://www.bbc.com/news/world-africa-35101131</a>
35	GHANA	Private arms traffickers – ultimate end-user unknown	Niger	By land	Cross-border smuggling	2015	Information provided by Ghanaian security authorities to media, <a href="http://www.bbc.com/news/world-africa-35101131">http://www.bbc.com/news/world-africa-35101131</a>
36	CENTRAL AFRICAN REPUBLIC	Anti-Balaka Armed civilians	Republic of Congo (Brazzaville)	By land	Ant trade	2014	iTrace field documentation (Conflict Armament Research)
37	LIBERIA	Armed civilians	Guinea	By land	Ant trade	2006-present	UN Panel of Experts on Liberia (S/2008/785 et seq)
38	LIBERIA	Liberian mercenaries and Ivorian militia	Côte d'Ivoire	By land	Cross-border smuggling	2011	UN Panel of Experts on Liberia (S/2011/757; S/2013/683)
39	LIBYA	Armed groups aligned with Fajr Libya	Sudan	By air to Kufrah and Tripoli	State to semi-state (contrary to embargo)	2011-present	iTrace field documentation (Conflict Armament Research); UN Panels of Experts on Libya, various years.
40	CENTRAL AFRICAN REPUBLIC	Séléka	Sudan	By air to Bangui	State to non-state	2013	iTrace field documentation (Conflict Armament Research)

## NOTES

- 1) This table contains only cross-border illicit transfers, rather than instances of intra-state diversion.
- 2) It reflects only transfers since 2006.
- 3) It is confined to weapons physically evidenced in a seizure or in the hands of an illicit user, rather than testimonies of smuggling routes and transfers alone.
- 4) It covers weapons trafficking between African countries or their neighbours, rather than illicit deliveries from countries not within or contiguous to the African continent.
- 5) In the context of this table and associated infographic, the term 'State' means the involvement of some government agency (whether sanctioned at the highest levels or not is sometimes difficult to verify in all cases).
- 6) In the context of this table and associated infographic, the term 'ant trade' refers to numerous shipments of small numbers of weapons that, over time, result in the accumulation of large numbers of illicit weapons by unauthorized end users.<sup>32</sup>

32 Small Arms Survey. "Illicit Trafficking". <http://www.smallarmssurvey.org/weapons-and-markets/transfers/illicit-trafficking.html>

**MEMBERS OF DUTCH SPECIAL  
FORCES SERVING WITH  
MINUSMA SECURE THE TOWN  
OF ANEFIS IN NORTHERN MALI.**

CREDIT: © UN PHOTO / MARCO  
DORMINO



## 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).<sup>1</sup> 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).<sup>2</sup> 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).<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> 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 Finds 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.<sup>6</sup>

## 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.<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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).<sup>11</sup>

## 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.<sup>12</sup>

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.<sup>13</sup>

## 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.<sup>14</sup> 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.<sup>15</sup> 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.<sup>16</sup> While there are fewer obligations on importers, as defined in Article 8 of the Treaty, countries found them to be more significant than anticipated.<sup>17</sup> 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.<sup>18</sup> 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.<sup>19</sup>

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.<sup>20</sup> 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://armstreatymonitor.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](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.<sup>21</sup>

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.<sup>22</sup>

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.<sup>23</sup>

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.<sup>24</sup>

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.<sup>25</sup>



**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.<sup>26</sup> 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.<sup>27</sup>

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](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.<sup>28</sup>

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).<sup>29</sup> 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.<sup>30</sup> 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.<sup>31</sup> 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.<sup>32</sup> 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.<sup>33</sup> 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.

<sup>28</sup> 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>

<sup>29</sup> Ibid.


<sup>30</sup> 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>

<sup>31</sup> 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).

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

<sup>33</sup> 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>





**UNAMID OFFICERS ON  
PATROL NEAR BURU,  
WEST DARFUR, SUDAN.**

CREDIT: © UN PHOTO /  
ALBERT GONZALEZ FARRAN

## CHAPTER 1.3: COOPERATION AND ASSISTANCE IN SUB-SAHARAN AFRICA

This chapter provides an overview of past and ongoing cooperation and assistance activities involving countries in sub-Saharan Africa aimed directly or indirectly at supporting national implementation of the Arms Trade Treaty (ATT).<sup>1</sup> Since its entry into force several such 'ATT-focused' activities have been carried out. However, past and ongoing 'ATT-relevant' activities have also been carried out. These do not reference the Treaty but focus on improving state capacity in areas relevant for its implementation.

Drawing on a database developed by the Stockholm International Peace Research Institute (SIPRI) and the UN Regional Centre for Peace and Disarmament in Africa (UNREC), the chapter provides an overview of these 'ATT-focused' and 'ATT-relevant' cooperation and assistance activities. This is not an exhaustive list of all activities, and the examples included in this chapter are necessarily illustrative.

It argues that a majority are not focused on arms-transfer controls – the main focus of the ATT – but on related areas of controls on small arms and light weapons (SALW) covered by other instruments such as the UN Programme of Action on small arms and light weapons (PoA), but also that this is starting to change owing to the entry into force of the Treaty. It concludes by arguing for greater efforts to build links between the different cooperation and assistance activities, and pointing to the key role that the ATT Secretariat can play in this regard.

### OBLIGATIONS WHEN APPLYING THE ATT

The majority of the ATT's provisions focus on developing and maintaining effective arms-transfer controls. These can be divided into nine areas:

- establishing and maintaining an arms-transfer-control system
- carrying out risk assessments for arms transfers and arms exports
- prohibiting certain arms transfers and not authorizing certain arms exports
- regulating arms imports
- regulating arms transit and trans-shipment

- regulating arms brokering
- establishing and maintaining enforcement mechanisms
- sharing information with other States Parties
- maintaining records on arms transfers.

The Treaty also makes reference to the need for States Parties to build and maintain capacities in other areas that are not directly connected to arms-transfer controls but can play a role in preventing the diversion of conventional arms, especially SALW, to the illicit market. In particular, Article 16.1 of the Treaty notes that assistance provided in connection to its implementation may include 'stockpile management, disarmament [and] demobilization and reintegration [DDR] programmes'.<sup>2</sup> However, the main focus of the Treaty is the development and implementation of effective arms-transfer controls.

### AREAS OF OVERLAP WITH EXISTING OBLIGATIONS

There is a significant level of overlap between the commitments outlined in the ATT and those in other instruments in the field of SALW controls, particularly the PoA on SALW. Indeed, although the Treaty is legally binding for States Parties and the PoA is a political commitment, the two can be seen as complementary in terms of their content.

For example, the PoA commits countries to assess arms transfers, while the Treaty establishes detailed criteria for how these assessments should be carried out. In addition, the Treaty obliges them to prevent and address diversion, while the PoA provides detailed guidelines on the steps they need to take in order to combat diversion at all stages of a weapon's lifecycle. These include:

- creating legislation, regulations and administrative procedures to control the production and transfer of SALW
- criminalizing the illegal manufacture, possession, stockpiling and trade of SALW
- marking of SALW
- improving the tracing of SALW
- seizing and collecting illegally possessed SALW
- destroying surplus SALW
- implementing effective disarmament, demobilization and reintegration programmes.

1 This chapter draws on a larger study carried out by SIPRI in 2015. See: Bauer, S. and Bromley, M. (2015). Implementing the Arms Trade Treaty: Building on Available Guidelines and Assistance Activities. Stockholm International Peace Research Institute (SIPRI), May 2015. [http://books.sipri.org/product\\_info?c\\_product\\_id=497](http://books.sipri.org/product_info?c_product_id=497)

2 Arms Trade Treaty, Article 16.1 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 16(1). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

Countries in sub-Saharan Africa have also developed a range of sub-regional instruments aimed at improving their controls on SALW. These include the Southern African Development Community (SADC) Protocol, the Nairobi Protocol, the Economic Community of West African States (ECOWAS) Convention and the Kinshasa Convention.<sup>3</sup> These instruments contain provisions on arms-transfer controls and diversion that are similar in scope to equivalent provisions in the Treaty and the PoA. The key difference between them and the ATT is that while they focus only on SALW, the Treaty covers all major conventional weapons defined by the scope of the UN Register of Conventional Arms (UNROCA) as well as related parts and components and ammunition. States Parties are also encouraged to apply the Treaty 'to the broadest range of conventional arms'.<sup>4</sup>

However, in certain areas, the provisions on arms-transfer controls are more ambitious in the sub-regional instruments than they are in the Treaty. For example, the ECOWAS Convention bans member states from importing SALW unless they first demonstrate this is for legitimate defence and security needs, law enforcement or participation in peace-support operations (see Chapter 1.2). States apply for an exemption to the ECOWAS Executive Secretariat, which takes a decision after circulating the request among all member states.

### ATT/POA-RELEVANT COOPERATION AND ASSISTANCE IN AFRICA, 2011–15

During the process of negotiating the ATT, many countries highlighted the need for it to include provisions aimed at ensuring that States Parties have access to any assistance needed to fulfil their treaty obligations. Recognizing these needs, the final text of the Treaty includes several provisions on international cooperation and assistance, outlining the areas where it might be provided, who might provide it and the mechanisms through which it might be carried out.

The need for such assistance is particularly acute in sub-Saharan Africa, where many countries have been severely affected by the proliferation of SALW and where capacities of States Parties in many areas relevant to treaty implementation are limited. Of the 61 countries that had completed the ATT Baseline Assessment Project survey by July 2015, 39 per cent

indicated that they required assistance with implementation.<sup>5</sup> However, of the seven states from sub-Saharan Africa that had completed the survey, six indicated that they required assistance, with a majority indicating that they required it in all possible areas.<sup>6</sup>

Several 'ATT-focused' cooperation and assistance activities have been carried out in sub-Saharan Africa, aimed at helping States Parties to ratify and implement the Treaty. These have included activities focused on helping them to establish or improve their arms-transfer controls or to take other steps to prevent SALW diversion. However, a larger number of activities not focused on treaty implementation have been carried out in recent years in sub-Saharan Africa with these same objectives in mind, including many taking place before the Treaty was adopted. They are nevertheless 'ATT relevant' since they address areas covered by the Treaty and can help States Parties to implement it.

Until recently, there has been no attempt to systematically map either 'ATT-focused' or 'ATT-relevant' activities. As a result, both providers and recipients of cooperation and assistance may be unaware of similar activities that have taken place or are taking place. During 2015, SIPRI and UNREC collected information about 'ATT-relevant' and 'ATT-focused' activities in sub-Saharan Africa in 2011–15 and made it available in a searchable online database.<sup>7</sup> The aim was to highlight potential gaps in the types of cooperation and assistance activities carried out to date and to provide a mechanism through which States Parties, non-governmental organizations (NGOs), and international and regional organisations – as well as the ATT Secretariat – can build on past efforts, avoid duplication and plan joint activities. The database is currently being expanded to cover Latin America and the Caribbean, and the inclusion of other regions is also planned.

The database includes activities focused on the core concerns of the ATT, such as transfer controls, brokering controls, import controls, transit and trans-shipment controls, risk assessments, reporting on arms transfers, and reporting on arms-transfer controls. It also includes areas of wider relevance to preventing the illicit proliferation of SALW and that are covered by the PoA, such as inventory and stockpile management, marking, tracing and destruction.

3 See Chapter 1.2 for more information on these regional instruments.

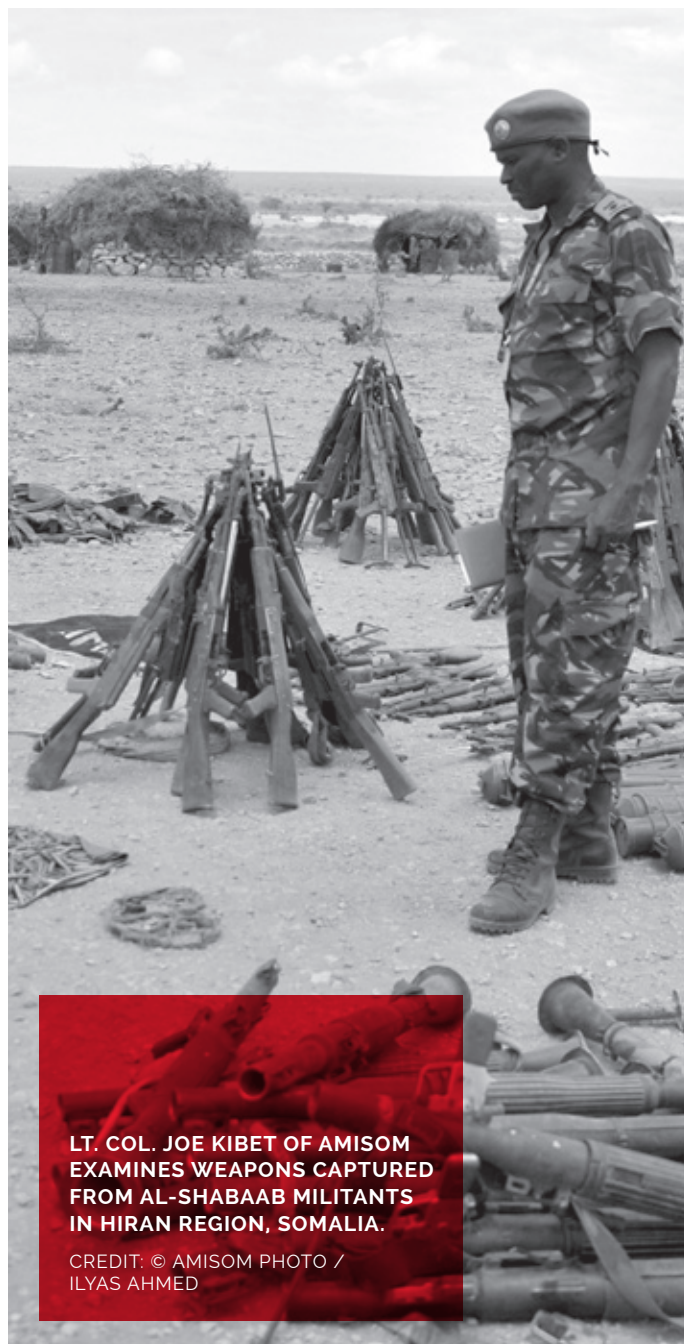
4 Arms Trade Treaty, Article 5.3 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 5(3). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

5 ATT-Baseline Assessment Project (2015), 'The ATT Baseline Assessment Project International Cooperation and Assistance: Capacity, Experience, and Practices', Stimson Center, August 2015, pp. 22–23, <http://armstrade.info/wp-content/uploads/2014/10/ATT-BAP-Cooperation-WEB2.pdf>

6 These states were Botswana, Burkina Faso, the Democratic Republic of the Congo, Liberia, Mali, South Africa and Swaziland.

7 See Mapping ATT-Relevant Cooperation and Assistance Project, 'Activity Database', <http://www.att-assistance.org>





Activities are categorized according to their type as well as according to their focus. The four types are sensitization and outreach, legal or legislative assistance, institutional capacity-building, and technical, material or financial assistance. Events categorized under sensitization and outreach are primarily focused on building awareness among governments, parliamentarians and NGOs, usually about a particular international or regional instrument such as the ATT. The other categories cover the three forms of cooperation and assistance identified in the text of the Treaty. No agreed definitions of these terms exist. However, based on existing practices, the following definitions were used:

- Legal or legislative assistance: reviewing and supporting the amendment or drafting of primary and/or secondary legislation and implementing regulations,
- Institutional capacity-building: efforts to improve internal and inter-agency procedures, and to strengthen administrative capacities and cooperation of the entities involved in the implementation of controls,
- Technical, material or financial assistance: providing (a) technical experts for training activities or longer-term secondments, (b) equipment and software for record-keeping, marking, and detection, and (c) institutional funding or direct budgetary support.<sup>8</sup>

At least 225 'ATT-relevant' and 'ATT-focused' cooperation and assistance activities were carried out in sub-Saharan Africa between 2011 and 2015. A significant number of these focused primarily on the broader range of issues relevant to preventing the illicit proliferation of SALW. At least 63 activities were carried out with a focus on inventory and stockpile management and 37 with a focus marking or tracing. The type of activities for the majority of these fell under institutional capacity-building or technical, material or financial assistance. This included the following examples.

- Between 2010 and 2012 the Institute for Security Studies (South Africa) and the Mines Advisory Group provided marking and tracing equipment to 10 countries and trained police personnel in their correct use.<sup>9</sup>
- In 2013 and 2014 the US Africa Command (AFRICOM) implemented training in the disposal of conventional weapons as well as conventional munitions stockpile assessments and training, and programme assessments in Mozambique.<sup>10</sup>

8 Bauer, S. (2015). "Article 16 International Assistance", in Da Silva, C. and Wood, B. (eds). (2015). "Weapons and International Law: The Arms Trade Treaty". Brussels: Larcier.

9 See Mines Advisory Group (MAG). "Firearms management and tracing in Southern Africa", <http://archive.maginternational.org/MAG/en/where-we-work/where-mag-works/southern-african-development-community-firearms-control/>

10 US Department of State (2015). "To Walk the Earth in Safety". <http://www.state.gov/documents/organization/248978.pdf>



- In 2014 Saferworld commissioned a study by Conflict Armament Research on the capacities of weaponry storage facilities in Mogadishu, Somalia, which highlighted several safety and security concerns.<sup>11</sup>
- In 2015 the Bonn International Center for Conversion held a two-day training course on physical security and stockpile management in Abuja, Nigeria.<sup>12</sup>

At least 41 activities were carried out with a focus on transfer controls. However, 31 of these were of the sensitization and outreach type, and mainly focused on increasing government and parliamentary understanding of the content and obligations of the ATT and pushing forward processes of signature and ratification. This included the following examples.

- In May 2013 Parliamentarians for Global Action organized a workshop for parliamentarians in Dar es Salaam, Tanzania, on ATT ratification.<sup>13</sup>
- During 2015 the Parliamentary Forum on Small Arms and Light Weapons held a series of meetings on ATT ratification and implementation for parliamentarians from Africa and Latin American and the Caribbean.<sup>14</sup>
- During 2015 Action on Armed Violence held workshops in Burundi, and the Democratic Republic of the Congo, bringing together parliamentarians, government ministers and representatives, members of civil society and the media to discuss the objectives of the ATT as well as its practical implementation.<sup>15</sup>

With regard to the type of activities focused on transfer controls, at least 21 were under institutional capacity-building, technical, material or financial assistance, or legal or legislative assistance. This included the following examples.



**AT LEAST 225 'ATT-RELEVANT' AND 'ATT-FOCUSED' COOPERATION AND ASSISTANCE ACTIVITIES WERE CARRIED OUT IN SUB-SAHARAN AFRICA BETWEEN 2011 AND 2015.**

- Between 2008 and 2011, UNREC carried out a project aimed at improving controls on arms brokering in East African countries. The final phase took place in 2011 when UNREC handed over a standardized electronic register of brokers to Tanzania and related hardware to Uganda.<sup>16</sup>
- In 2013–14 the UN Office for Drugs and Crime worked with several countries in West Africa – including Chad, Ghana, Mauritania and Niger – to help them align their arms transfer controls with the provisions of the UN Firearms Protocol.<sup>17</sup>
- In 2015, the US Department of State sponsored a two-day workshop in Kenya on developing comprehensive trade-management legislation for dual-use goods and conventional arms.<sup>18</sup>

The number of activities on transfer control has increased with the entry into force of the Treaty. Since 2014, several 'ATT-focused' activities have been carried out to improve capacity in this field, but also in other areas of central concern to the Treaty, such as import controls, transit and trans-shipment controls and brokering controls. This included the following examples.

11 Gramizzi, C. and Mariani, B. (2014). "Tackling illicit small arms and light weapons and ammunition in the Great Lakes and the Horn of Africa". Saferworld, p. 4. <http://www.saferworld.org.uk/resources/view-resource/838-tackling-illicit-small-arms-and-light-weapons-and-ammunition-in-the-great-lakes-and-the-horn-of-africa>

12 Bonn International Center for Conversion (2015). "PSSM Training in Nigeria". 13 August 2015. <https://www.bicc.de/press/press-releases/press/news/pssm-training-in-nigeria-455/>

13 Parliamentarians for Global Action (2013). "PGA Regional Parliamentary Workshop on the Arms Trade Treaty—the role of parliamentarians". <http://www.pgaction.org/activity/2013/pga-regional-parliamentary-workshop-on-the-att.html>

14 Parliamentary Forum on Small Arms and Light Weapons (2015). "Arms Trade Treaty meeting at National Assembly of Portugal". 17 June 2015. <http://parliamentaryforum.org/news/arms-trade-treaty-meeting-national-assembly-of-portugal>

15 Action on Armed Violence (2016). "AOAV works with civil society and the small arms commissions of Burundi and DRC to advocate for the Arms Trade Treaty (ATT)". 29 January 2016. <https://aoav.org.uk/2016/aoav-works-with-civil-society-and-the-small-arms-commissions-of-burundi-and-drc-to-advocate-for-the-arms-trade-treaty-att/>

16 UN Regional Centre for Peace and Disarmament in Africa (UNREC), (2011). "Project Report, Regulating Small Arms Brokering in Eastern Africa." August 2011. <http://unrec.org/docs/Small%20Arms%20Brokering%20in%20Eastern%20Africa.pdf>

17 UN Office for Drugs and Crime (UNODC), (2016). "UNODC strengthens Firearms Marking Capacity in West Africa". 4–8 January 2016. <https://www.unodc.org/unodc/en/firearms-protocol/news.html>

18 Embassy of the United States, Nairobi, Kenya, (2015). "Workshop on Developing Effective Strategic Trade Controls in Kenya". 27 August 2015. <http://nairobi.usembassy.gov/pro82815.html>

- Since 2014, the ISS has carried out a project on ATT and PoA Implementation and Compliance Support, which provides ATT-related technical and capacity-building assistance to Lesotho, Malawi, Swaziland and Tanzania.<sup>19</sup>
- In 2014–15 the ATT Network, led by the Geneva Centre for Security Policy, has carried out training courses in the implementation of the ATT, bringing together officials from different African States.<sup>20</sup>
- In 2015, Germany's Federal Office for Economic Affairs and Export Control (BAFA) has worked with Burkina Faso, Ghana, Senegal and Togo to strengthen their arms-transfer-control systems under the European Union (EU)-ATT Outreach Project.<sup>21</sup>

### KEY PROVIDERS OF COOPERATION AND ASSISTANCE IN AFRICA - 2011–15

Many countries, international and regional organizations, and NGOs have been involved in carrying out 'ATT-focused' and 'ATT-relevant' cooperation and assistance activities in sub-Saharan Africa in recent years. Particularly important are the different regional economic communities, which play a crucial role in assisting countries with the implementation of the different sub-regional instruments on SALW controls.<sup>22</sup> For example, the ECOWAS Commission plays an active role in assisting member states with the implementation of the ECOWAS Convention. The Secretariat of the Economic Community of Central African States plays a similar role with regards to the Kinshasa Convention. Both organizations help to coordinate implementation efforts as well as having a mandate to mobilize donor funding and implement cooperation and assistance activities.

The EU has funded a wide range of activities focused on SALW diversion in sub-Saharan Africa since the 2000s. This has included supporting several projects focused on inventory and stockpile management, marking and tracing, such as the EU-funded work by the Regional Centre on Small Arms on SALW controls in the Great Lakes region.<sup>23</sup> The EU has also supported several programmes aimed at improving arms and dual-use transfer controls. Until recently these mainly focused on assisting countries in the EU neighbourhood. In December 2013 the EU launched the EU-ATT Outreach Project.<sup>24</sup> Co-financed by Germany and implemented by its BAFA, this assists non-EU countries in strengthening their arms-transfer-control systems in line with the Treaty. In May 2015, Senegal hosted the first EU-ATT Project event in sub-Saharan Africa, a regional outreach seminar, and since then eight activities involving countries in sub-Saharan Africa have been carried out.<sup>25</sup>

Under US law, the US government may not 'expend or obligate funds for the purposes of implementing the ATT'.<sup>26</sup> However, these decisions do not 'preclude the Department of Defense from assisting foreign countries in bringing their laws, regulations, and practices related to export control up to United States standards'.<sup>27</sup> Since 1993, the US State Department has spent over US\$364 million on inventory and stockpile management, and destruction activities in Africa.<sup>28</sup> The US government conducts a wide range of cooperation and activities on transfer controls too, mostly under the auspices of the State Department's Export Control and Related Border Security (EXBS) Programme. The EXBS Programme aims to help countries 'ensure that their trade control systems meet international standards', and is active in over 60 countries and has an annual budget of around US\$55 million.<sup>29</sup> However, the only countries in sub-Saharan Africa that have taken part in EXBS Programme activities to date are Kenya, South Africa and Tanzania.<sup>30</sup>

19 UN Office for Disarmament Affairs (UNODA), (2013). "ATT and UNPOA implementation and compliance support". <https://www.un.org/disarmament/unscar/2013-iss/>

20 Geneva Centre for Security Policy, (2015). "Third Training Course on the Arms Trade Treaty Concludes at GCSP". 17 April 2015. <http://www.gcsp.ch/News-Knowledge/News/Third-Training-Course-on-the-Arms-Trade-Treaty-Concludes-at-GCSP>

21 See various editions of Federal Office for Economic Affairs and Export Control, Germany (2015). "Newsletter 2015". [http://www.bafa.de/bafa/en/export\\_control/eu-outreach/eu\\_outreach/att\\_op/index.html](http://www.bafa.de/bafa/en/export_control/eu-outreach/eu_outreach/att_op/index.html)

22 Arabia, C. and Bromley, M. (2016). "ATT-related outreach assistance in sub-Saharan Africa: identifying gaps and improving coordination". Swedish International Peace Research Institute (SIPRI), February 2016. [http://books.sipri.org/product\\_info?c\\_product\\_id=507](http://books.sipri.org/product_info?c_product_id=507)

23 European Union (EU), (2013a). "Fourteenth progress report on the implementation of the EU Strategy to combat illicit accumulation and trafficking of SALW and their ammunition (2012/II)". Official Journal of the European Union, C138, 17 May 2013, pp. 9–11.

24 EU (2013b), "Council Decision 2013/768/CFSP of 16 December 2013 on EU activities in support of the implementation of the Arms Trade Treaty, in the framework of the European Security Strategy", Official Journal of the European Union, L341, 18 December 2013, pp. 56–67.

25 Federal Office for Economic Affairs and Export Control, Germany (2015). "Newsletter 2015". [http://www.bafa.de/bafa/en/export\\_control/eu-outreach/eu\\_outreach/att\\_op/index.html](http://www.bafa.de/bafa/en/export_control/eu-outreach/eu_outreach/att_op/index.html)

26 US Congress (2016). "Senate Amendment 4098 to Bill S.2943 – National Defence Authorization Act for Fiscal Year 2017". <https://www.congress.gov/amendment/114th-congress/senate-amendment/4098/text>

27 These laws do not prevent the United States from attending or paying an attendance fees to attend the ATT Conference of States Parties meetings, subsidiary meetings, or extraordinary meetings. Ibid.

28 US Department of State (2015). "To Walk the Earth in Safety". <http://www.state.gov/documents/organization/248978.pdf>

29 US Department of State (undated). "The Export Control and Related Border Security (EXBS) Program". [www.state.gov/documents/organization/126248.pdf](http://www.state.gov/documents/organization/126248.pdf)

30 Ibid., p. 4.

Several NGOs also have been or are engaged in carrying out 'ATT-relevant' and 'ATT-focused' cooperation and assistance activities in sub-Saharan Africa. These include members of the Control Arms Coalition, including Parliamentarians for Global Action, Oxfam and Saferworld, the Parliamentary Forum on Small Arms and Light Weapons, and the Small Arms Survey. Many of these have been funded by the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR), which was established to support ATT ratification as well as ATT and PoA implementation. UNSCAR is hosted by the UN Office for Disarmament Affairs and has had three rounds of funding to date, which has supported 36 projects. To date, UNSCAR has received funding from Australia, Denmark, Finland, Germany, Ireland, the Netherlands, Spain, Switzerland, Sweden and the United Kingdom.<sup>31</sup>

### DIFFERENCES AMONG SUB-REGIONS

There are significant sub-regional differences in terms of the number, type and focus of 'ATT-relevant' and 'ATT-focused' cooperation and assistance activities carried out between 2011 and 2015. At least 100 ATT-relevant activities were carried out involving West African countries; at least 80 involving East African ones, at least 70 involving Central African ones, and at least 30 involving Southern Africa ones.<sup>32</sup>

Most of the transfer-control activities carried out in sub-Saharan Africa have been in West Africa. Indeed, West Africa appears to be the sub-region with greater willingness to engage on these issues. The EU has also prioritized assistance to West Africa – all of the countries in sub-Saharan Africa that have received initial country visits and sensitization seminars under the EU-ATT Project have been from West Africa.

As discussed in Chapter 1.2, in many countries in sub-Saharan Africa, arms-transfer controls – where they exist – are often shrouded in government secrecy and subject to national-security sensitivities, and the authorities may be unwilling to open them up to scrutiny.<sup>33</sup> However, in West Africa, there has been a long-standing engagement with and implementation of the ECOWAS Convention, which has more developed provisions on arms-transfer controls than other sub-regional SALW control instruments (see above).



31 UN Office for Disarmament Affairs (UNODA) (undated). "UNSCAR: UN Trust Facility Supporting Cooperation on Arms Regulation". <http://www.un.org/disarmament/UNSCAR/>

32 Arabia, C. and Bromley, M. (2016). "ATT-related outreach assistance in sub-Saharan Africa: identifying gaps and improving coordination". Swedish International Peace Research Institute (SIPRI), February 2016. [http://books.sipri.org/product\\_info?c\\_product\\_id=507](http://books.sipri.org/product_info?c_product_id=507)

33 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>

## WAYS FORWARD

Overall, the survey carried out by SIPRI and UNREC in 2015 indicates that the majority of 'ATT-focused' and 'ATT-relevant' cooperation and assistance activities in sub-Saharan Africa between 2011 and 2015 dealt with the broader issues of SALW controls rather than the issues of arms-transfer controls that are the key focus of the Treaty. While other factors are clearly at play, patterns in the focus of cooperation and assistance activities to date reflect the sense that arms-transfer controls are not necessarily the main priority for many countries in sub-Saharan Africa. Inventory and stockpile management, marking and tracing – as well as effective controls on civilian ownership – are seen by many of them as more effective mechanisms of preventing the illicit spread of SALW.

Nonetheless, there are clear signs that the process of ratifying or acceding to the ATT is generating greater willingness among countries to engage in activities that focus on transfer controls. This is particularly the case in West Africa, where a number of countries are actively engaging with the EU-ATT Outreach Project and are taking part in discussions about how to improve their arms-transfer controls in order to meet the requirements of the Treaty.<sup>34</sup> The best means of building support for the ATT process potentially lies in emphasizing the aspects of the Treaty that are most squarely focused on the key priorities of the region and building links between the Treaty and other existing mechanisms in the field of SALW controls, such as the PoA and the various sub-regional SALW-control instruments. This approach is already gaining traction in the region, with several activities aimed at highlighting the synergies between the ATT, the PoA and other SALW-control instruments as well as at developing focused national implementation strategies.<sup>35</sup>

If these various efforts are to prove successful, they will need to apply established good practices in cooperation and assistance. These place a strong emphasis on the need for local ownership; common objectives, goals and understandings; and joint assessments and planning. They also underline the need to avoid one-size-fits all solutions, particularly when it comes to the development of effective arms-transfer-control systems. At the end of the day, every

country has to find its own approach in this area, depending on its size, geography, industrial structure, trading patterns, legal system, institutional set-up, security perceptions and policy priorities.<sup>36</sup> This is particularly true in sub-Saharan Africa where the specific needs of countries vary significantly. For example, South Africa already has a well-developed arms-transfer-control system in place, while others have very limited legal systems and capacities.

Experience also shows that national ownership and high-level political commitment within countries is essential for success, as well as ensuring that they are able to effectively absorb any training or equipment provided.<sup>37</sup> The value of South-South cooperation has also been repeatedly underlined. In recent years, this approach has been adopted within sub-Saharan Africa. For example, Côte d'Ivoire has helped to provide training for activities focused on inventory and stockpile management in Mali and Nigeria, while Ghana has provided training to Liberia's immigration and border officers on the detection and seizure of SALW.<sup>38</sup> Nonetheless, this is clearly an aspect of cooperation and assistance that could be developed further within sub-Saharan Africa.

Finally, it is crucial to effectively coordinate and sequence cooperation and assistance activities, particularly when engaging with smaller countries or those with limited resources. Without this coordination there is a risk that countries will receive large number of competing offers for help, and that officials will be asked to spend all of their time attending seminars and workshops, which deprive them of time to implement their national control systems. While responsibility for avoiding these difficulties lies primarily with governments receiving assistance, it is also often the case that the different parts of a government may not be aware of the different strands of assistance that are being provided. As such, it is crucial that providers of cooperation and assistance effectively coordinate their efforts in order to target their resources effectively.

In this sense, the volume and range of ATT-relevant and ATT-focused cooperation and assistance activities poses both an opportunity and a challenge. There is a clear opportunity since there already exists a solid foundation to build on and experience to draw from. However, there is also a risk

34 Bauer, S. (2015). "Article 16 International Assistance," eds. C. da Silva, T. Haack and B. Wood, "Weapons and International Law: The Arms Trade Treaty". *Larcier Law Annotated*.

35 Paul, C. et al. (2013). "What Works Best When Building Partner Capacity and Under What Circumstances?". Santa Monica: RAND Corporation, p. 4. [http://www.rand.org/content/dam/rand/pubs/research\\_reports/RR900/RR937/RAND\\_RR937.pdf](http://www.rand.org/content/dam/rand/pubs/research_reports/RR900/RR937/RAND_RR937.pdf)

36 Bromley, M. and Holtom, P. (2014). "Arms Trade Treaty Assistance: Identifying a Role for the European Union". EU Non-Proliferation Consortium, February 2014. [https://www.sipri.org/sites/default/files/EUNPC\\_DP1402.pdf](https://www.sipri.org/sites/default/files/EUNPC_DP1402.pdf)

37 Arms Trade Treaty, Article 18.3(c) (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 18(c). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

38 Bromley, M. and Holtom, P. (2014). "Arms Trade Treaty Assistance: Identifying a Role for the European Union". EU Non-Proliferation Consortium, February 2014. [https://www.sipri.org/sites/default/files/EUNPC\\_DP1402.pdf](https://www.sipri.org/sites/default/files/EUNPC_DP1402.pdf)



of duplication, particularly if there is limited awareness of what has been done or is being done. The ATT Secretariat is charged with facilitating 'the matching of offers of and requests for assistance for Treaty implementation' and – as such – will play a crucial role in ensuring that available resources are channelled effectively.<sup>39</sup> However, the challenges involved in performing such a coordinating task effectively are significant. Transfer controls touch on, and overlap with, many different areas of government activity, making it hard to create a single location for channelling all relevant cooperation and assistance activities. Moreover, many donor countries have traditionally been unwilling to abandon their own bilateral mechanisms for channelling assistance.

In order to operate effectively in sub-Saharan Africa, it will therefore be essential that the ATT Secretariat establishes quickly working relationships with the different countries, NGOs, and international and regional organizations that are already carrying out ATT-relevant and ATT-focused cooperation and assistance activities. Within sub-Saharan Africa, it will be particularly important that the ATT Secretariat works with regional economic communities that are already active in this area to assist countries within each sub-region in developing new arms regulations that are in line with the ATT, the PoA and regional agreements on SALW controls. They will not only build the capacity of the regional economic communities but also ensure the sustainability of any cooperation and assistance activities.

It is also crucial the ATT Secretariat's efforts to match offers and requests for assistance are coordinated effectively with other existing efforts in this area, such as those carried out by the PoA Implementation Support System and the 1540 Committee.<sup>40</sup> Adding a new mechanism for coordinating offers and requests for assistance without connecting with existing systems risks creating confusion and wasting limited resources. The range of activities carried out in sub-Saharan Africa represents a solid basis to build upon as new ATT-focused cooperation and assistance activities are planned and implemented. However, ensuring that this opportunity is seized effectively will require careful planning and strategic thinking as well as a full understanding of the range of activities already carried out to date.



**U.S. ARMY AFRICA SOLDIERS  
MENTOR OFFICERS FROM  
THE ETHIOPIA NATIONAL  
DEFENCE FORCE.**

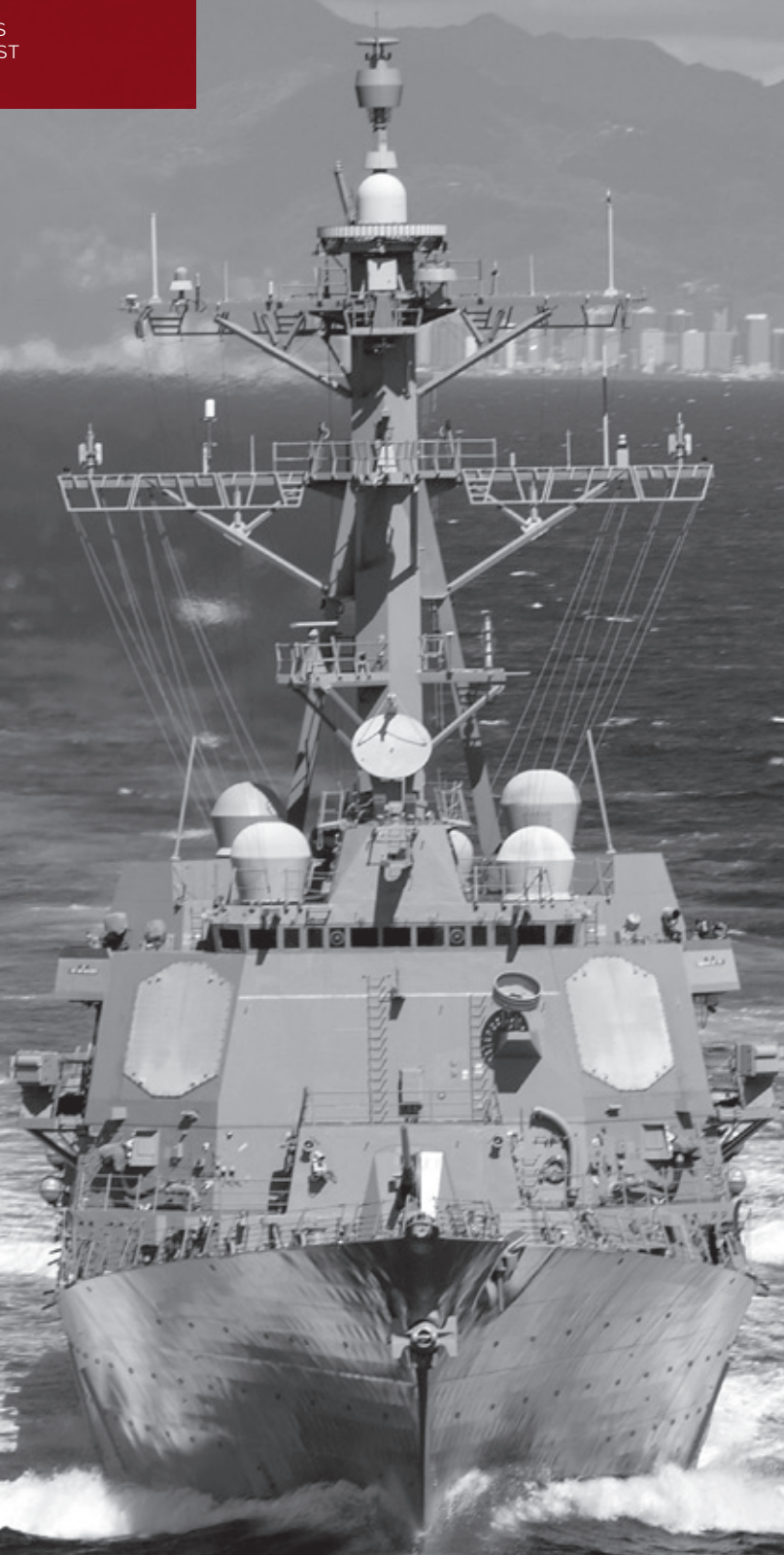
CREDIT: © U.S. ARMY /  
RICK SCAVETTA

39 Arms Trade Treaty, Article 18.3(c) (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 18(c). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

40 Resolution 1540 (2004) 'obliges States, inter alia, to refrain from supporting by any means non-State actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems. It] imposes binding obligations on all States to adopt legislation to prevent the proliferation of nuclear, chemical and biological weapons, and their means of delivery, and establish appropriate domestic controls over related materials to prevent their illicit trafficking' UN Security Council, 1540 Committee, <http://www.un.org/en/sc/1540/>

**THE GUIDED-MISSILE  
DESTROYER USS CHUNG-HOON  
(DDG 93) MANOEUVRES OFF  
THE COAST OF OAHU, HAWAII.**

CREDIT: © U.S. NAVY / MASS  
COMMUNICATION SPECIALIST  
2ND CLASS LAURIE DEXTER





## CHAPTER 2.1: RISK AND ARMS-TRANSFER CONTROL

This chapter examines how risk is formulated in the Arms Trade Treaty (ATT) and how governments – whether of States Parties to the Treaty or of countries not party to it – conceptualize and operationalize risk in their export assessments. It then discusses the drivers to arms-export policy among major exporters: the interests that countries have in exports as well as their concern for regulatory restraint. Finally, it considers the implications of the terminology of ‘overriding risk’ in Article 7 for effective risk-assessment implementation. The focus in this section is primarily on the world’s largest exporters: the US, Russia, European Union (EU) member states and China. This is because Article 7 refers to exports and therefore the practices of the major exporters are worth scrutinizing; and also because all EU members are States Parties, while the United States is a Signatory but not a State Party, and Russia and China are not Signatories. The differences in practice between them suggest opportunities and challenges for universalization of the Treaty.

### RISK IN THE ATT

The core rules of the ATT are set out in the prohibitions of Article 6, and the national export risk assessment laid out Article 7.<sup>1</sup> This national risk-assessment process is central to the implementation of the Treaty. Article 6 prohibits States Parties from transferring weapons if this would violate their international obligations, such as those around UN Security Council arms embargoes, illicit trafficking in arms, genocide, crimes against humanity or war crimes. States Parties are thus bound to refer to their obligations under UN Security Council measures, international agreements to which they are a party (such as the Convention on Cluster Munitions and the Convention against Transnational Organized Crime), and the Geneva Conventions when considering arms transfers.<sup>2</sup>

If an export is not prohibited under Article 6, States Parties must apply Article 7 and use their national control system to assess the potential that the proposed export would contribute to or undermine peace and security. They must also assess the potential that it could be used to commit or facilitate a serious violation of international humanitarian law (IHL) or human rights law (IHRL), or certain terrorism or transnational organized-crime offences. As part of the assessment process, they must consider measures to mitigate these risks. If, having conducted the assessment, the exporter determines that there is an

overriding risk of any of these negative consequences, then it must not authorize the export. In addition, under Article 7, States Parties must take into account the risk of the weaponry being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children. Further, under Article 11, States Parties must assess the risk of diversion of weapons for unauthorized end use or to unauthorized end users, and take measures to prevent it. Chapter 2.2 discusses the operationalization of Article 7 in more detail.

### RISK AND EXPORT ASSESSMENTS

The way that risk is formulated in the ATT is that States Parties must assess the potential for the misuse of a proposed export and consider potential measures to mitigate the risks of misuse. State Parties should deny authorization for the export if the risk of negative consequences is overriding. While the Treaty instructs States Parties that they must follow these rules, it does not stipulate how they are to do this. States Parties are to use their national control system to make these assessments and decisions. And while the Treaty instructs them to do so in an ‘objective and non-discriminatory manner,’ any risk assessment necessarily requires judgments to be made.<sup>3</sup>

When assessing risk under Article 7, the bar for negative consequences is lower than for positive consequences. That is, while the positive case for a transfer under Article 7a must demonstrate that it ‘would’ contribute to peace and security, the risk under Article 7b that it ‘could’ be used to commit or facilitate a serious human-rights violation or other negative effects triggers a denial. This formulation infers that there can be positive consequences of arms transfers, while requiring States Parties to thoroughly assess the risk of negative consequences. The ATT emphasises the negative consequences of a potential arms transfer so that Article 7 cannot be turned into a balancing act between export promotion and export denial. In addition, the ‘commit or facilitate’ language requires States Parties to assess the wider role of weapons in creating the conditions for violations, as well as its direct use.

The risk-assessment process is forward-looking in that States Parties are required to assess the potential ways that equipment would or could be used for negative consequences. This is designed to mitigate the pro-transfer drivers of short-term demands in foreign and domestic policy,

1 Arms Trade Treaty, Articles 6 & 7 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 6&7. <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

2 For more information see Control Arms (2015). “ATT Monitor 2015”, 25 August 2015, Chapter 1.1 pp. 26-43. <http://armstreatymonitor.org/current/wp-content/uploads/2015/08/Full-Annual-Report.pdf>

3 Arms Trade Treaty, Principles (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

as well as longer-term interests in sustaining friendly regimes despite human-rights violations. Patterns of past use are often a good indicator of recipients' likely future use. And as military equipment is durable and often outlasts political regimes and geopolitical coalitions it can be used in unintended or unforeseen ways over the long term through shifts in political coalitions or strategic orientation.

The events of the Arab Spring in 2011 and since are a good example of the challenges of looking forward and backward in arms-transfer policy. The extensive use of foreign-supplied weapons to repress popular demonstrations across the Middle East and North Africa appeared to take policymakers of

many major suppliers by surprise, and generated controversy about their export regimes. Yet decades of military and police support for authoritarian regimes had created the conditions for violent responses to the protests. The risk of misuse had long been present, but it was ignored because authoritarianism was interpreted by exporting countries in terms of 'stability' and the need to protect the long-term future of friendly regimes. The response to the Arab Spring is also a good example of how export licensing is not an objective undertaking: it can be rigorous and systematic, but is inevitably political as it is bound up with the contestation over political power seen in the violent state responses to demonstrations and popular protest.



**A YOUNG SOMALI GIRL RUNS IN FRONT OF AN AFRICAN UNION MISSION IN SOMALI (AMISOM) ARMoured PERSONNEL CARRIER, MOGADISHU, SOMALIA.**

CREDIT: © UN PHOTO / STUART PRICE



## IMPLEMENTING RISK-BASED ASSESSMENTS: CURRENT PRACTICE

The following section highlights the national control systems of major exporting States in order to compare how they understand and integrate the language of risk.

### THE EU

How do governments currently conceptualize and operationalize risk in their export assessments? Of the national and regional export-control regimes in operation around the world, the EU Common Position on arms exports has one of the clearest articulations of risk.<sup>4</sup> The term 'risk' is explicitly articulated in relation to internal repression and international humanitarian law (Criterion 2); regional peace, security and stability (Criterion 4); national security (Criterion 5); and diversion (Criterion 7). Under Criterion 2, for example, EU member states 'shall deny a licence if there is a clear risk' that the proposed transfer 'might be used for internal repression' or 'might be used in the commission of serious violations of international humanitarian law'.<sup>5</sup> This requires interpretation and judgment as to what constitutes a 'clear' risk, and whether the transfer 'might' be used in a particular way. These common European rules are incorporated into national laws and practices by member states. Governments can be more restrictive if they wish, but there is a common bottom line. The ATT works on the same basis. In addition, there are harmonization or convergence mechanisms to encourage common European practice, such as the denial notification mechanism and the EU Common Position Users' Guide.

However, implementation by EU member states often fails to meet the standards set out in the Common Position, and it also shows wide variation between them in specific cases. In the case of Saudi Arabia in light of the war in Yemen, for example,

the UK and France have increased their arms transfers since the start of the conflict in 2015, cementing their position as major European suppliers to Saudi Arabia.<sup>6</sup> The UK's position has prompted a legal challenge from domestic activists who claim the government is contravening its legal commitments.<sup>7</sup> Elsewhere in the EU, however, more restrictive practices are in play. The Netherlands has instituted a presumption of denial against transfers to Saudi Arabia,<sup>8</sup> making it the member state closest to implementing the European Parliament resolution of February 2016 that called for an embargo on arms transfers to Saudi Arabia.<sup>9</sup> Sweden, meanwhile, did not issue any export licences for transfers to Saudi Arabia in 2015 after the start of the conflict, and in Flanders (one of the three regions in Belgium) there is a consensus – although no explicit policy position – that no exports will be authorized.<sup>10</sup> There is thus currently little evidence of EU member states coalescing around a common understanding or practical application of risk.

### THE US

Among other major exporters, the US has a national control system that lists human rights, international humanitarian law and other ATT criteria as factors to be assessed in the licensing process, but there is no use of the term 'risk'. Rather, the 'likelihood' of human-rights abuses or serious violations of international humanitarian law will be taken 'into account' in arms-transfer decisions.<sup>11</sup> And in cases where a proposed transfer 'raises concerns about undermining international peace and security, serious violations of human rights law, including serious acts of gender-based violence and serious acts of violence against women and children, serious violations of international humanitarian law, terrorism, transnational organized crime, or indiscriminate use,' the US 'will exercise unilateral restraint' on a 'case-by-case basis'.<sup>12</sup>

4 Council of the European Union (2008). "Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment". <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008E0944&from=EN>

5 Ibid.

6 See for more information, Control Arms (2016). "Dealing in double standards: How arms sales to Saudi Arabia are causing human suffering in Yemen". ATT Monitor, Case Study 2, 26 February 2016. <http://armstreatymonitor.org/current/dealing-in-double-standards-how-arms-sales-to-saudi-arabia-are-causing-human-suffering-in-yemen/>

7 UK High Court of Justice (2016). "The Queen on the application of Campaign Against Arms Trade and the Secretary of State for Business, Innovation and Skills. Statement of Facts and Detailed Statement of Grounds; 9 March 2016". <https://www.caat.org.uk/resources/countries/saudi-arabia/legal-2016/2016-03-09.caat-v-bis-claim.pdf>

8 Netherlands Ministry of Foreign Affairs (2016). "Status toezeggingen t.b.v. algemeen overleg Wapenexportbeleid". January 2016. <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2016/01/13/kamerbrief-status-toezeggingen-algemeen-overleg-wapenexportbeleid/kamerbrief-status-toezeggingen-algemeen-overleg-wapenexportbeleid.pdf>

9 European Parliament (2016). "European Parliament resolution of 25 February 2016 on the humanitarian situation in Yemen (2016/2515(RSP))". <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0066+0+DOC+XML+V0//EN>.

10 Tricot O'Farrell, K. (2016). "The European Parliament called for an EU arms embargo against Saudi Arabia. Now what?". Saferworld, 30 March 2016. <http://www.saferworld.org.uk/news-and-views/comment/207-the-european-parliament-called-for-an-eu-arms-embargo-against-saudi-arabia-now-what>

11 The White House (2014). "Presidential Policy Directive 27 – United States Conventional Arms Transfer Policy". 15 January 2014. <https://www.whitehouse.gov/the-press-office/2014/01/15/presidential-policy-directive-united-states-conventional-arms-transfer-p>

12 Ibid.

US policy was updated in 2014 and now resonates with the text of the ATT. There are now provisions around international humanitarian law, gender-based violence and transnational organized crime, and specific mention of human-rights law, rather than just a recipient's human-rights record. While the presentation of US policy is now closer in spirit to the Treaty, the mode of export licensing is not based on risk and risk assessment. There is no explicit requirement to deny arms transfers on the basis of the risk that they might be used for negative purposes included under Article 7 of the Treaty. Rather, 'all transfer decisions will be guided by a set of criteria,' and the strategic and economic impacts of arms transfer decisions are also included as criteria.<sup>13</sup> Risk is only articulated in relation to the potential adverse effects on US operational capabilities, significant changes in the recipient country that could lead to inappropriate end-use or transfer, and adverse economic, political, or social impacts within the recipient country.<sup>14</sup> Overall, then, the ATT framework based on risk assessment is potentially more rigorous than that of the US, which self-identifies as the gold standard.<sup>15</sup> However, the issue, as seen with the uneven implementation among EU member states, is the drivers behind arms-transfer policy, and the balance between export and restraint concerns. These are discussed later in this chapter.

## RUSSIA AND CHINA

All EU members are States Parties to the ATT, while the US is a Signatory, binding it to act in a manner that does not undermine the Object or Purpose of the Treaty. Of the world's largest other arms exporters, Russia and China are not Signatories. They have national arms-export control systems, but these vary from the Treaty in two main ways: there are no human rights or international humanitarian law provisions in the substance of their regulatory regimes, and they do not use the language of risk in their licensing processes. Chinese regulation rests on three key principles: self-defence; peace,

security and stability; and non-interference.<sup>16</sup> Some of the Treaty's provisions around international obligations and re-transfer are included, but provisions around human rights and international humanitarian law are not. The Chinese ban on transfers to non-state actors is more restrictive than the ATT and also compatible with it. China's policy does not use the language of risk: its commitments are negatively and absolutely framed. For example, 'there should be no injury to the peace, security and stability of the region concerned and the whole as a whole.'<sup>17</sup> Yet Chinese controls 'do not specify criteria for a risk assessment process to determine whether an arms transfer should proceed.'<sup>18</sup>

Russian policy, meanwhile, is based on the objectives of facilitating 'to the fullest possible extent the promotion of Russian defence products on the foreign market,' the prevention of 'any damage to the Russian defence capability,' and ensuring compliance with Russia's international commitments.<sup>19</sup> Beyond compliance with international commitments, there is little in the Russian system that references a common international good of peace, security and stability, on which the ATT is predicated. According to one analysis, the Russian system is 'a rigid top-down system, closely controlled by the ruling regime,' and 'Rosoboronexport [the sole state intermediary for arms transfers] has the absolute monopoly on exports of all finished weapons systems which fall under the scope of the [then] proposed Arms Trade Treaty (ATT).'<sup>20</sup> For Russia and China, the key problem of the arms trade is the leakage of weapons away from state control into the hands of non-state actors. While Article 7 of the Treaty is ultimately about exporters' responsibilities (albeit with room for the importer to provide information and discussion of mitigating measures), requiring them to assess the risk of misuse by recipients, the Russian argument is that an effective treaty would require 'improved controls over arms circulation' by importers.<sup>21</sup> Russia and China resist the shift of responsibility on to the exporter, for reasons of sovereignty as well as of self-interest.

13 Ibid.

14 Ibid.

15 US Department of State (2013). "United States signs Arms Trade Treaty on September 25, 2013". 25 September 2013. <http://www.state.gov/t/isn/armstradetreaty/>

16 See Article 5 of Chinese Ministry of Commerce (1998). "Regulations of the People's Republic of China on the Administration of Arms Exports". 1 January 1998. <http://english.mofcom.gov.cn/article/lawsdata/chineselaw/200211/20021100053899.shtml>

17 Ibid.

18 China Arms Control and Disarmament Association and Saferworld (2012). "The Evolution of EU and Chinese Arms Export Controls". March 2012, p. 39. <http://www.saferworld.org.uk/resources/view-resource/687-the-evolution-of-eu-and-chinese-arms-export-controls>

19 Denisentsev, S. and Makienko, K. (undated). "The Arms Trade Treaty and Russian Arms Exports: Expectations and Possible Consequences". Geneva: UN Institute for Disarmament Research, p.3. <http://www.unidir.org/files/medias/pdfs/background-paper-the-arms-trade-treat-and-russian-arms-exports-expectations-and-possible-consequences-sergey-denisentsev-and-konstantin-makienko-eng-0-257.pdf>

20 Ibid.

21 Ibid., p. 22.

As is evident from this brief survey, current practices of export assessment among major exporters are varied. Of the core ATT criteria, compliance with international obligations are included in the regimes of all major exporters, while human rights and international humanitarian law are included in the regimes of Western states but not of Russia and China. Risk is only articulated as an explicit feature of export assessment in the case of EU member states, although national interpretation of it varies considerably. The ongoing transfer of weapons by major Western and non-Western suppliers to regimes that violate human rights and international humanitarian law raises questions about the drivers of arms-transfer policy and its relation to arms export promotion. The ATT is therefore necessary to harmonize State Parties' export control systems, and is intended to ensure that they address risk in a more systematic and objective way.

### DRIVERS OF ARMS-TRANSFER POLICY

The Preamble to the ATT notes the 'legitimate political, security, economic and commercial interests of States in the international trade in conventional arms'.<sup>22</sup> The effectiveness of regulatory measures therefore needs to be understood in the broader context of the drivers of arms-transfer policy: regulation sits alongside the promotion of arms transfers as a state goal. There remains a concern that some States Parties see arms-transfer regulation only as a means to facilitate legal and legitimate trade. However, the Object and Purpose of the Treaty instructs States Parties to establish the highest possible common international standards and eradicate the illicit trade in conventional arms in order to reduce human suffering.

Government support for military industry takes different forms and the balance between export promotion and control varies. In Western, liberal capitalist countries such as the US and EU member states, companies are largely formally private but have extensive links to the state and benefit from state subsidies on military research and development, production and export, as well as extensive state support for the promotion of exports. In the US, the Foreign Military Sales programme is 'a fundamental tool of U.S. foreign policy',

and operates on the basis of government-to-government agreements, which companies then fulfil.<sup>23</sup> It is complemented by the Direct Commercial Sales system, in which companies can sell weapons abroad without direct government involvement, but subject to government regulation and oversight.<sup>24</sup> In the UK, the overall system of arms exports is not run on a government-to-government basis, but arms sales with Saudi Arabia, which have constituted almost half of exports in recent years,<sup>25</sup> operate under the Saudi British Defence Cooperation Programme and SALAM Project (which replaced the previous Al Yamamah agreements in operation between 1985 and 2006<sup>26</sup>). These are government-to-government contracts in which BAE Systems is the prime contractor on behalf of the Ministry of Defence.<sup>27</sup>

The balance between export promotion and regulation is different between the US and EU member states: the EU Common Position is a stand-alone control instrument that sets out the restrictions on arms exports, while the US Presidential Policy Directive 27 includes export promotion and restriction criteria. In the US as of 2014, transfer decisions are 'guided by a set of criteria' to maintain the 'balance' between legitimate transfers and the need for restraint, and human rights are listed 10th out of 10 policy goals.<sup>28</sup> Under the EU Common Position, in contrast, member states are free to assess the effect of proposed transfers on 'their defence and security interests' as well as those of friends and allies, but this 'cannot affect consideration of the criteria on respect for human rights and on regional peace, security and stability'.<sup>29</sup> As discussed above, there is considerable variation between member states' interpretation of the EU Common Position, but the distinction with the US system is noteworthy.

In non-Western countries such as Russia and China, military industry remains largely owned and controlled by the state. In Russia, the post-Communist transition and privatization process gave increasing amounts of power to individual companies, many of which were allowed to sell directly to foreign customers without the involvement of state intermediaries. Control over arms transfers has been re-centralized, though, and since 2000 Rosoboronexport has

22 Arms Trade Treaty, Preamble (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

23 See US Defense Security Cooperation Agency, "Foreign Military Sales". <http://www.dsca.mil/programs/foreign-military-sales-fms>

24 See US Department of State, "Third Party Transfers and Foreign Military Sales Teams and Functions". <http://www.state.gov/t/pm/rsat/c14021.htm>

25 Fleurant, A., Perlo-Freeman, S., Wezeman, P., and Wezeman, S. (2016). "Trends in International Arms Transfers, 2015". Stockholm International Peace and Research Institute (SIPRI), February 2016, pg.2. <https://www.sipri.org/sites/default/files/SIPRIFS1602.pdf>

26 Ibid.

27 UK House of Commons Foreign Affairs Committee (2013). "Bilateral relations with Saudi Arabia". <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmaff/88/8807.htm>; BAE Systems (undated). "Our Partners – MODSAP". <http://www.baesystems.com/en/our-company/our-businesses/bae-systems-saudi-arabia/our-partners/modsap>

28 The White House (2014). "Presidential Policy Directive 27 – United States Conventional Arms Transfer Policy". 15 January 2014.

<https://www.whitehouse.gov/the-press-office/2014/01/15/presidential-policy-directive-united-states-conventional-arms-transfer-p>

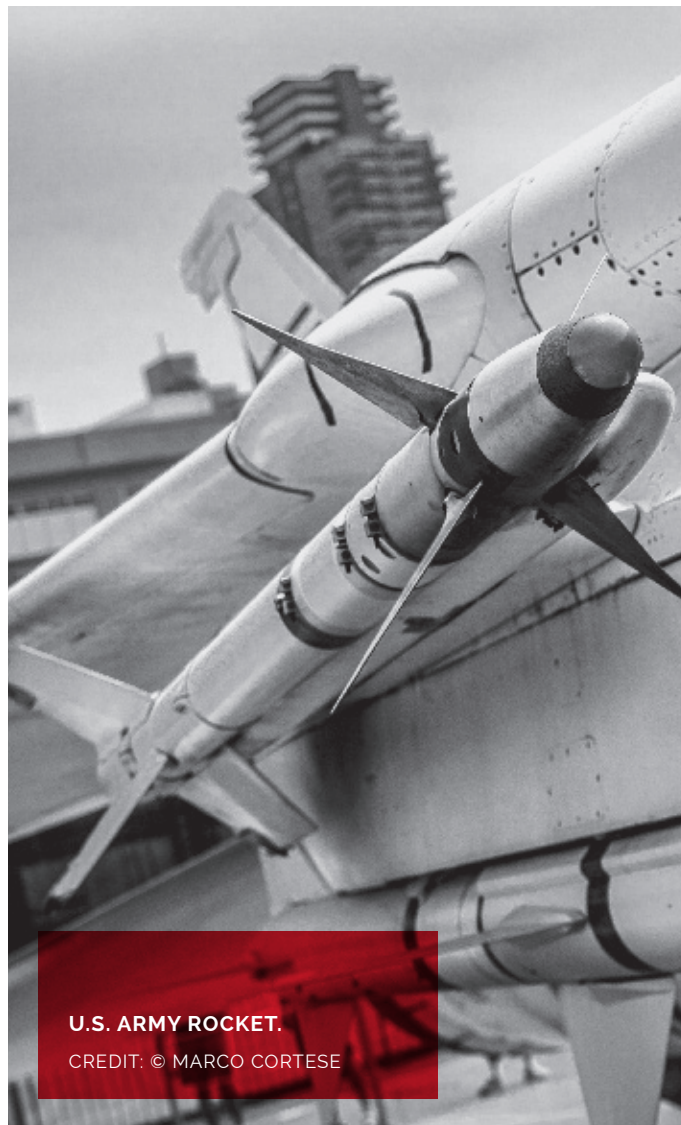
29 Council of the European Union (2008). "Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment". <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008E0944&from=EN>

been the sole state intermediary authorized to handle arms imports and exports.<sup>30</sup> In China, 11 companies are authorized to export weapons, and exports are assessed and authorized by the State Administration of Science, Technology and Industry of National Defence in the case of exports from companies, while the General Armament Department authorizes exports of equipment still in service with the People's Liberation Army.<sup>31</sup> Overall, there is a greater degree of political direction of arms transfers by the state there than in Western states, and a lower level of publicly stated emphasis on the restriction of transfers.

### IMPLICATIONS OF 'OVERRIDING RISK' IN THE ATT

The common international regulatory standard set by the ATT is based on 'overriding risk'.<sup>32</sup> This is not an established concept in international law. The Oxford English Dictionary defines 'overriding' as 'more important than any other considerations'.<sup>33</sup> The reasoning behind the term 'overriding' is that 'sometimes the expected positive effects of arms transfers, coupled with the effect of any relevant and available risk mitigation measures, may outweigh their possible misuses'.<sup>34</sup> However, this lends itself to a consequentialist reading (that the ends justifies the means), which undermines the human-rights emphasis of Article 7.<sup>35</sup> It also potentially introduces a balancing act into the assessment of Article 7.

One way of establishing common understandings of the interpretation of overriding risk is through the interpretive declarations made by States Parties upon ratification. To date, only a few States Parties have made such statements. New Zealand has stated that it will interpret it to mean 'substantial risk', and Liechtenstein and Switzerland have both said that the term means 'more likely to materialise than not', even when the effects of mitigating measures are considered.<sup>36</sup> The most recent EU Common Position User's Guide sets out a threshold of 'clear risk' to guide the practice of member states.<sup>37</sup> Over time, more interpretive declarations, and policy responses to particular cases will demonstrate how States Parties are interpreting the concept of overriding risk.



**U.S. ARMY ROCKET.**

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30 Denisentsev, S. and Makienko, K. (undated). "The Arms Trade Treaty and Russian Arms Exports: Expectations and Possible Consequences". Geneva: UN Institute for Disarmament Research, p.2. <http://www.unidir.org/files/medias/pdfs/background-paper-the-arms-trade-treat-and-russian-arms-exports-expectations-and-possible-consequences-sergey-denisentsev-and-konstantin-makienko-eng-0-257.pdf>

31 China Arms Control and Disarmament Association and Saferworld (2012). "The Evolution of EU and Chinese Arms Export Controls". March 2012, p. 18. <http://www.saferworld.org.uk/resources/view-resource/687-the-evolution-of-eu-and-chinese-arms-export-controls>

32 Arms Trade Treaty, Article 7 (adopted 2 April 2013, entered into force 24 December 2014) UNTS (ATT) Art 7.(4) <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

33 Geneva Academy of International Humanitarian Law and Human Rights (2013). "The Arms Trade Treaty (2013)". June 2013, p. 30. [http://www.geneva-academy.ch/docs/publications/Arms%20Trade%20Treaty%203%20WEB\(2\).pdf](http://www.geneva-academy.ch/docs/publications/Arms%20Trade%20Treaty%203%20WEB(2).pdf)

34 Ibid.

35 Ibid.

36 Control Arms (2015). "ATT Monitor Report 2015". ATT Monitor, 25 August 2015, p42. <http://armstreatymonitor.org/current/wp-content/uploads/2015/08/Full-Annual-Report.pdf>; see also Government of Switzerland (undated). "Interpretative declaration for the ATT". <http://www.news.admin.ch/NSBSubscriber/message/attachments/38166.pdf>

37 Council of the European Union (2008). "Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment". <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008E0944&from=EN>





AVIATORS FROM THE 1-150TH  
ASSAULT HELICOPTER BATTALION,  
NEW JERSEY ARMY NATIONAL  
GUARD, ASSIST WEST POINT CADETS  
IN RAPPELLING FROM A UH-60 BLACK  
HAWK HELICOPTER AT THE U.S.  
MILITARY ACADEMY, N.Y.

CREDIT: © U.S. AIR NATIONAL GUARD /  
MASTER SGT. MARK C. OLSEN

## CHAPTER 2.2: THE ATT MONITOR RISK WATCH TOOL

This chapter introduces the methodology that the ATT Monitor will follow as it builds a research base of data relevant to Arms Trade Treaty (ATT) criteria to identify and monitor arms transfers to contexts of concern.

The ATT Monitor Risk Watch tool will gather and synthesize information from the wide pool of expert sources in the public domain that monitor and report on arms transfer related risks involving the misuse of weapons. It will help to create a more balanced knowledge base among States Parties, and will be a guide both to their own comprehensive risk assessments, and to them and civil society in the analysis of licensing practices.

First, this chapter introduces the background and rationale underpinning this methodology. It next outlines the process of selecting priority contexts of concern. The chapter then explains how the ATT Monitor will carry out evidence gathering, before finally establishing how it will turn that information into guidance regarding the risks of negative consequences of future arms exports into a context of concern.

The ATT Monitor project team will continue to hold consultations to develop this methodology further and we invite and encourage feedback and input into how this methodology can be developed and improved over time.

### BACKGROUND

The ATT establishes legally binding rules intended to ensure a more responsible arms trade. Article 6 (Prohibitions), Article 7 (Export and Export Assessment) and Article 11 (Diversion) in particular provide the parameters within which arms may not be transferred.<sup>1</sup> If faithfully implemented by States Parties, these three key articles will together help achieve the Treaty's Object and Purpose of strengthening international peace and security and reducing human suffering.

A State Party to the ATT considering an export of arms, ammunition or parts and components is required to assess whether that proposed export would constitute a violation of the absolute prohibitions specified in Article 6. If the export is not prohibited under Article 6, the State Party must continue its inquiry by conducting a comprehensive risk assessment prior to any decision on whether or not to give export authorisation. Article 7 lists the risk assessment criteria that States Parties must consider, including the potential that a transfer could be used to commit or facilitate a serious violation of international humanitarian law (IHL) [Article 7.1(b)(i)], international human rights law (IHRL) [Article 7.1(b)(ii)], an act of terrorism [Article 7.1(b)(iii)], an act of transnational organized crime [Article 7.1(b)(iv)], or serious acts of gender-based violence or serious acts of violence against women and children [Article 7.4]. States must also assess the risk of diversion of the export [Article 11.2].

Article 7.1 of the ATT requires a State Party considering export to apply these risk assessment criteria 'in an objective and non-discriminatory manner'.<sup>2</sup> How these criteria are interpreted will be influenced by the collective practice of States Parties. States may initially vary in how they interpret the criteria, how they weigh the importance of each one, and the evidence they gather in the application of each one.<sup>3</sup> However over time a collective view of acceptable practice under the ATT should emerge.<sup>4</sup> The ATT Monitor will seek to support and encourage this evolution of practice through evidence-based research.

The ATT Monitor is developing a "Risk Watch" methodology through which it will synthesize and make available concrete information from credible sources on risks identified by the ATT in Articles 6, 7 and 11. This methodology will not replicate the comprehensive transfer assessment process that a State Party must undertake. It will instead provide an accessible source of data that is directly relevant to the application of the Treaty's criteria and obligations. This is intended to help inform and guide licensing authorities as part of their national assessment process. This methodology will also serve as a resource for civil society and others in their review of effective treaty implementation.

1 Transfers are defined in Article 2(2) as "export, import, transit, trans-shipment and brokering". This methodology is concerned primarily with the export of arms, ammunition and parts and components as defined in Articles 2(1), 3 and 4. See Arms Trade Treaty, Article 2 (adopted 2 April 2013), entered into force 24 December 2014)\_UNTS\_(ATT) Art 2(2) <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

2 Arms Trade Treaty, Article 7 (adopted 2 April 2013), entered into force 24 December 2014)\_UNTS\_(ATT) Art 7(i) <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

3 The ATT Monitor has provided interpretive guidance to States Parties. See: Control Arms (2015). "ATT Monitor 2015". ATT Monitor, 25 August 2015, Chapters 1.1 and Chapter 1.2, 26-62. <http://armstreatymonitor.org/current/wp-content/uploads/2015/08/Full-Annual-Report.pdf>

4 This practice may in turn also influence the practice of non-ATT Member States.

**STAGE 1: IDENTIFYING CONTEXTS OF CONCERN**

In order for Risk Watch to provide an effective service, ATT Monitor will initially focus on gathering detailed information on a limited number of contexts (in Stage 2). In light of the resources available it would not be practical to develop immediately a comprehensive database of risks for every context relevant to the global arms trade immediately.<sup>5</sup>

A variety of contexts of concern from across the world will be identified that reflect a range of factors:

- Whether or not there is an ongoing armed conflict
- What type of armed actors are involved
- Whether or not actors involved in the abuse of weapons are significant arms importers
- What types of conventional weapons are the issue.

ATT Monitor will prioritize contexts where there are significant evidence-based concerns about the way in which weapons are used by taking as a starting point the negative consequences that a transfer-assessment process is intended to avoid. In order to select these initial contexts of concern, ATT Monitor will review existing datasets and reporting mechanisms that measure relevant risk factors that reflect the concerns of the

Treaty itself, particularly those specified in Articles 6, 7 and 11 of the Treaty. These would include, but are not limited to: existence of an arms embargo [Article 6.1]<sup>6</sup>, risk of genocide [Article 6.3]<sup>7</sup>, extrajudicial executions [Article 6.3, Article 7.1(b)(ii)]<sup>8</sup>, existence of an armed conflict [Article 7.1(b)(i)]<sup>9</sup>, using prohibited weapons [Article 7.2(i)]<sup>10</sup>, violations of human rights [Article 7.2(ii)]<sup>11</sup>, threat of terrorism [Article 7.2(iii)]<sup>12</sup>, rape and other sexual violence [as they relate to gender-based violence and acts of violence against women and children] [Article 7.1(b)(ii), (7.4)].<sup>13</sup>

This approach recognizes the inherent complexity of many contexts where weapons are misused, where multiple actors are often involved, and with different attendant risks. In the case of Yemen for example, the Risk Watch tool would focus on the risks of transfer to; units of the Yemeni Armed Forces, the Houthis and affiliated militias, (currently subject to arms embargoes imposed by the UN Security Council and the European Union, EU),<sup>14</sup> anti-Houthi armed groups, and the armed forces of countries who are members of the Saudi Arabia-led coalition conducting a military intervention in the country.<sup>15</sup> Prioritizing key emerging and ongoing contexts of concern will enable the ATT Monitor to focus in detail (in Stage 2) on the patterns of behaviour of specific actors and the specific types of weapons used to commit or facilitate such acts. The scope of contexts covered can expand over time as experience and resources develop.

5 The absence of a context at this prioritization stage should not be interpreted as a comment or judgement on the relative risk level present there. While the ATT Monitor will initially focus only on a range of contexts, this does not mean that contexts not covered are without risks or face a low risk. States Parties to the ATT have a legal obligation to carry out a comprehensive risk assessment for each and every prospective export.

6 Multilateral arms embargoes (e.g. EU) would also be relevant international obligations under Article 6.2. See Stockholm International Peace Research Institute (SIPRI). "Arms Embargoes Database". [www.sipri.org/databases/embargoes](http://www.sipri.org/databases/embargoes); and 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>

7 See Early Warning Project [www.earlywarningproject.com](http://www.earlywarningproject.com)

8 See Office of the UN High Commissioner for Human Rights, Special Rapporteur on extrajudicial, summary or arbitrary executions. "Press releases". [www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR\\_Summ\\_Executions](http://www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR_Summ_Executions)

9 See University of Uppsala Conflict Data Program (UCDP). <http://ucdp.uu.se/>; and Geneva Academy. "The War Report". <http://www.geneva-academy.ch/policy-studies/research-projects-and-policy-studies/the-war-report-project>

10 See for example, the use of antipersonnel landmines, or cluster munitions, see Landmine & Cluster Munition Monitor [www.the-monitor.org](http://www.the-monitor.org)

11 See the Political Terror Scale [www.politicalterrorscale.org/](http://www.politicalterrorscale.org/). The Political Terror Scale analyses the annual reports of Amnesty International, Human Rights Watch, and the United States State Department.

12 See Institute for Economics and Peace (2015). "Global Terrorism Index 2015". November 2015. [http://static.visionofhumanity.org/sites/default/files/2015%20Global%20Terrorism%20Index%20Report\\_2.pdf](http://static.visionofhumanity.org/sites/default/files/2015%20Global%20Terrorism%20Index%20Report_2.pdf)

13 See UN Security Council (2016). "Conflict-related sexual violence, Report the Secretary-General". S/2016/361, 20 April 2016. <http://reliefweb.int/sites/reliefweb.int/files/resources/N1611178.pdf>.

14 UN Security Council (2015). "Resolution 2215 (2015)". S/RES/2216 (2015), 14 April 2015. [https://www.sipri.org/sites/default/files/2016-03/UNSC\\_RES-2216.pdf](https://www.sipri.org/sites/default/files/2016-03/UNSC_RES-2216.pdf); 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 Amnesty International (2015). "Yemen: the Forgotten War". <https://www.amnesty.org/en/latest/news/2015/09/yemen-the-forgotten-war>

**BOX 1: YEMEN RISK PROFILE**

**Overview:** Yemen has been in a state of armed conflict since forces affiliated with the Houthi movement led an offensive that triggered the collapse of the internationally recognized government in January 2015.<sup>16</sup> On 26 March 2015 a coalition of nine countries led by Saudi Arabia began a campaign of aerial bombing in Yemen with the aim of restoring the government.<sup>17</sup> Despite several ceasefire attempts the conflict continues. As of 4 April 2016 at least 6,408 people had been killed and 36,547 had been injured.<sup>18</sup>

**Risk snapshot:** There have been widespread violations of international humanitarian law (IHL) and human rights law (IHRL) by all parties to the conflict.<sup>19</sup> The UN High Commissioner for Human Rights stated in December 2015 that, while all parties to the conflict had bombed populated areas and destroyed civilian infrastructure, including hospitals and schools, a disproportionate share had been carried out by coalition air strikes.<sup>20</sup>

In January 2016 a report prepared for the UN Security Council Panel of Experts on Yemen identified 119 coalition air sorties relating to violations of international humanitarian law.<sup>21</sup> Airstrikes have targeted civilians and civilian objects, including residential areas, markets, medical facilities, schools, mosques, factories and food warehouses, as well as gatherings such as weddings.<sup>22</sup> Coalition air forces are also reported to have used cluster munitions, a weapon with indiscriminate effects banned by 119 countries under international law.<sup>23</sup>

There are reports that small arms have been diverted to unauthorized non-state actors in Yemen.<sup>24</sup> Weapons supplied by the coalition to allied military forces on the ground in Yemen have been documented to be in the possession of the Houthis, as well as radical groups such as the Emirate of Protectors of the Creed.<sup>25</sup>

**Transfer overview:** The UN Security Council and EU have imposed arms embargoes on Houthi forces and their allies in Yemen.<sup>26</sup> There is no public evidence that States Parties to the ATT are supplying weapons to Houthis and their allies.

At least 11 States Parties and Signatories to the Treaty have supplied Saudi Arabia, though, with military equipment in 2015, with States Parties issuing licences and making sales worth over US\$4.9 billion, according to an ATT Monitor case study.<sup>27</sup> This shows starkly how some States Parties are failing to comply with their legal obligations and to live up to the Treaty's objective of reducing human suffering.

**There is a risk that aircraft bombs, aircraft, and parts and components used to support aerial military intervention in particular will be used to commit or facilitate violations of international humanitarian and human rights law [Articles 7.1b(i) and 7.1b(ii)].**

**There is also a risk that arms and military equipment, particularly small arms, could be diverted to unintended end-users in Yemen in contravention of Article 11 of the Treaty.**

16 For a timeline of events in Yemen see UN Human Rights Council (2015). "Situation of human rights in Yemen". 7 September 2015, pp. 3–5. [http://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_30\\_31\\_AEV.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_30_31_AEV.pdf)

17 The countries in the coalition Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Saudi Arabia, Sudan and the United Arab Emirates. In addition, others have provided material and technical support or pledged ground troops in support of coalition activities. See Ibid., p. 5.

18 UN Office for the Coordination of Humanitarian Affairs (2016). "Humanitarian Bulletin: Yemen". 4 April 2016, p. 2. <http://reliefweb.int/sites/reliefweb.int/files/resources/Yemen%20HB%20Issue%2010%20Issued%20on%2004%20April%202016%20Eng.pdf>

19 See for example: Amnesty International (2015). "Nowhere Safe for Civilians: Airstrikes and Ground Attacks in Yemen". 18 August 2015. <https://www.amnesty.org/en/documents/mde31/2291/2015/en/>; Human Rights Watch (2015). "What Military Target Was in My Brother's House?: Unlawful Coalition Airstrikes in Yemen". 26 November 2015. <https://www.hrw.org/node/283702>; UN Human Rights Council (2015). "Situation of human rights in Yemen". 7 September 2015, pp. 3–5. [http://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_30\\_31\\_AEV.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_30_31_AEV.pdf)

20 UN Security Council (2015). "The situation in the Middle East". S/PV.7596, 22 December 2015. [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/PV.7596](http://www.un.org/ga/search/view_doc.asp?symbol=S/PV.7596)

21 UN Security Council (2016). "Final report of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140, (2014)". S/2016/73, 22 January 2016. <http://reliefweb.int/sites/reliefweb.int/files/resources/N1600299.pdf>

22 Ibid.

23 Human Rights Watch (2016). "Yemen: Saudis Using US Cluster Munitions". 6 May 2016. <https://www.hrw.org/news/2016/05/06/yemen-saudis-using-us-cluster-munitions>

24 See for example, "Deutsche Gewehre im Jemen: Bundesregierung verlangt Aufklärung von Saudi-Arabien". Spiegel Online, 20 June 2015. [www.spiegel.de/politik/deutschland/saudi-arabien-bundesregierung-fordert-aufklaerung-ueber-deutsche-waffen-a-1039710.html](http://www.spiegel.de/politik/deutschland/saudi-arabien-bundesregierung-fordert-aufklaerung-ueber-deutsche-waffen-a-1039710.html)

25 UN Security Council (2016). "Final report of the Panel of Experts on Yemen established pursuant to Security Council resolution 2140, (2014)". S/2016/73, 22 January 2016. <http://reliefweb.int/sites/reliefweb.int/files/resources/N1600299.pdf>

26 UN Security Council (2015). "Resolution 2215 (2015)". S/RES/2216 (2015), 14 April 2015. [https://www.sipri.org/sites/default/files/2016-03/UNSC\\_RES-2216.pdf](https://www.sipri.org/sites/default/files/2016-03/UNSC_RES-2216.pdf); Group for Research and Information on Peace and Security (GRIP), (2015). "Libye". Last updated 8 May 2015. <http://www.grip.org/fr/node/1496>

27 Control Arms (2016). "Dealing in Double Standards: How Arms Sales to Saudi Arabia are causing Human Suffering in Yemen". ATT Monitor, Case Study 2, 26 February 2016, p. 2. <http://armstreatymonitor.org/current/dealing-in-double-standards-how-arms-sales-to-saudi-arabia-are-causing-human-suffering-in-yemen/>



## STAGE 2: BUILDING AN EVIDENCE BANK

In order to be effective, risk assessments 'require the systematic collection of accurate and reliable information'.<sup>28</sup> Governments must consult a wide array of sources in order to build a comprehensive appreciation of the immediate and long-term risks associated with a proposed export. This includes information produced by the United Nations (UN), other governments, non-governmental organizations (NGOs), the media, and specialist research institutes.<sup>29</sup>

The ATT Monitor will support the efforts of States Parties to responsibly fulfil this requirement under the Treaty through the Risk Watch tool. Through this it will carry out in-depth evidence gathering for a limited number of contexts of concern (as identified in Stage 1). Risk Watch will survey and synthesize information from the wide pool of expert sources in the public domain that monitor and report on ATT related risks involving the misuse of weapons. In so doing ATT Monitor will help make credible information available and visible.

## INDICATORS

Evidence will be gathered for the different risks specified by the ATT. Below are listed the types of actions that often involve weapons and constitute violations of IHL and IHRL, or are acts subject to prohibition under Article 6.3 of the Treaty, which will be used as indicators during evidence gathering. ATT Monitor will hold consultations with experts from governments and civil society

to develop the indicators to record evidence of risks under Article 7.1(b)(iii) on acts of terrorism, Article 7.1(b)(iv) on acts of transnational organized crime, Article 7.4 on gender-based violence and acts of violence against women and children, and Article 11 on diversion.

The ATT does not define a 'serious violation' of international human rights law, and this body of law provides no authoritative definition of what constitutes a serious violation.<sup>30</sup> The international trade in conventional arms can affect a wide range of international human rights, but the indicators selected for this methodology will be those that relate most closely to the use and availability of arms. Acts that constitute a serious violation of international humanitarian law are more clearly defined.<sup>31</sup> However, IHL applies only in times of armed conflict while key provisions of IHRL apply in both armed conflict as well as in its absence. The indicators below were developed in collaboration with experts in both bodies of law.

- Attacking a civilian object in armed conflict<sup>32</sup>
- Attacking cultural property<sup>33</sup>
- Attacks on education facilities and students<sup>34</sup>
- Attacks on camps for internally displaced persons<sup>35</sup>
- Attacks on medical personnel and facilities<sup>36</sup>
- Enforced disappearance<sup>37</sup> or arbitrary arrest<sup>38</sup>
- Excessive use of force during peaceful demonstrations<sup>39</sup>

28 United Nations (2014). "Framework of Analysis for Atrocity Crimes: A tool for prevention". United Nations, 2014, p.5. [www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes\\_en.pdf](http://www.un.org/en/preventgenocide/adviser/pdf/framework%20of%20analysis%20for%20atrocity%20crimes_en.pdf)

29 For more information, see Control Arms Secretariat (2015). "ATT Monitor 2015". ATT Monitor, 25 August 2015, Chapter 1.2, p.45. <http://armstreatchmonitor.org/current/wp-content/uploads/2015/08/Full-Annual-Report.pdf>

30 Ibid., Chapter 1.1, pp. 31-33. See also, Amnesty International (2015). "Applying the Arms Trade Treaty to ensure the protection of human rights". 1 February 2015. <https://www.amnesty.org/en/documents/act30/0003/2015/en/>; Geneva Academy of International Humanitarian Law and Human Rights (2014). "What amounts to 'a serious violation of international human rights law'?" August 2014. [http://www.geneva-academy.ch/docs/publications/Briefings%20and%20In%20briefs/Briefing%206%20What%20is%20a%20serious%20violation%20of%20human%20rights%20law\\_Academy%20Briefing%20No%206.pdf](http://www.geneva-academy.ch/docs/publications/Briefings%20and%20In%20briefs/Briefing%206%20What%20is%20a%20serious%20violation%20of%20human%20rights%20law_Academy%20Briefing%20No%206.pdf).

31 See: International Committee of the Red Cross (ICRC) (2012). "What are 'serious violations of international humanitarian law'? Explanatory Note". <https://www.icrc.org/eng/assets/files/2012/att-what-are-serious-violations-of-ihl-icrc.pdf>

32 See ICRC. "Customary IHL, Rule 9. Definition of Civilian Objects". Accessed 30 June 2016 [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule9](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule9)

33 See ICRC. "Customary IHL, Rule 38. Attacks Against Cultural Property". Accessed 30 June 2016 [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule38](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule38)

34 International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 13 (adopted 16 December 1966, entered into force 3 January 1976)\_UNTS\_ (ICESCR) Art 13 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

35 UN Guiding Principles on Internal Displacement (1998). E/CN.4/1998/53/Add.2. [www.unhcr.org/43ce1cff2.html](http://www.unhcr.org/43ce1cff2.html)

36 Medical personnel and the wounded and sick are protected from violence by Article 6 of the International Covenant on Civil and Political Rights (ICCPR) while the right to health, including the non-derogable core obligation to ensure the right of access to health facilities, goods and services, is enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR). See Footer K.H.A. and Rubenstein L.S (2013). "A human rights approach to health care in conflict". "International Review of the Red Cross: Violence against health care". Volume 95, Number 889, Spring 2013. <https://www.icrc.org/eng/resources/international-review/review-889-violence-against-health-care-1/review-889-all.pdf>

37 See International Convention for the Protection of All Persons from Enforced Disappearance, (adopted 20 December 2006, entered into force 23 December 2010) <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx>

38 See Universal Declaration of Human Rights (UDHR), (1948). Article 9, [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/217\(III\)](http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/217(III)); and International Covenant on Civil and Political Rights (ICCPR) Article 9(1), (adopted 16 December 1966, entered into force 23 March 1976)\_UNTS\_(ICCPR)\_Art 9(1) <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

39 See Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990, Principles 12–14. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>

- Extrajudicial and summary executions<sup>40</sup>
- Forced displacement<sup>41</sup>
- Indiscriminate attacks in situations of armed conflict<sup>42</sup>
- Gender-based violence<sup>43</sup>
- Killing a civilian<sup>44</sup>
- Killing a fighter who is wounded, sick, or surrendering<sup>45</sup>
- Pillage in armed conflict<sup>46</sup>
- Recruitment of children into armed forces or groups<sup>47</sup>
- Torture and other inhumane treatment<sup>48</sup>
- Unlawful killing or inhumane treatment of civilians in occupied territory during armed conflict<sup>49</sup>
- Unlawful killing or inhumane treatment of detainees in armed conflict<sup>50</sup>
- Use of an indiscriminate weapon.<sup>51</sup>

Credible reports from expert bodies of actions that may constitute serious violations will be the focus of ATT Monitor's evidence gathering. ATT Monitor will not make legal determinations during this stage (i.e. it will not take decisions over whether a particular act would constitute a war crime, for example, and thus fall under the prohibitions proscribed under Article 6.3, or constitutes a serious violation of international humanitarian law in which case Article 7.1b(i) would also apply).<sup>52</sup> It will however cite the views of expert bodies on these matters in order to inform the judgements of States Parties and others based on available information. ATT Monitor's role will be to synthesise and make these reports more accessible to the investigative process of governments.

40 International Covenant on Civil and Political Rights (ICCPR) Article 6, (adopted 16 December 1966, entered into force 23 March 1976)\_UNTS\_(ICCPR)\_Art 6 <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>. UN General Assembly Third Committee Resolution 35/172 on Arbitrary or summary executions urged States "to respect as a minimum standard the content and provisions of articles 6, 14 and 15" of the ICCPR, [www.un.org/documents/ga/res/35/a35r172e.pdf](http://www.un.org/documents/ga/res/35/a35r172e.pdf)

41 International Covenant on Civil and Political Rights (ICCPR) Articles 6(1), 12(1) and 17 (adopted 16 December 1966, entered into force 23 March 1976)\_UNTS\_(ICCPR)\_Art 6,12,17 and International Covenant on Economic, Social and Cultural Rights (ICESCR), Articles 6(1), 11 and 12 (adopted 16 December 1966, entered into force 3 January 1976)\_UNTS\_(ICESCR) Art 6,11,12 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

42 ICRC. "Customary IHL, Rule 12. Definition of Indiscriminate Attacks". Accessed 30 June 2016. [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule12](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule12)

43 ICRC. "Customary IHL, Rule 93. Rape and Other forms of Sexual Violence". Accessed 30 June 2016. [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule93](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule93). See also Amnesty International (2011). "Rape and Sexual Violence: Human Rights Law and Standards in the International Criminal Court". 1 March 2011. <https://www.amnesty.org/en/documents/IOR53/001/2011/en/>

44 ICRC. "Customary IHL, Rule 89. Violence to Life". Accessed 30 June 2016. [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule89](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule89); and International Covenant on Civil and Political Rights (ICCPR) Article 6, (adopted 16 December 1966, entered into force 23 March 1976)\_UNTS\_(ICCPR)\_Art 6 <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

45 Common Article 3 of Geneva Convention (III) relative to the Treatment of Prisoners of War. (12 August 1949) 6 U.S.T. 3516, T.I.A.S. 3365, 75 U.N.T.S. 287; and Rome Statute of the International Criminal Court, (adopted 17 July 1998, entered into force 1 July 2002, last amended 2010) 2187 UNTS 90, Article 8.

46 ICRC. "Customary IHL, Rule 52. Pillage". Accessed 30 June 2016. [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule52](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule52)

47 UN Convention on the Rights of the Child, (adopted on 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3, Article 38; and Rome Statute of the International Criminal Court, (adopted 17 July 1998, entered into force 1 July 2002, last amended 2010) 2187 UNTS 90, Article 8.

48 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (adopted 10 December 1984, entered into force 26 June 1987) 165 UNTS 85; and International Covenant on Civil and Political Rights (ICCPR) Article 7 (adopted 16 December 1966, entered into force 23 March 1976)\_UNTS\_(ICCPR)\_Art 7

49 Article 147 of Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. (12 August 1949) 6 U.S.T. 3516, T.I.A.S. 3365, 75 U.N.T.S. 287 and Articles 11 and 85 of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), (8 June 1977), 1125 U.N.T.S. 3.

50 Common Article 3 of Geneva Convention (III) relative to the Treatment of Prisoners of War. (12 August 1949) 6 U.S.T. 3516, T.I.A.S. 3365, 75 U.N.T.S. 287; and Rome Statute of the International Criminal Court, (adopted 17 July 1998, entered into force 1 July 2002, last amended 2010) 2187 UNTS 90, Article 8.

51 See ICRC. "Customary IHL, Rule 71. Weapons That Are by Nature Indiscriminate". Accessed 30 June 2016. [https://www.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule71](https://www.icrc.org/customary-ihl/eng/docs/v1_rul_rule71)

52 Although all war crimes are serious violations of IHL, the threshold test for determining the risk of a serious violation of IHL under Article 7 (1)(b)(i) is broader than that required under Article 6(3). In addition to extending the focus to facilitation as well as commission, Article 7(1)(b)(i) requires only assessment that the underlying primary rules of IHL could be violated, not demonstration of intent or other mens rea. For more information see, Sands, P., Clapham, A. and Ni Ghárlaigh, B. (2015). "Legal Opinion: The Lawfulness of the Authorisation by the United Kingdom of Weapons and Related Items for Export to Saudi Arabia in the context of Saudi Arabia's Military Intervention in Yemen". London, Matrix Chambers, 11 December 2015, 55.41, p.52. <http://controlarms.org/en/wp-content/uploads/sites/2/2015/12/Legal-Opinion-on-Arms-Exports-to-Saudi-Arabia.pdf>

**BOX 2: CENTRAL AFRICAN REPUBLIC RISK PROFILE**

**Overview:** As noted by the case study on 'Arms and conflict in the Central African Republic' in Chapter 1.1, thousands of people were killed in sectarian armed violence in the country between 2013 and 2015 that left it facing dire humanitarian needs. Violent armed groups continue to operate in the country, and the context remains unstable and unpredictable.<sup>53</sup>

**Risk snapshot:** United Nations (UN) peacekeepers report that human-rights violations continue to be carried out in the country, including murder, torture and sexual violence.<sup>54</sup> Although a peace agreement was signed in July 2014, violence has continued, and an escalation in September 2015 saw further violations of international humanitarian law (IHL) and human rights law (IHRL).<sup>55</sup> All parties to the conflict are reported to have carried out serious acts of gender-based violence, including rape and humiliation.<sup>56</sup> The UN Security Council has expressed concern that armed groups are engaging in transnational organized crime, including arms trafficking, exploitation of natural resources and the use of mercenaries. It has stressed the risk of the situation 'providing a conducive environment for further transnational criminal activity'.<sup>57</sup>

**Transfer overview:** A UN Security Council-mandated arms embargo has been in force since 5 December 2013. All exports of arms and related military equipment are banned, except those supplied to the national security forces if approved in advance by the Sanctions Committee. However, the UN Panel of Experts on the Central African Republic assesses that the circulation of arms 'remains significant and contributes to fuelling the conflict'.<sup>58</sup> A large number of small arms and light weapons are available to armed groups in the country. Diversion of arms within it as a result of poor stockpile management is the main source of weapons to these groups. There is also illicit cross-border trade of weapons into the country, particularly from Cameroon.<sup>59</sup>

**There is a risk that arms transferred to Central African Republic security forces could be diverted to unauthorized end-users, in contravention of Article 11 of the Treaty.**

**There is also a risk that arms diverted to unauthorized end-users could be used to commit or facilitate serious violation of international human rights law [Article 7.1(b)(ii)], of acts of transnational organized crime [Article 7.1(b)(iv)] and of serious acts of gender-based violence [Article 7.4].**

53 UN Office for the Coordination of Humanitarian Affairs (UN OCHA), (2016). "About OCHA CAR". [www.unocha.org/car/about-ocha-car/about-ocha-car](http://www.unocha.org/car/about-ocha-car/about-ocha-car); and UN Security Council (2016). "Report of the UN Secretary-General on the situation in the Central African Republic". S/2016/305, 1 April 2016 [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2016\\_305.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_305.pdf)

54 Ibid.

55 UN Security Council (2016). "Resolution 2262 (2016)". S/RES/2262 (2016), 27 January 2016. [www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2262\(2016\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2262(2016))

56 UN Office of the Special Representative of the Secretary-General for Sexual Violence in Conflict (2015). "Central African Republic". S/2015/103. [www.un.org/sexualviolenceinconflict/countries/central-african-republic/](http://www.un.org/sexualviolenceinconflict/countries/central-african-republic/).

57 UN Security Council (2016). "Resolution 2262 (2016)". S/RES/2262 (2016), 27 January 2016, p. 3. [www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2262\(2016\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2262(2016))

58 UN Security Council (2015). "Report of the UN Panel of Experts on the Central African Republic". S/2015/936, 21 December 2015, p. 13. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2015\\_936.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2015_936.pdf)

59 Ibid.

## SOURCES

As no single organization monitors and reports on all of the risks as outlined in the ATT, Risk Watch will draw upon a wide range of sources in its evidence gathering. The table below presents an indicative list of the range of credible sources available to ATT Monitor in this stage.

This is by no means an exhaustive list, but is illustrative of the range of expert sources that produce credible data that will inform ATT Monitor's methodology.

In addition to sources that report on all countries, the Risk Watch tool will take into account evidence gathered by specialized reporting mechanisms with narrow geographic mandates. For example, the UN Assistance Mission in Afghanistan (UNAMA) produces annual reports on the state of civilian protection in that

country.<sup>60</sup> These reports provide detailed breakdowns of the misuse of weapons, including by perpetrator. As such they are a highly relevant resource for the ATT Monitor. However the UN does not have a country mission in every potential context of concern, and no other UN country mission produces as detailed an analysis of the use of weapons as UNAMA. Similarly, most civil society organizations are concerned with monitoring threats to civilians, human rights and the prevalence of armed violence within a particular context.

Sources vary widely in their level of detail. The template for ATT Monitor's evidence bank will be designed with flexibility in mind so as to incorporate reports from sources that cite general concerning patterns (e.g. many UN reports and those issued by the ICRC, which commonly do not name perpetrators but carry great authority), and those that may go into precise detail on identities and incidents (e.g. Human Rights Watch reports).

Source type	Examples
United Nations	<ul style="list-style-type: none"> <li>UN Security Council Sanctions Committee</li> <li>UN peacekeeping operations and political missions</li> <li>UN Treaty Bodies (e.g. Committee Against Torture Committee on the Rights of the Child)</li> <li>UN Security Council Monitoring and Reporting Mechanism on Grave Violations Against Children in Armed Conflict.</li> </ul>
International human rights bodies	<ul style="list-style-type: none"> <li>Human Rights Council Fact-Finding Missions and Commissions of Inquiry</li> <li>EU Annual Report on Human Rights and Democracy</li> <li>Country documentation relating to the Universal Periodic Review, including the national reports produced by the UN Human Rights Council</li> </ul>
International criminal and legal bodies	<ul style="list-style-type: none"> <li>International Criminal Court and ad hoc tribunals</li> <li>International Court of Justice</li> <li>Regional courts, e.g. Inter-American Court of Human Rights.</li> </ul>
Regional organizations	<ul style="list-style-type: none"> <li>European Union (EU)</li> <li>African Union</li> <li>Organization for Security and Co-operation in Europe (OSCE).</li> </ul>
Humanitarian organizations	<ul style="list-style-type: none"> <li>International Committee of the Red Cross (ICRC)</li> <li>Médecins Sans Frontières (MSF).</li> </ul>
NGOs	<ul style="list-style-type: none"> <li>Amnesty International Annual Reports and ad hoc field investigations</li> <li>Human Rights Watch World Reports and ad hoc field investigations</li> <li>Landmine and Cluster Munition Monitor</li> </ul>
Think tanks	<ul style="list-style-type: none"> <li>International Crisis Group (Crisis Watch and ad hoc reports)</li> <li>Small Arms Survey</li> <li>Transparency International</li> <li>Conflict Armament Research.</li> </ul>
Academic resources	<ul style="list-style-type: none"> <li>International Human Rights Clinic, Harvard Law School</li> <li>Armed Conflict Location &amp; Event Data Project, University of Sussex.</li> </ul>

<sup>60</sup> UN Assistance Mission in Afghanistan (UNAMA). "Reports on the protection of civilians". <https://unama.unmissions.org/protection-of-civilians-reports>



**Figure 1 below** outlines a template for the proposed evidence banks that will be developed for each selected context. It is illustrated with a recent report of the Independent International Commission of Inquiry on the Syrian Arab Republic.<sup>61</sup>

Risk Watch will link evidence of crimes, violations and abuse involving weapons to specific actors wherever they are clearly indicated in source material, in order to build a risk profile for prospective recipients. Data catalogued in the evidence bank will be grouped by source, and where available by actor responsible so as to focus analysis on the specific actions of a potential recipient of weapons. If specific actors are not known or named, data will be provided for the context.

States Parties are obligated to assess risks relating to the use of weapons to facilitate, as well as commit, serious violations of IHL and IHRL, acts of terror, transnational organized crimes, and gender-based violence. As such Risk Watch will record evidence of facilitation where the potential causal link can be drawn to the transfer of arms. An example of this would be the use of armoured combat vehicles not in the direct commission of a serious violation of IHRL but to transport a military unit and enable them to carry out said violation. It will not always be possible through open-source material to demonstrate direct causality but the ATT Monitor will provide a breakdown of evidence by weapon types involved wherever such information is available.

**FIGURE 1: RISK DATA COLLECTION TABLE**

Key	Description	Example
ID	Unique code for each report	1
Source	Named source: evidence within a context will be listed by source.	Report of the Independent International Commission of Inquiry on the Syrian Arab Republic (Advance Edited Version)
Organization	Authority/body	UN Human Rights Council
Source date	The date that the source was published, not the date of the reported violation/incident	11 February 2016
Source reference	Link to public URL of report or online source. All information gathered by the ATT Monitor will be open-source	<a href="http://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-31-68.pdf">www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-31-68.pdf</a>
Context	Name of country or territory where the incident(s) reported in source took place	Syria
Actor(s)	Details on the weapon users, as specific as possible. Within each source all reported details will be grouped by armed actor.	Syrian government air forces
Indicator(s)	As many as apply (selected from list above, in main text)	Attack on education facilities and students; Killing civilians
Key details	A free-form field for data entry, depending on the detail of the source. Key details could include: <ul style="list-style-type: none"> <li>• Details on casualties/location/damage (if available)</li> <li>• Timeframe</li> <li>• Key statements on patterns of behaviour made by source</li> </ul>	'Government air forces twice bombarded a girls' school in Duma on 13 December. The second attack struck the school during first-aid and evacuation efforts; 19 civilians were killed, including the school director and 15 students. There were no military objectives in the vicinity.' Part of 'continued, deliberate and indiscriminate attacks on schools by the warring parties.'
Weapon type	ATT weapon category(ies) involved if reported.	Combat aircraft/attack helicopter
Weapon details	Where reported, specific information on the weapons involved	Not reported

61 UN Human Rights Council. (2016). 'Report of the Independent International Commission of Inquiry on the Syrian Arab Republic (Advance Edited Version)'. 11 February 2016. [www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-31-68.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-31-68.pdf)



**IRAQI SOLDIERS, ASSIGNED TO THE 10TH IRAQI ARMY DIVISION, CONDUCT TIMED TRIALS OF SETTING UP MORTAR TUBES AT CAMP UR, DHI QAR, IRAQ.**

CREDIT: © PFC. ERNEST E. SIVIA III

### BOX 3: IRAQ RISK PROFILE

**Overview:** Conflict and instability has been prevalent in Iraq for over a decade, and armed conflict has escalated further since Islamic State in Iraq and the Levant (ISIL, also known as Da'esh) seized control of large parts of the country in 2014.<sup>62</sup> Iraqi security forces and associated armed groups have been fighting to reverse these territorial gains, backed by a coalition of other countries largely through air strikes.<sup>63</sup> Amid widespread armed violence, acts of terrorism and abuses of human rights, at least 22,370 civilians were killed or wounded in Iraq in 2015.<sup>64</sup>

**Risk snapshot:** There have been extensive serious violations of international humanitarian law (IHL) and human rights law (IHRL) in Iraq, particularly by ISIL.<sup>65</sup> The Prosecutor of the International Criminal Court has described 'Crimes of unspeakable cruelty [...] such as mass executions, sexual slavery, rape and other forms of sexual and gender-based violence, torture, mutilation, enlistment and forced recruitment of children and the persecution of ethnic and religious minorities, not to mention the wanton destruction of cultural property. The commission of the crime of genocide has also been alleged.'<sup>66</sup> There are also multiple credible reports of violations of IHL and IHRL by the Iraqi security forces and associated armed groups.<sup>67</sup>

The UN Security Council, condemning terrorist acts committed by ISIL and expressing concern that it was funding itself through organized crime, has made it subject to an arms embargo.<sup>68</sup> Any arms transfer to the group and allied forces would therefore be in violation of Article 6.1 of the Treaty. However, Amnesty International has identified arms and ammunition in ISIL stockpiles that were designed

62 UN Human Rights Council (2015). "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups". A/HRC/28/18, 27 March 2015, paragraphs 4–5, 13–15. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_hrc\\_28\\_18.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_28_18.pdf)

63 See, US Department of Defense. "Operation Inherent resolve: Targeted Operations against ISIL Terrorists". [www.defense.gov/News/Special-Reports/0814\\_Inherent-Resolve](http://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve)

64 UN Security Council (2016). "Second report of the Secretary-General pursuant to paragraph 7 of resolution 2233 (2015)" S/2016/77, 26 January 2016, pp. 9–12. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2016\\_77.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_77.pdf)

65 UN Human Rights Council (2015). "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups". A/HRC/28/18, 27 March 2015, pp. 5–14. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_hrc\\_28\\_18.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_28_18.pdf)

66 International Criminal Court (2015). "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on the alleged crimes committed by ISIS". 8 April 2015. <https://www.icc-cpi.int/Pages/item.aspx?name=otp-stat-08-04-2015-1>

67 UN Human Rights Council (2015). "Report of the Office of the United Nations High Commissioner for Human Rights on the human rights situation in Iraq in the light of abuses committed by the so-called Islamic State in Iraq and the Levant and associated groups". A/HRC/28/18, 27 March 2015, p. 12. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_hrc\\_28\\_18.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_hrc_28_18.pdf). See also Human Rights Watch (2016). "World Report 2016 – Iraq: Events of 2015". <https://www.hrw.org/world-report/2016/country-chapters/iraq>; and Amnesty International (2016). "Annual Report – Iraq 2015/2016". <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iraq/report-iraq/>

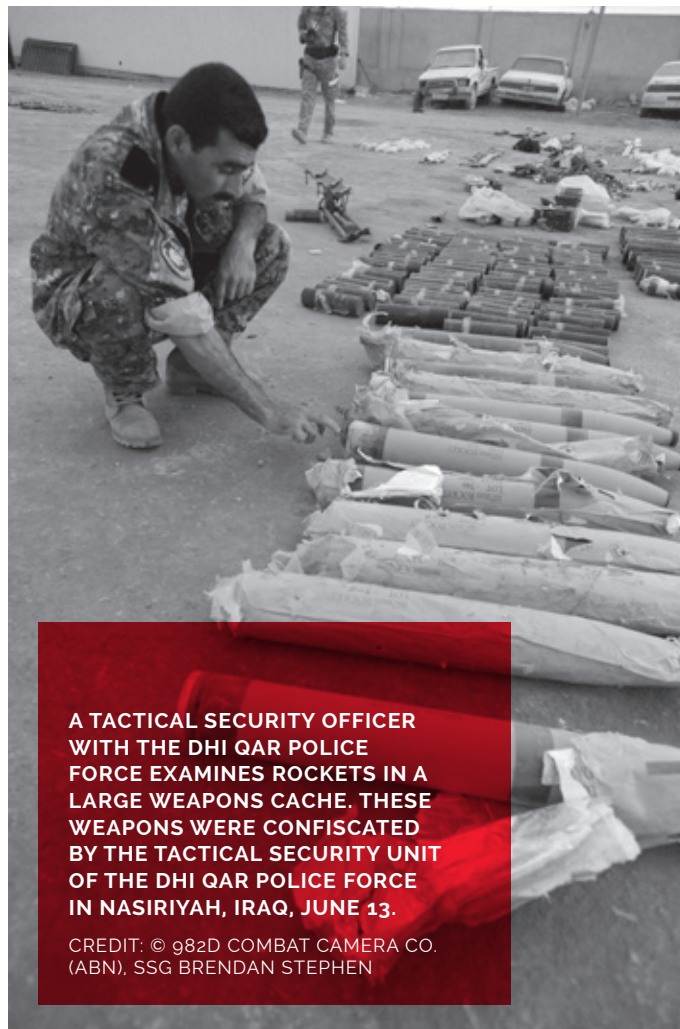
68 UN Security Council (2015). "Resolution 2253 (2015)". S/RES/2253 (2015), 17 December 2015. [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2253.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2253.pdf); and United Nations (2015). United Nations (2015). "Unanimously Adopting Resolution 2199 (2015). Security Council Condemns Trade with Al-Qaida Associated Groups, Threatens Further Targeted Sanctions". 12 February 2015. [www.un.org/press/en/2015/sc11775.doc.htm](http://www.un.org/press/en/2015/sc11775.doc.htm)

or manufactured in more than 25 countries.<sup>69</sup> While stressing that chains of custody are often difficult to demonstrate, they argue that 'there is a close match between the types of weapons currently being used by IS and the inventory of the Iraqi military, build up over the past five decades [...] a substantial proportion of IS' current military arsenal comprises weapons and equipment looted, captured or illicitly traded from poorly secured Iraqi military stocks.<sup>70</sup> Amnesty International conclude that 'Iraq has become an emblematic case of the grave dangers of arms accumulation and proliferation and the irresponsible trade in weapons and munitions', and urged all States Parties to adopt a 'presumption of denial' policy on the export of arms to Iraq.<sup>71</sup>

**Transfer overview:** More than 30 countries have transferred military equipment to Iraq in the past decade, 'despite the fragility of the Iraqi armed forces'.<sup>72</sup> Countries are continuing to export arms and ammunition to the country, including sales of the types of weapons that were documented in ISIL's stockpiles by Amnesty International, such as MILAN anti-tank missiles and infantry fighting vehicles.<sup>73</sup>

**There is a risk that weapons transferred to Iraqi forces could be diverted, in contravention of Article 11 of the Treaty, into the possession of armed non-state actors and terrorist groups including Islamic State.**

**There is a risk that arms which are diverted into possession of ISIL could be used to commit or facilitate serious violations of international humanitarian and human rights law [Articles 7.1(b)(i) Article 7.1(b)(iii)], of acts of terrorism [Article 7.1(b)(iii)], of transnational organized crime [Article 7.1(b)(iv)], and of serious acts of gender-based violence and acts of violence against women and children [Article 7.4].**



**A TACTICAL SECURITY OFFICER WITH THE DHI QAR POLICE FORCE EXAMINES ROCKETS IN A LARGE WEAPONS CACHE. THESE WEAPONS WERE CONFISCATED BY THE TACTICAL SECURITY UNIT OF THE DHI QAR POLICE FORCE IN NASIRIYAH, IRAQ, JUNE 13.**

CREDIT: © 982D COMBAT CAMERA CO. (ABN), SSG BRENDAN STEPHEN

69 Amnesty International (2015). "Iraq: Taking Stock: The Arming of Islamic State". 7 December 2015, p. 5. <https://www.amnesty.org/en/documents/mde14/2812/2015/en/>

70 Ibid.

71 Ibid., p. 6

72 Ibid., p. 6.

73 Eleven countries exported major conventional weapons to Iraq in 2015 according to the Stockholm International Peace Research Institute's (SIPRI) "Trade Registers", [http://armstrade.sipri.org/armstrade/page/trade\\_register.php](http://armstrade.sipri.org/armstrade/page/trade_register.php). An analysis of the UN Commodity Trade Statistics Database (UN Comtrade) carried out on 8 June 2016 found that 20 countries had exported arms, ammunition, parts and components to Iraq in 2015; see <http://comtrade.un.org/data/>



In order for a risk assessment to be effective and true to the Object and Purpose of the ATT, it must be forward-looking in its understanding of risk. The long shelf-life of much military equipment means that States Parties must consider all available evidence of foreseeable risks associated with any prospective export. Risk Watch will help advance that understanding by building an evidence base of recent and ongoing patterns of behaviour. Analysis of past and present behaviour is one key measure of future risk.<sup>74</sup> This evidence base will be used as an indicator of the likelihood that a potential recipient may use the weapons to carry out future violations or continue patterns of behaviour that would be incompatible with the standards set out in the Treaty.

### STAGE 3: TURNING EVIDENCE INTO GUIDANCE

On the basis of the information catalogued through the Risk Watch tool, the ATT Monitor will provide a series of advisory rankings that highlight the level of risks associated with prospective transfers to specific recipients or contexts.

ATT Monitor proposes to group information by actor (or where not available, by context) into categories of risk of negative consequences of any future arms export. The category of risk for a specific recipient or context will be determined by the weight of information gathered relating to its pattern of behaviour. ATT Monitor will use these gradients consistently across all contexts as it provides evidence-based conclusions to inform States Parties' risk assessments.

Risk assessments by States Parties should be guided primarily by two key parameters: the intended recipient, and the nature of the equipment considered for export.<sup>75</sup> Rankings provided by the ATT Monitor within each context of concern will reflect the different risks that are relevant to the particular categories of arms associated with any one recipient or context.

Risk Watch will provide evidence of risks prior to any mitigation measures that an exporting State Party may consider appropriate and effective, if any. There are other factors not addressed by the Risk Watch tool that States Parties will need to assess, including whether there have been effective accountability measures taken to redress previous criminal acts and violations of international law, and whether the recipient country has ratified and implemented relevant international instruments.

All evidence gathered and synthesized by Risk Watch for a given context will be made available on the ATT Monitor website. A summary of existing transfer data, sourced from governments' annual transfer reports as well as resources such as the Stockholm International Peace Research Institute's Arms Transfers Database and UN Commodity Statistics Database, will be published alongside risk rankings for key recipients of concern. This will enable the ATT Monitor to highlight concerning arms exports retrospectively, and to inform States Parties about potential high-risk transfers. In this way Risk Watch will illustrate existing supply chains of arms and ammunition that will link arms exporters to recipients and to the acts they carry out with the weapons provided.



<sup>74</sup> It is not, of course, the sole measure as risks may emerge as a result of sudden geopolitical and strategic developments, but an evidence base of relevant patterns of activity is a vital guide to understanding future use.

<sup>75</sup> See Control Arms (2015). "ATT Monitor 2015". ATT Monitor, 25 August 2015, Chapter 1.2, pp. 44-62.  
<http://armstreatymonitor.org/current/wp-content/uploads/2015/08/Full-Annual-Report.pdf>



**BOX 4: SOUTH SUDAN RISK PROFILE**

**Overview:** South Sudan has suffered from internal and cross-border armed violence prior to and since independence in 2011. Fighting between the government forces and an alliance of armed groups in the country has displaced more than two million people, and more than half of the country's population are now in need of humanitarian assistance.<sup>76</sup> Although a peace agreement was signed in August 2015 the security situation remains precarious with new patterns of armed violence emerging.<sup>77</sup>

**Risk snapshot:** Multiple credible bodies have documented systematic violations of international humanitarian law (IHL) and human rights law (IHRL) by all parties to the conflict in South Sudan.<sup>78</sup> Civilians have been deliberately targeted on the basis of their ethnic, tribal or political identity.<sup>79</sup> In October 2014 the African Union Commission of Inquiry on South Sudan documented sexual and gender-based violence committed by both sides.<sup>80</sup> In January 2016 a report of the UN Panel of Experts on South Sudan described conflict-related sexual violence as a 'hallmark' of the conflict, stating that all parties

deliberately used rape as a tactic of war.<sup>81</sup> Human-rights groups have criticized the limited progress towards accountability for the violations and abuses of IHL and IHRL that have taken place, including 'rampant' gender-based violence.<sup>82</sup>

**Transfer overview:** Arms transfers to South Sudan have not been reported publicly through the UN Register on Conventional Arms or the UN Commodity Trade Statistics Database (UN Comtrade).<sup>83</sup> The August 2015 ATT Monitor case study on arms transfers to South Sudan found credible evidence that transfers have continued throughout the crisis despite the clear risks of misuse and diversion.<sup>84</sup>

**There is a risk that arms transfers could be used to commit or facilitate serious violations of international humanitarian and human rights law [Articles 7.2(b)(i) and 7.2(b)(ii)].**

**There is also a risk that arms exports could be used to carry out acts of gender-based violence and acts of violence against women and children in contravention of Article 7.4 of the Treaty.**

**CONCLUSION**

The information and guidance produced by ATT Monitor will be publicly available to all interested parties. It is anticipated that the Risk Watch tool will be of value for use by government export authorities, and to other governments and civil society organizations to act as watchdogs of licensing behaviour.

ATT Monitor supports effective decision-making by States Parties as they seek to responsibly implement the Treaty and promote its norms.

The Risk Watch tool's primary purpose is to promote informed decision-making and provide recommendations based on available information. The ATT Monitor methodology will help provide a basis for the evaluation of arms transfers into contexts of concern, and to increase, through the provision of knowledge, responsible practice among States Parties.

76 UN Office for the Coordination of Humanitarian Affairs (UN OCHA), (2016), "Statement to the Security Council on South Sudan", New York, 31 March 2016. [https://docs.unocha.org/sites/dms/Documents/USG\\_ERC%20Stephen%20Brien%20Statement%20on%20South%20Sudan%20SecCo%2031March2016\\_CAD.pdf](https://docs.unocha.org/sites/dms/Documents/USG_ERC%20Stephen%20Brien%20Statement%20on%20South%20Sudan%20SecCo%2031March2016_CAD.pdf)

77 UN Security Council (2016), "Reports of the Secretary-General on the Sudan and South Sudan", S/PV.7678, 26 April 2016. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_pv\\_7678.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7678.pdf).

78 See, for example, AU Commission on Inquiry on South Sudan (2014), "Final Report of the African Union Commission of Inquiry on South Sudan", African Union, Addis Ababa, 15 October 2014. [www.peaceau.org/uploads/auiciss.finalreport.pdf](http://www.peaceau.org/uploads/auiciss.finalreport.pdf), and UN Security Council (2106), "Final Report of the Panel of Experts on South Sudan", S/2016/670, 22 January 2016. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2016\\_70.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_70.pdf)

79 Ibid., p.37.

80 AU Commission on Inquiry on South Sudan (2014), "Final Report of the African Union Commission of Inquiry on South Sudan", African Union, Addis Ababa, 15 October 2014, p.112. [www.peaceau.org/uploads/auiciss.finalreport.pdf](http://www.peaceau.org/uploads/auiciss.finalreport.pdf)

81 UN Security Council (2106), "Final Report of the Panel of Experts on South Sudan", S/2016/670, 22 January 2016, pp. 43-44. [www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2016\\_70.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_70.pdf)

82 Human Rights Watch (2016), "UN Human Rights Council: Joint NGO Letter on South Sudan", 4 March 2016. <https://www.hrw.org/news/2016/03/04/un-human-rights-council-joint-ngo-letter-south-sudan>

83 According to the Stockholm International Peace Research Institute's (SIPRI) "Trade Registers", in 2015 South Sudan took delivery of six Mi-24P/Mi-35P combat helicopters from an unknown supplier; see [http://armstrade.sipri.org/armstrade/page/trade\\_register.php](http://armstrade.sipri.org/armstrade/page/trade_register.php)

84 Control Arms (2015), "Arms Transfers to South Sudan", ATT Monitor, Case Study 1, 25 August 2015. <http://armstreatymonitor.org/current/arms-transfers-to-south-sudan/>



**STANDING NATO MINE  
COUNTERMEASURES GROUP 2  
FLAGSHIP GREEK FRIGATE HS  
SPETSAI IN THE RED SEA WHILE  
TRANSITING TO THE PERSIAN  
GULF ON OPERATION INAS BAHR  
(FRIENDLY SEAS).**

CREDIT: © 2ND LT. GIANPIERO SANNA  
ITALIAN NAVY (SNMCMCG2 PAO)  
NATO MARITIME COMMAND NAPLES

## CHAPTER 3.1: INITIAL REPORTS REVIEW

This chapter analyses the first tranche of publicly available Initial Reports received by the ATT Secretariat in accordance with Article 13.1. Using only the information provided in the publicly available reports (even if States Parties have previously provided additional detail and information in other national reports), the chapter first describes reporting compliance and the types of reporting formats submitted. Next, it provides a snapshot of the information contained within key sections of the Initial Reports and identifies good practice in measures undertaken to implement the Treaty. ATT Monitor is not verifying the statements made by States Parties in their submitted reports in this Chapter, but is analysing what implementation measures States Parties say they have done. The chapter then highlights information missing or limited in the Initial Reports, and lists key findings from the analysis of the Initial Reports. It concludes with recommendations to enhance reporting on measures undertaken to implement the Treaty.

Article 13.1 of the Arms Trade Treaty (ATT) states that

Each State Party shall, within the first year after entry into force of this Treaty for that State Party, in accordance with Article 22, provide an initial report to the Secretariat of measures undertaken in order to implement this Treaty, including national laws, national control lists and other regulations and administrative measures. Each State Party shall report to the Secretariat on any new measures undertaken in order to implement this Treaty, when appropriate. Reports shall be made available, and distributed to States Parties by the Secretariat.

Initial Reports are an inventory of all the measure that States Parties have undertaken to implement the ATT. These reports help to clarify whether States Parties have adequate systems for national control in place. They also can provide insight into how States Parties interpret and understand the Treaty's provisions and demonstrate the ways in which they are aligning their national systems with it. One of the key benefits of the Initial Reports is that they provide an opportunity for States Parties to assess their implementation as well as for all stakeholders to compare and analyse the implementation of all States Parties to identify potential areas of weakness or strength. Initial Reports represent the results of a State Party's self-assessment of its compliance with treaty provisions and

highlights areas that could be strengthened. They can also facilitate the identification of opportunities to match assistance requests with available resources. Finally, Initial Reports can provide examples of best practice, demonstrating that a variety of approaches can be utilized to effectively implement the Treaty. All States Parties can learn from the experiences and practices described by their peers in their Initial Reports and adapt them for their own use.

### REPORTING COMPLIANCE

Between 24 December 2015 and 31 May 2016, 63 States Parties had an obligation under the Treaty to submit their Initial Reports to the ATT Secretariat. As of 31 May 2016, 47 had submitted theirs, a compliance rate of nearly 75 per cent. Of these 47 States Parties, 44 have made their Initial Report publicly available via the ATT Secretariat's website.<sup>1</sup> Three governments have chosen to keep their reports private; although one of these governments announcing that it would make its Initial Report publicly available they have not done so by the deadline.<sup>2</sup>

### REGIONAL BREAKDOWN

Initial Reports have been provided by States Parties from every region of the world. However, regional reporting rates vary (see Table 1). The lowest level is in the Americas, with only 31 per cent of States Parties providing their Initial Report to the ATT Secretariat. By comparison, Europe has a 94 per cent rate and Africa a 63 per cent rate. Oceania and Asia had 100 per cent reporting, but the numbers of States Parties in these two regions is very small.

**Table 1. Initial Report Submissions by Region**

Region	States Parties due to report by 31 May 2016	State Parties that have submitted reports	Regional reporting rate
Africa	8	5*	63%
Americas	16	5	31%
Asia	1	1	100%
Europe	35	33	94%
Oceania	3	3	100%

\* Three private

1 See ATT Secretariat (2016). "Reporting and deadlines". Accessed 29 June 2016. <http://www.thearmstradetreaty.org/index.php/en/resources/reporting>

2 The three are Burkina Faso, Nigeria and Senegal. Nigeria committed to making its Initial Report publicly available during the Extraordinary Meeting of States Parties on 29 February 2016, but this was still not the case as of 31 May 2016. The ATT Secretariat website does not provide any information on States Parties that have provided an Initial Report but have chosen to restrict access to the it, and thus information was provided to ATT Monitor from government sources that accessed the website.



## REPORT FORMATS

The only guidance in the ATT regarding the content of an Initial Report is that it should include 'national laws, national control lists and other regulations and administrative measures'.<sup>3</sup> The Treaty does not contain a reporting template in an annex or requirements for a standardized reporting template. States Parties consider the production of a reporting template to be a useful endeavour, however, as it can assist them with guidance on the type of information to provide when reporting on implementation and transfers.

Sweden was therefore tasked with coordinating a working group on issues related to the development of a reporting template at the second informal consultations for the First Conference of States Parties (CSP 2015) in Berlin in November 2014. Civil society organizations and governments were invited to participate in the working group by sharing ideas and submitting comments via email and meeting informally. Civil society played a key role in developing the first drafts of templates for Initial and Annual Reports. Unfortunately, few States Parties shared their views on the template either publicly or via email to the chair of the informal working group. As a result, it is not possible to document the reasons for changes from the first draft to the draft templates presented at the first CSP. The draft templates were presented for adoption at the conference by States Parties, but there were differences of opinion between States Parties regarding their status and the interpretation of what information should be included in reports.

Regarding the points of difference, it is first worth noting that States Parties would not be obliged to use a standardized reporting template unless there is an amendment to the Treaty. Such an amendment cannot be adopted until 2020 at the earliest, and even then would only apply to those that ratify it. Therefore, States Parties at CSP 2015 could only adopt a decision that recommended the use of such a template.

Regarding the second difference of opinion, Article 13.1 requires States Parties to report on 'measures undertaken in order to implement' the ATT. However, the provisional template

differentiates between voluntary and mandatory treaty obligations with regard to reporting for the Initial Report by placing those measures in 'binding' and 'non-binding' sections. Although the Treaty is clear that States Parties shall report on all implementation efforts, this separation of obligations creates some confusion as to whether they are required to report on those measures that do not relate to mandatory obligations. The structure of the provisional template, by separating thematic sections into a binding and non-binding section, makes it difficult for States Parties to report on their implementation efforts as well as for those conducting an analysis of the reports to compare their responses accurately. Following feedback from States Parties, the chair of the 2016 working group has therefore proposed moving the binding and non-binding sections into the same thematic headings, but keeping the non-binding obligations shaded.

Those States Parties that did not use the provisional template chose to use the ATT-Baseline Assessment Project (ATT-BAP) Survey or their own format to submit their report. Prior to the development of the provisional template, some States Parties had used the ATT-BAP Survey to conduct an internal review and assessment of their national implementation efforts. As of 31 May 2016, 53 of the 82 States Parties had completed their ATT-BAP Survey. ATT-BAP contributed to a 'key' that was developed by the working group chair to facilitate the matching of questions in the survey with questions in the provisional reporting template in order to assist those States Parties that completed an ATT-BAP Survey but wanted to submit their Initial Report using the provisional reporting template. At least nine States Parties appear to have taken advantage of the 'key' to complete their Initial Report when using the provisional reporting template.<sup>4</sup> Six submitted their completed ATT-BAP Surveys as their Initial Report.<sup>5</sup> One provided a narrative account of its system and fulfillment of treaty provisions.<sup>6</sup>

The provisional template is currently only available in English. The ATT-BAP Survey is available in Arabic, English, French and Spanish. Three different languages were used for the 44 publicly available Initial Reports: 39 States Parties completed their report in English, two in French<sup>7</sup> and three in Spanish.<sup>8</sup>

3 Arms Trade Treaty, Article 13.1 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 13(1). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

4 These are Austria, Bosnia and Herzegovina, Bulgaria, Estonia, Finland, Latvia, Poland, Portugal and Romania.

5 States Parties using the ATT-BAP Survey were Australia, Japan, Macedonia, Montenegro, Serbia and the United Kingdom.

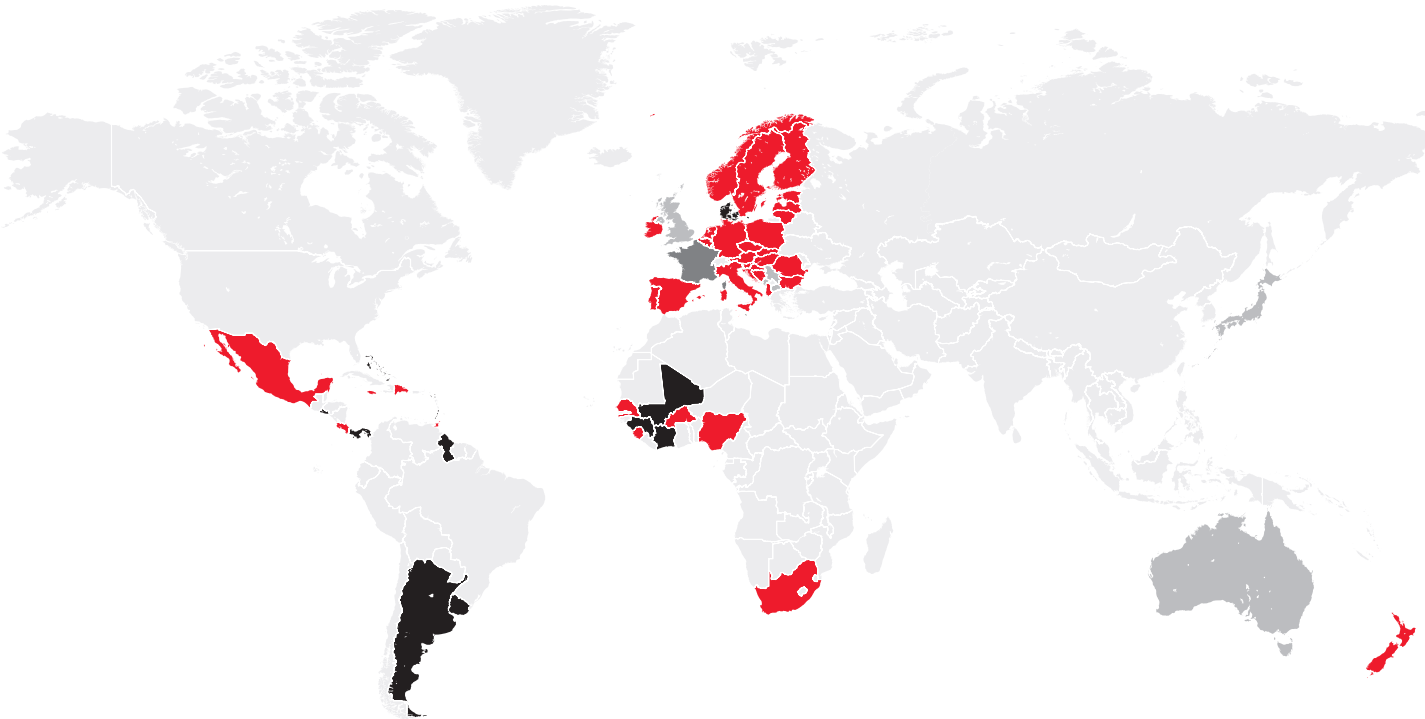
6 France.

7 France and Luxembourg (though parts of Luxembourg's report were completed in French and English).

8 Costa Rica, Mexico, and Spain.



TABLE 2. STATE PARTY REPORTING PROGRESS



**40**  
**USED PROVISIONAL TEMPLATE:**  
Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso\*, Costa Rica, Croatia, Czech Republic, Dominican Republic, Estonia, Finland, Germany, Hungary, Iceland, Ireland, Italy, Jamaica, Latvia, Liechtenstein, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Nigeria\*, Norway, Poland, Portugal, Romania, Samoa, Senegal\*, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago.

\* Not certain because reports were kept private.

**1**  
**USED OWN FORMAT:** France.

**6**  
**USED ATT-BAP SURVEY:** Australia, Japan, Macedonia, Montenegro, Serbia, United Kingdom.

**16**  
**HAVE NOT REPORTED:** Antigua and Barbuda, Argentina, Bahamas, Côte d'Ivoire, Denmark, El Salvador, Grenada, Guinea, Guyana, Mali, Malta, Panama, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Uruguay.

## WHAT THE INITIAL REPORTS CAN REVEAL

Article 13.1 requires States Parties report on 'measures undertaken in order to implement' the ATT. However, the provisional template differentiates between voluntary and mandatory treaty obligations with regard to reporting for the Initial Report by placing those measures in 'binding' and 'non-binding' sections. Although the Treaty is clear that States Parties report on all implementation efforts, this separation of obligations creates confusion as to whether they are required to report on those measures that do not relate to mandatory obligations. The current structure of the provisional template has had the effect of not requiring States Parties to report on all measures they have undertaken to implement the Treaty. However, even with these challenges of the format of the provisional template, the publicly available Initial Reports provided to the ATT Secretariat provide a useful overview of key elements of national transfer-control systems around the world and offer important insights into national interpretations of treaty provisions.

The willingness to provide more detail in the 'non-binding provisions' section could be due at least in part to the fact that States Parties have more opportunity to provide additional details due to the number and types of questions asked in it. The questions in the 'non-binding provisions' section are of a more open-ended nature than the one in the 'binding provisions' section. An analysis of State Parties' responses to key areas in the Treaty that relate to treaty effectiveness are described below.

## NATIONAL CONTROL SYSTEMS AND NATIONAL CONTROL LISTS

Article 5(2) of the ATT requires States Parties to 'establish and maintain a national control system, including a national control list'.<sup>9</sup> Forty-three States Parties responded in their publicly available Initial Reports that they have such a list in place. The Treaty also obliges States Parties to have national systems to control exports of conventional arms, ammunition, and parts and components, as well as to regulate the import, transit and brokering of conventional arms. Table 3 provides aggregated data from the 44 publicly available reports on the current status of implementation of the requirement for a national control list. While all publicly available reports indicate that the States Parties concerned regulate imports, not all of them regulate exports, transit/transshipment or brokering.

**Table 3. Types of transfers covered by national systems**

Region	Number of States Parties (out of 44)
National system establishes controls for exports	40
National system establishes controls for imports	44
National system establishes controls for transit/transshipment	43
National system establishes controls for brokering	39

## PROHIBITIONS

With regard to reporting on prohibitions, 43 of the 44 States Parties that made their reports public indicated that they prohibit arms transfers in all circumstances specified in Articles 6(1), 6(2), and 6(3) of the ATT, as listed below:<sup>10</sup>

- If a transfer would violate obligations under measures adopted by the UN Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes
- If a transfer would violate relevant international obligations under international agreements to which the State Party is also a party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms
- If the State Party has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed at civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a party.

<sup>9</sup> Arms Trade Treaty, Article 5.2 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 5.2. <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

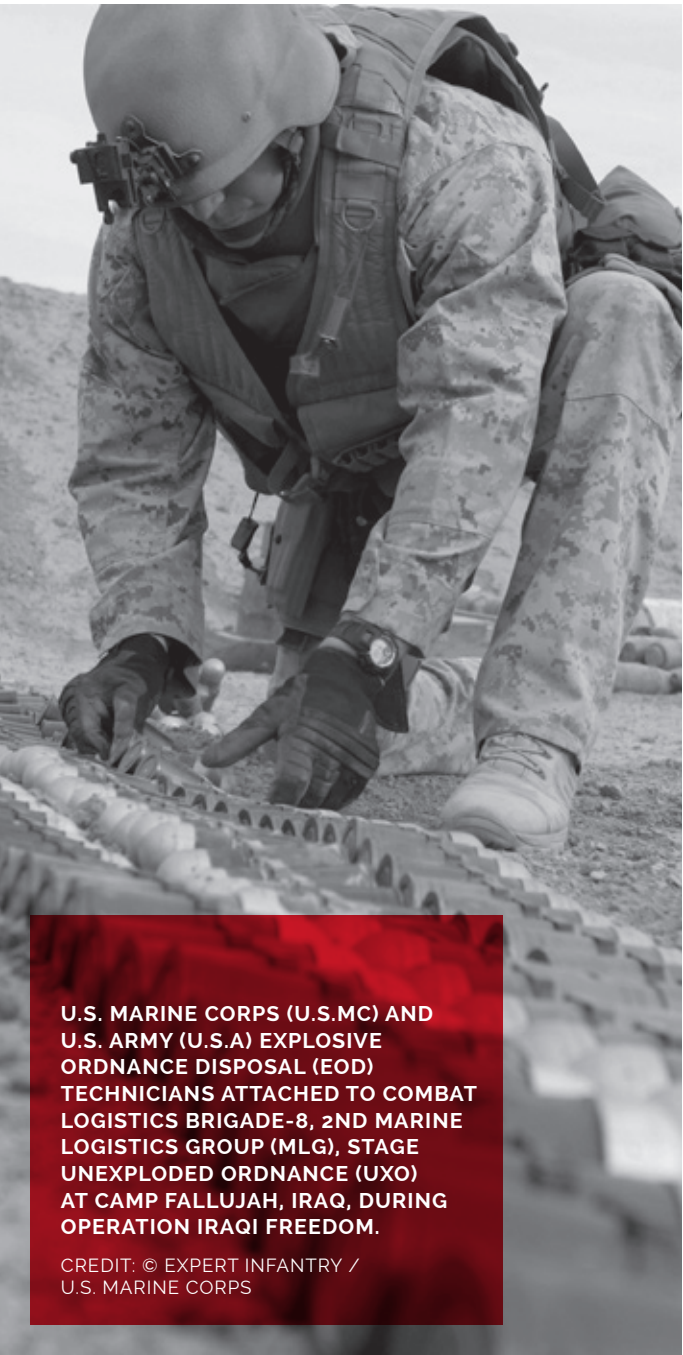
<sup>10</sup> The only State Party that responded 'no' indicated that work is underway to address the gap. Trinidad and Tobago stated that 'With the exception of small arms and light weapons and ammunition/munition, the other categories of weapons are subject to controls established by the Executive and inter-State relations. It is the intention of the Government to enact legislation to give full effect to the provisions of the ATT to treat with existing gaps in the national control system.'

The Initial Reports also provide a list of commonly cited international and regional agreements as they pertain to Articles 6(2) and 6(3) of the ATT. More than 20 such instruments relating to Article 6.2 were cited by responding States Parties, including the Convention on Cluster Munitions, the Mine Ban Treaty, the Firearms Protocol, and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, which were referenced by more than one-third of them (see Table 4). In addition, States Parties listed agreements not specifically related to conventional weapons, such as the Biological and Toxin Weapons Convention, the Chemical Weapons Convention, the Treaty on the Non-Proliferation of Nuclear Weapons and other nuclear-focused regimes.

**Table 4. International and regional conventional arms instruments relating to Article 6.2**

International and regional instrument	Number of States Parties (out of 44)
Convention on Certain Conventional Weapons	22
Convention on Cluster Munitions	26
European Union (EU) Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment	13
Firearms Protocol	21
Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All its Aspects (PoA)	13
Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies	17

States Parties reported that their Article 6.3 commitments were based on the same agreements as those under Article 6.2 as well as on international human rights and humanitarian law obligations. More than three-quarters of them, however, explicitly cited the Geneva Conventions and Additional Protocols, while half referenced the Convention on the Prevention and Punishment of the Crime of Genocide, and over 40 per cent cited the Rome Statute (see Table 5). It is worth noting that States Parties may be party to these agreements, but may not have listed them within their reports.



U.S. MARINE CORPS (U.S.MC) AND U.S. ARMY (U.S.A) EXPLOSIVE ORDNANCE DISPOSAL (EOD) TECHNICIANS ATTACHED TO COMBAT LOGISTICS BRIGADE-8, 2ND MARINE LOGISTICS GROUP (MLG), STAGE UNEXPLODED ORDNANCE (UXO) AT CAMP FALLUJAH, IRAQ, DURING OPERATION IRAQI FREEDOM.

CREDIT: © EXPERT INFANTRY / U.S. MARINE CORPS

**Table 5. International instruments relating to Article 6.3**

International and regional instrument	Number of States Parties (out of 44)
Geneva Conventions and Additional Protocols	34
Convention on Prevention and Punishment of the Crime of Genocide	27
Rome Statute	20

## EXPORTS

The export section is an area of great focus in the Initial Reports, with many States Parties providing considerable detail on their export controls in the binding and non-binding sections of the provisional template, as well as in the corresponding sections of the ATT-BAP Survey for those that submitted their one as their Initial Report. Of the 47 States Parties reporting, 25 are ranked among the top 50 exporters of major conventional arms for the period 2011–15, while at least a further 10 are recorded as exporting major conventional arms or small arms and light weapons during this period.<sup>11</sup>

Therefore, these are States Parties that are used to exchanging information on the elements of their national control system, in particular as regards exports. As Table 6 illustrates, a significant number of the 44 States Parties that provided public Initial Reports report on their systems for arms transfers and national control under other processes.

**Table 6. Experience of reporting on transfer and national control systems and arms exports<sup>12</sup>**

International and regional instrument	Number of States Parties (out of 44)
Wassenaar Arrangement	
As part of this regime, States Parties exchange information on their systems	31
Organization for Security Cooperation in Europe	
As part of this regime, States Parties exchange information on national systems to control small arms and light weapons transfers	33
National reporting mechanisms	
States Parties that have produced national reports that contain information on their arms export control systems at least once, with several providing information online	30
Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All its Aspects (UN PoA)	
States Parties that have provided information on their efforts to control small arms and light weapons	34
UN Register of Conventional Arms	
States Parties that have reported their annual arms exports, imports, or provided a nil report at least one time	42



**OF THE 47 STATES PARTIES REPORTING, 25 ARE RANKED AMONG THE TOP 50 EXPORTERS OF MAJOR CONVENTIONAL ARMS FOR THE PERIOD 2011–15, WHILE AT LEAST A FURTHER 10 ARE RECORDED AS EXPORTING MAJOR CONVENTIONAL ARMS OR SMALL ARMS AND LIGHT WEAPONS DURING THIS PERIOD.**

<sup>11</sup> Stockholm International Peace Research Institute (SIPRI), (2016). "Top List TIV Tables", data generated 3 June 2016. <http://armstrade.sipri.org/armstrade/page/toplist.php>

<sup>12</sup> See for more information: ATT Secretariat (2016). "Reporting and Deadlines". Accessed 29 June 2016. <http://thearmstradetreaty.org/index.php/en/resources/reporting>; Wassenaar Arrangement. "Participating States" Accessed 30 June 2016. <http://www.wassenaar.org/participating-states/>; Organization for Security and Cooperation in Europe (OSCE). "Participating States". Accessed 30 June 2016. <http://www.osce.org/states>; Stockholm International Peace Research Institute (SIPRI). "National reports on arms exports". Accessed 30 June 2016. <https://www.sipri.org/databases/national-reports>; United Nations. "National Reports on the Programme of Action" Accessed 30 June 2016. <http://www.poa-iss.org/Poa/NationalReportList.aspx>; United Nations Register of Conventional Arms (UNROCA). "Transparency in the Global Reported Arms Trade". Accessed 30 June 2016. <https://www.unroca.org/>



## DIVERSION

The ATT highlights the importance of combatting the diversion of arms, including with regard to reporting. Article 13.2 encourages States Parties to 'report to other States Parties, through the Secretariat, information on measures taken that have been proven effective in addressing the diversion of transferred conventional arms covered under Article 2 (1)'. Until such reporting is undertaken, the Initial Reports can provide insights into how States Parties manage the risk of diversion within their national system (see Table 7).

Five States Parties out of 44 reported that they do not have measures in place to prevent diversion. The reports also reveal that less than half of the States Parties that made their Initial Reports publicly available (20 out of 44) indicated that they report through the ATT Secretariat to other States Parties on measures taken to address diversion. There is currently no mechanism for States Parties to do this, and the 'yes' answer likely refers to their willingness and intent to provide such information at a later date. In addition, 12 States Parties noted that such information is already publicly available or indicated that they will do so once the ATT Secretariat is able to serve in this capacity and if circumstances require, or upon request.

**Table 7: Efforts undertaken to mitigate risk of diversion**

International and regional instrument	Number of States Parties (out of 44)
Require end-user documentation, statements, and/or other assurances	37
Examine parties involved in a transfer	40
Require additional documentation, certification, and/or other assurances	39
Participate in information exchanges with relevant parties	41

States Parties also provided information on the types of measures that they take when diversion is detected (see Table 7). These measures include a check of export licences/authorizations issued, stopping the shipment, and sharing information with governments, Interpol and others. Twelve per cent of States Parties indicated that their national control systems do not include measures to be taken when diversion is detected. These were spread across different regions, with

two from the Caribbean (Jamaica and Trinidad and Tobago), two from Europe (Hungary and Luxembourg) and one from Oceania (Samoa). However, three of the five States Parties that reported they do not have these processes in place indicated that the establishment of such measures is under review and will soon be included in national laws and regulations. Specifically, of the five states that responded 'no', three provided the following information.

- Luxembourg: Legislation on these aspects is currently undergoing review. This review process has not yet been concluded.
- Trinidad and Tobago: Ad hoc arrangements exist to deal with situations where diversion is discovered. The proposed legislative amendments will take these arrangements into consideration.
- Jamaica: such measures are now undertaken through administrative action and will be addressed in subsequent amendments of the appropriate legislation.

Hungary gave a nuanced explanation for its 'no' response to the question(s) about whether the national control system includes appropriate measures to be taken, pursuant to national law and in accordance with international law, when a diversion of transferred conventional arms has been detected. It explained that

'[t]he measures to be taken when a diversion has been detected (thus constituting a criminal offence) are not regulated in the national legislation on conventional arms trade control. The law enforcement agencies have the powers to take measures (i.e. initiate prosecution) in case a diversion of transferred conventional arms is detected.'<sup>13</sup>

## ENFORCEMENT

Of the 44 States Parties that made their Initial Reports publicly available, 42 indicated that they have measures in place to enforce national laws and regulations as they pertain to ATT implementation. In the event that relevant laws and regulations are violated, 41 indicated that their national legislation allows for the provision of joint assistance in investigations, prosecutions and judicial proceedings. Those States Parties that did not identify joint enforcement assistance in this regard were Costa Rica, Jamaica, and Mexico. The fact that they are from the same region may highlight an area for future coordination and cooperation.

<sup>13</sup> Arms Trade Treaty, Article 13.2 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT)\_Art 13.2.  
<https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

<sup>14</sup> Initial Report of the Government of Hungary, [http://thearmstradetreaty.org/images/151223\\_Hungary\\_ATT\\_Initial\\_Report\\_2.pdf](http://thearmstradetreaty.org/images/151223_Hungary_ATT_Initial_Report_2.pdf)

## GOOD PRACTICE IN IMPLEMENTING THE ATT

The Initial Reports provide examples of the measures undertaken by States Parties that reflect international standards and best practice in this area that they should be encouraged to share as examples or models that could be adapted for use in other national systems.

The way in which the provisional reporting template is structured means that much of the information that could be useful to States Parties – such as specific information on national control lists – is contained within the 'non-binding provisions' section. The level of detail provided varied among submitted reports. In order to identify good practice, States Parties must use and consolidate information in both sections of the provisional template, which can be cumbersome and time-consuming.

Additionally, several States Parties revealed that their systems – including laws, regulations and policies – were under development and would be further enhanced in the near future. Under the Article 13.1, States Parties are obliged to submit an update to their Initial Report, highlighting these improvements and changes to their national systems when they occur.

## NATIONAL CONTROL SYSTEM AND LIST

States Parties provided information on, and links to, specific domestic laws and regulations that govern national control systems. Many identified a number of multilateral regimes from which their national control lists and definitions derive, including the Wassenaar Arrangement and the Common Military List of the European Union. In several cases, States Parties noted that they used descriptions contained within the UN Register of Conventional Arms, the UN Firearms Protocol, and regional agreements such as Inter-American Convention Against the Illicit Manufacturing of and Trafficking In Firearms, Ammunition, and Explosives and Other Related Materials.

States Parties also specified what is covered in their control lists. Nearly all have a control list that is comprehensive and includes the categories of all conventional arms identified in the ATT (Article 2.1), ammunition (Article 3) and parts and components (Article 4). Almost all States Parties publicly reporting (42 of 44) stated that their national control lists cover all eight categories of weapons. In addition, 41 States Parties include ammunition. Thirty-nine of them also include parts and components as well as ammunition. Of those States Parties that do not include all eight categories of weapons identified in Article 2.1 in their national control list, Sierra Leone noted that it only covers small arms and light weapons, ammunition, and parts and components, whereas Jamaica indicated that none of the items covered in Article 2.1 nor ammunition or parts and components are covered within its system at the time of reporting. Jamaica explained in its Initial Report that its control list is currently under development and, once established, will satisfy treaty requirements. Jamaica also noted that while its national control list is under development, 'the list of controlled items relevant to [the] treaty are provided for in several pieces of legislation, namely The Firearms Act 1967 and The Customs Act 1941.' The finalization of the list would be the kind of information Jamaica could provide in an update to its Initial Report in the future.

## EXPORTS

Information provided in Initial Reports builds understanding of how national systems work in practice. For example, 40 out of 44 publicly reporting States Parties revealed in their initial reports that they have systems in place through which they can reassess export authorizations if they becomes aware of new and relevant information (see Box 2 for some examples provided by States Parties). Nineteen States Parties identified the ability to suspend or revoke licences in the event that they become aware of new and relevant information. Three indicated they do not have such systems in place, with some, for example the Dominican Republic, noting the absence of reassessment due to the fact that they do not manufacture or export arms and ammunition. However, some States Parties did not provide information on this point, as this question is only explicitly asked in the 'non-binding provisions' section.

### BOX 1: RE-ASSESSING ARMS EXPORT AUTHORIZATIONS

- **Belgium:** If there has been a change in circumstances since a licence was granted or if the terms and conditions of a licence are not met, a licence can be re-assessed. This can lead to a suspension, withdrawal or the restriction in use of the licence.
- **Bosnia and Herzegovina:** The Ministry of Foreign Trade and Economic Relations shall issue its decision on the revocation of document if: (a) it establishes that the documentation was issued on the basis of false or incomplete information, while the applicant knew, or should have known that the data was false or incomplete; (b) such circumstances arise, or if new information is obtained, that, in case they existed, or had been known when the application for issuance of document was submitted, would have led to rejection of application for issuance of document; (c) issued document is not used for the intended purposes; (d) the legal entity does not operate in accordance with the provisions of this law and other by-laws regulating this area; (e) the legal entity prevents the conducting of supervision.
- **Finland:** The licence may be revoked if: there is a fundamental breach of licence conditions; misleading information have been given on purpose when applying for licence; general conditions for granting a licence or the circumstances under which the licence was granted have fundamentally changed; strong reasons exist for revoking the licence.
- **Ireland:** The Control of Exports Act 2008 provides for the revocation of a licence
- **Slovenia:** An issued export licence can be changed, abolished or annulled in the event that: the fulfilment of international obligations are imperilled, security and defence interests are imperilled, armed conflicts in the country that is the end-user of military weapons and equipment are accelerated or allowed for, if there is justified suspicion that the military weapons or equipment of the importing country is traded to a third state and in the event that this is in contradiction to the defence and security interest of the state.

### DEFINITIONS

With two exceptions, the ATT does not contain definitions, which enables States Parties to use their own. The two exceptions are the definition of transfer: 'the activities of the international trade comprise export, import, transit, transshipment and brokering, hereafter referred to as 'transfer' in Article 2.2, and Article 5.3, which states that 'National definitions of any of the categories covered under Article 2 (1) (a)-(g) shall not cover less than the descriptions used in the United Nations Register of Conventional Arms'.<sup>15</sup> Thus, Initial Reports are a useful resource for comparing the definitions used by States Parties in their national control systems. In particular, they reveal definitions for brokering and transit and transshipment that could be used by other States Parties that are seeking to develop their own definitions. Eleven States Parties provided definitions for transit/transshipment, and 33 provided definitions for brokering. The difference in the number of definitions provided for these two types of transfer activities could be a consequence of the absence of a specific question in the provisional reporting template asking for their definitions of transit/transshipment while there is such a question regarding brokering definitions.

Some States Parties are still developing definitions as part of their national systems. For example, New Zealand, which is still developing its legislative brokering control regime, noted that the legislation will include a definition of brokering as 'negotiating, arranging or facilitating the international movement of arms and military equipment from one foreign country to another foreign country'. It would also 'require all brokering activity by New Zealand citizens or entities to first obtain a permit. It is expected that the legislation will have extraterritorial application'.<sup>16</sup> This would be something that New Zealand could provide in a future update to its Initial Report.

### WHAT IS MISSING FROM INITIAL REPORTS?

Although there is a lot of information contained within the initial reports, there are some gaps in knowledge that, if included in the initial reporting template or another information exchange, transparency, or reporting mechanism, would contribute to greater understanding of ATT implementation and facilitate capacity building initiatives.

15 Arms Trade Treaty. Articles 2.1 and 5.3 (adopted 2 April 2013, entered into force 24 December 2014). UNTS (ATT) Art 2(1), 5(3). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

16 Initial Report of the Government of New Zealand, [http://thearmstradetreaty.org/images/New\\_Zealand\\_Arms\\_Trade\\_Treaty\\_national\\_implementation\\_report\\_December\\_2015.pdf](http://thearmstradetreaty.org/images/New_Zealand_Arms_Trade_Treaty_national_implementation_report_December_2015.pdf)

## INTERNATIONAL COOPERATION AND ASSISTANCE

The Initial Reports do not generate sufficient detail on assistance needs or available resources to support more effective implementation of the ATT. This is a missed opportunity, as the Treaty clearly identifies assistance and cooperation as important for effective implementation (See Chapter 1.3 for analysis of assistance and cooperation to Africa).<sup>17</sup> The section on assistance in the provisional reporting template only consists of three questions, two of which relate to 'non-binding provisions' and in response to which States Parties did not provide a lot of information. As a result, such information might have to be elicited by supplementary reporting mechanisms instead.

International cooperation efforts are also under-reported in the Initial Reports, particularly in the case of States Parties that used the provisional reporting template. States Parties have not provided detailed responses to these questions in the provisional reporting template, which are contained within the 'non-binding provisions' section. The lack of information on this topic is a missed opportunity to effectively direct assistance where it is most needed.

If information about needs for and offers of international assistance as well as specific examples of international cooperation are missing, this makes it extremely challenging to accurately identify gaps and areas in need of additional resources. States Parties appear not to have clearly identified in a systematic and useful manner the ways in which they could benefit from (or offer) capacity-building expertise and models for facilitating bilateral or multilateral cooperation. This means that it may be difficult to allocate technical, financial, and material assistance, not least to countries and regions with the most need.

## RECORD-KEEPING

The 'binding provisions' section of the provisional reporting template only asks States Parties if their national control system includes provisions for maintaining records of issued authorizations and actual exports, and if those records are kept for a minimum of 10 years. They answered these questions with 'yes' and 'no' responses and largely only provided additional information with regard to the duration of record-keeping.

The 'non-binding provisions' section asks questions regarding additional information about record-keeping for arms imports,

transit/transshipment and brokering, as well as whether national records cover categories of conventional arms other than those specified in Article 2.1 of the ATT. Missing from the provisional reporting template are specific questions regarding the types of information contained within records on arms exports, imports and transit/transshipment. Such information could include details on quantity, value, model/type, exporting state, transit/transshipment state and other insights. Although this information could be provided in a State Party's Annual Report on arms exports and imports, describing the processes by which record-keeping is undertaken could serve to identify best practice and develop strong reporting standards.

Some States Parties provided additional information in the 'non-binding provisions' section and indicated that they keep records electronically and in hard copy. A few also provided information on types of information and national holdings and export process in the 'non-binding provisions' section.

A lack of comprehensive information on record-keeping inhibits assessments of good practice. It also limits insight on whether States Parties are capturing useful information in their records that could be provided to domestic enforcement agencies, shared with partners in joint cooperation efforts to stop diversion and be used to better facilitate end-use monitoring. This information could also be used to inform decisions on authorizations and enable the completion of Annual Reports on arms exports and imports.

## ENFORCEMENT

Detailed information on States Parties' specific enforcement measures is also lacking within the Initial Reports. Questions in the provisional reporting template are overarching and the majority of States Parties did not provide additional information on the specific processes and measures they take to enforce national laws that implement the ATT. This could be a reflection of the fact that the Treaty is quite vague in setting out clear obligations in this section. However, some States Parties provided additional information in the 'non-binding section' on their national laws and regulations that implement the Treaty and detailed specific actions that would violate these laws. These States Parties also provide details on the consequences of such violations (see Box 2). For example, some identified fines and criminal proceedings or a certain number of years of imprisonment as repercussions for violations, and they largely highlighted these measures in their voluntary information as well.

17 Arms Trade Treaty, Articles 15 and 16 (adopted 2 April 2013, entered into force 24 December 2014), UNTS\_(ATT) Art 15-16. <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>



**BOX 2: NATIONAL ENFORCEMENT PRACTICES**

- **Bulgaria:** Articles 337 and 339 of the Penal Code, provide punishment by deprivation of liberty from one to 10 years (varies depending on the severity and the type of crime) to person who manufactures, processes, repairs, develops, keeps, stockpiles, trades in, transports or exports explosives, firearms, chemical, biological or nuclear weapons or ammunition, without having the right to do so by law, or without licence from the respective government body, or does so not in compliance with the licence given to him.
- **Norway:** Section 5 of the Act relating to control of the export of strategic goods, services, technology, etc. (18 December 1987) specifies that: 'Unless the matter is subject to more severe penal provisions, any person who wilfully; exports or attempts to export goods, technology or services in contravention of this Act or regulations issued pursuant thereto, or contravenes or attempts to contravene any condition laid down pursuant to this Act, or orally or in writing furnishes incorrect information concerning circumstances of significance for authorisation to export goods, technology or services if this information is furnished: in a declaration made for use by a public authority or anyone acting on behalf of a public authority in connection with export or an application for permission to export, in a declaration intended to enable another person to make such a declaration as is mentioned under litra a, or in any other way contravenes or attempts to contravene provisions issued pursuant to this Act, is liable to fines or a term of imprisonment not exceeding five years, or both. Complicity in any offence such as is mentioned in the first paragraph is subject to the same penalty.'

A lack of specific information with regard to enforcement efforts may undermine support for international cooperation efforts to stop diversion. Indeed, a lack of understanding of the seriousness in which violations of arms-export laws are taken contributes to impunity.

**FINDINGS**

Initial Reports on implementation can help governments, regional and international organizations, and civil society to better understand current efforts to implement the ATT and enhance arms-transfer-control systems worldwide. Robust reporting will result in increased transparency in the international arms trade as well as promote greater responsibility when conducting arms transfers.

It is important to ask why one-quarter of States Parties did not submit their Initial Reports to the ATT Secretariat by their deadline in order to lead to the development of measures to help States Parties meet their obligations in the future. Eleven States Parties whose reports are overdue had previously completed their ATT-BAP Surveys and could have submitted them, or used the key to complete and submit the provisional reporting template. There are perhaps three reasons that account for why these States Parties failed to fulfil their reporting obligations.

First, is it a translation issue for some States Parties? Four States Parties completed the provisional reporting template in their native language (two in French and three in Spanish), even though it is only available in English.

Second, do States Parties understand the need to complete and submit their reports to the ATT Secretariat? They may not understand the benefits of submitting their reports (outside the fulfilment of a treaty obligation), and therefore may not recognize that reporting can help them to identify where there are weaknesses or gaps in their systems, to facilitate cooperation and assistance, and to harmonize regional approaches to improving arms-transfer control practices. For example, since, as mentioned above, the current provisional reporting template does not include detailed questions on international cooperation and assistance, States Parties may inadvertently overlook the ways in which the Initial Reports can lead to capacity-building. This omission could undermine efforts to match assistance needs with available resources because of the lack of relevant information based on what States Parties are (or rather are not) including in their Initial Reports.

Third, do States Parties lack the capacity to report on their implementation measures? Article 13.1 seeks to limit the reporting burden by only requiring a one-time report, not annual or biennial reporting as required by other instruments such as the UN Programme of Action on small arms and light weapons (UN PoA). However, it is also contemplated that States Parties will provide updates to ensure that implementation reports contain the most recent information on national control systems and are consistent with national practices. At least seven States Parties highlighted in their Initial Reports that aspects of their national control system are still 'under development'.

A lack of reporting will have consequences for the long-term success of the ATT and its goals of increasing transparency for the global arms trade. A lack of comprehensive and robust public reporting at this early stage will also set a bad precedent for the future, and thus could undermine the Treaty in its infancy. In addition, the harm this could do to efforts to match assistance needs and facilitate coordinated international cooperation risks undermining effective implementation and hindering national control efforts.

The States Parties that have submitted their Initial Reports demonstrate that there is a strong commitment to public reporting. All but one of the 35 States Parties that used the provisional reporting template and made it publicly available, completed the 'non-binding provisions' section. It is important to note that while the obligations can be interpreted as placing different requirements on States Parties, the Treaty does not differentiate between these in terms of the information to be provided in the Initial Report, and clearly those that have completed theirs are taking the reporting obligations seriously.



**AS MORE STATES PARTIES COMPLETE AND SUBMIT THEIR INITIAL REPORTS AND A FINAL REPORTING TEMPLATE IS DEVELOPED, THE LESSONS LEARNED FROM THE FIRST REPORTS SHOULD BE TAKEN INTO CONSIDERATION.**

## RECOMMENDATIONS

Improvements in reporting could have subsequent positive effects for facilitating more effective ATT implementation and thereby for supporting national, regional and international efforts to enhance security and stability. As more States Parties complete and submit their Initial Reports and a final reporting template is developed, the lessons learned from the first reports should be taken into consideration. For those that have already submitted theirs, future exchanges of more detailed information and regular updating of the ATT Secretariat of changes to national systems will be crucial. Doing so will help ensure the Treaty lives up to its potential and will assist States Parties in identifying what resources are needed or available to promote effective implementation and to develop lessons learned and good practices over time. Therefore, the following are recommendations for future reporting.

- Make reporting templates available in official UN languages – and as a minimum in Spanish and French
- Include detailed questions on international cooperation and assistance in future Initial Report draft templates as well as identify a process by which States Parties can exchange this information if they have already completed their Initial Report
- A final reporting template should eliminate the division and distinction between the 'binding provisions' and 'non-binding provisions' sections of the report, or at the very least provide all questions for each section in one place so that States Parties do not have to navigate between the sections to provide information on the same topic
- The ATT Secretariat should provide at least an annual reminder to States Parties to update their Initial Report if their system has changed, including by sending national contact points a copy of their report each year to ask if anything needs to be changed or updated
- States Parties due to report or that have yet to meet their reporting deadline should submit comprehensive and publicly accessible initial reports to the ATT Secretariat as soon as possible
- In the future, the ATT Secretariat should facilitate the development of a template for the Initial Report articulated in Article 13.2 on measures to address diversion.





MEMBERS OF A COMBINED AFGHAN  
AND COALITION SECURITY FORCE  
COLLECTED A CACHE OF WEAPONS  
AFTER CLEARING A KNOWN HAQQANI  
NETWORK FOREIGN FIGHTER  
ENCAMPMENT SITE IN PAKTIKA  
PROVINCE, AFGHANISTAN.

CREDIT: © PHOTO COURTESY  
INTERNATIONAL SECURITY  
ASSISTANCE FORCE



## CHAPTER 3.2: ARMS WITHIN THE SCOPE OF THE ATT

The scope of the Arms Trade Treaty (ATT) is central to its effectiveness in reducing human suffering. This chapter seeks to clarify the extent to which certain arms and ammunition/munitions are regulated under a strict interpretation of the Treaty.<sup>1</sup> It takes in turn each of the categories of conventional arms as laid out in Article 2.1 of the ATT, and analyses the descriptions for each one provided by the UN Register of Conventional Arms (UNROCA). Although certain weapons may not formally come within its purview, a provision on general implementation of the Treaty explicitly calls on States Parties to apply its provisions 'to the broadest range of conventional arms'.<sup>2</sup> The evidence so far is that many of them have heeded this call and are using pre-existing international lists whose scope is wider than the Treaty in their export-control decisions, notably the Munitions List of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.<sup>3</sup>

The ATT is intended to regulate specifically conventional arms, as set out in Article 1 (object and purpose), Article 2 (scope) and Article 5 (implementation). Conventional arms are understood to include all arms other than weapons of mass destruction.<sup>4</sup> In turn, weapons of mass destruction have been defined by the US Department of Defense as 'chemical, biological, radiological, or nuclear weapons capable of a high order of destruction or causing mass casualties'.<sup>5</sup> The definition implies, for instance, that chemical agents that do not generally inflict

mass casualties (such as riot-control agents) are not weapons 'of mass destruction' and should therefore be considered as conventional arms. In contrast, the formal use of the term 'arms' is narrower than 'weapons', referring to factory-manufactured items and not those of artisanal production or adaptation.<sup>6</sup> Cyber-attacks, such as computer network attacks, are thus outside the purview of the Treaty.

The arms and ammunition/munitions that States Parties to the ATT are bound to regulate are described in Articles 2.1, 3, and 5.3.<sup>7</sup> These provisions must be considered as a whole in order to reflect the scope of the Treaty. As is well understood, the arms covered in sub-paragraphs (a) to (g) of Article 2.1 (i.e. battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, and missiles and missile launchers) were derived from the seven categories used in the UNROCA and are regulated, at a minimum, consistent with the descriptions set out in the Register at the time of the ATT's entry into force (i.e. 24 December 2014).<sup>8</sup> It should be borne in mind, however, that the UNROCA's scope is largely 'limited to particular items deemed of importance in interstate conflicts', and the Register has struggled to keep pace with technological developments in armaments.<sup>9</sup>

Further, all small arms and light weapons [Article 2.1(h)] defined in 'relevant' UN instruments at that time [Article 5.3] similarly fall within the ATT's scope, while any ammunition/munitions that are 'fired, launched or delivered' by any of the conventional arms covered under Article 2.1 also fall within the Treaty's purview [Article 3].

- 1 The analysis draws on Parker, S. (2016). "Commentary on Article 2", in Clapham, A., Casey-Maslen, S., Giacca, G. and Parker, S. (2016). "The Arms Trade Treaty: A Commentary". Oxford: Oxford University Press. Technical input to that commentary on the scope of the UNROCA was provided by Paul Holtom.
- 2 Arms Trade Treaty, Article 5.3 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 5(3). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>
- 3 Formal agreement to establish the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, a successor to the Cold War-era Coordinating Committee for Multilateral Export Controls, was reached among a self-selected group of states at a meeting on 19 December 1995 in the Dutch town of the same name. The first Munitions List was promulgated the following year; the list was last amended in December 2015. Other regional lists, such as the EU's Common Military List are largely based on the Wassenaar Arrangement's Munitions List.
- 4 See, for example, US Department of Defense (2009). "Department of Defense Dictionary of Military and Associated Terms, (as amended through 31 October 2009)". p. 122.
- 5 But not 'the means of transporting or propelling the weapon where such means is a separable and divisible part from the weapon'. US Department of Defense (2016). "DOD Dictionary of Military and Associated Terms, 8 November 2010 (as amended through 15 February 2016)". p. 258. [http://www.dtic.mil/doctrine/new\\_pubs/jp1\\_02.pdf](http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf). This and the previous edition of the dictionary no longer include a definition of the term 'conventional arms'.
- 6 Casey-Maslen, S. (2016). "Introduction", in Clapham et al (2016). "The Arms Trade Treaty". p. 1.
- 7 The Treaty also provides a description of parts and components in Article 4, but this chapter does not explicitly address this Article.
- 8 See United Nations Register of Conventional Arms (UNROCA) <https://www.unroca.org/about>
- 9 Holtom, P. and Bromley, M. (2010). "The International Arms Trade: Difficult to Define, Measure, and Control". Arms Control Association, 2 July 2010. [https://www.armscontrol.org/act/2010\\_07-08/holtom-bromley](https://www.armscontrol.org/act/2010_07-08/holtom-bromley)



## BATTLE TANKS

The description of battle tanks used in the UNROCA at the time of entry into force of the ATT was:

Tracked or wheeled self-propelled armoured fighting vehicles with high cross-country mobility and a high level of self-protection, weighing at least 16.5 metric tons unladen weight, with a high muzzle velocity direct fire main gun of at least 75 millimetres calibre.<sup>10</sup>

Very few tanks are not covered by this description. One example of a tank that falls outside this category is the French GIAT AMX-13 light tank, which has a 90 millimetres gun and is tracked, but has an unladen weight of 13 metric tonnes that would cause it to fall outside this definition of a battle tank.<sup>11</sup> This does not mean that it falls outside the scope of the Treaty altogether, however, since it comes within the parameters of the description provided for armoured combat vehicles.<sup>12</sup>

## ARMoured COMBAT VEHICLES

The description of armoured combat vehicles (ACVs) used in the UNROCA at the time of entry into force of the ATT was:

Tracked, semi-tracked or wheeled self-propelled vehicles, with armoured protection and cross-country capability, either: (a) designed and equipped to transport a squad of four or more infantrymen, or (b) armed with an integral or organic weapon of at least 12.5 millimetres calibre or a missile launcher.<sup>13</sup>

This is a broad description that encompasses many but not all of ACVs used today. The Wassenaar Arrangement's definition<sup>14</sup> is broader than the UNROCA description as it would also cover:

- Recovery vehicles, tank transporters, amphibious and deep-water fording vehicles; armoured bridge-launching vehicles;

- Tracked, semi-tracked or wheeled self-propelled vehicles, with or without armoured protection and cross-country capability, specially designed, or modified and equipped:
  - With organic technical means for observation, reconnaissance, target indication, and designed to perform reconnaissance missions,
  - or with integral organic technical means for command and control,
  - or with integral organic electronic and technical means designed for electronic warfare,
  - or for the transport of personnel.<sup>15</sup>

In accordance with Article 5.3 of the ATT, States Parties should be encouraged to use the broader Wassenaar Arrangement definition of ACVs. Thus, for example, France's VBL armoured scout car would fall outside the parameters of the UNROCA description, though in 2011 for example, France reported to the Register under category II (armoured combat vehicles) its export of one VBL Mk2 to Mexico, one VBL Gavial to Germany, two VBR/VBL Mk2s to the United Arab Emirates and one VBL Mk2 to Russia.<sup>16</sup>

## LARGE-CALIBRE ARTILLERY SYSTEMS

The description of large-calibre artillery systems used in the UNROCA at the time of entry into force of the ATT was:

Guns, howitzers, artillery pieces, combining the characteristics of a gun or a howitzer, mortars or multiple-launch rocket systems, capable of engaging surface targets by delivering primarily indirect fire, with a calibre of 75 millimetres and above.<sup>17</sup>

While the Register does not include artillery systems with a calibre lower than 75 millimetres, many such weapons would be covered by the category of light weapons [Article 2.1(h)].

10 UN Disarmament Commission, Department for Disarmament Affairs. "Categories of equipment and their definitions". <http://www.un.org/Depts/ddar/Register/Categories.html>

11 See Parker, S. (2016), "Commentary on Article 2", in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary". \$2.52.

12 UN Secretary General (2000). "Report on the continuing operation of the United Nations Register of Conventional Arms and its Further Development". A/55/281, 9 August 2000, \$51. <http://www.un.org/documents/ga/docs/55/a55281.pdf>

13 UN Disarmament Commission, Department for Disarmament Affairs. "Categories of equipment and their definitions". <http://www.un.org/Depts/ddar/Register/Categories.html>

14 See Wassenaar Arrangement Munitions List, Category 6.a. <http://www.wassenaar.org/control-lists/>

15 Wood, A. (2010). "Background Paper: Scope", The Boston Symposium on the Arms Trade Treaty, 29 September 2010, cited in Parker (2016). "Commentary on Article 2", in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary". \$52.70ff.

16 UN Secretary General (2012). "United Nations Register of Conventional Arms, Report of the Secretary General". A/67/212, 30 July 2012, p. 12. [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/67/212](http://www.un.org/ga/search/view_doc.asp?symbol=A/67/212)

17 UN Disarmament Commission, Department for Disarmament Affairs. "Categories of equipment and their definitions". <http://www.un.org/Depts/ddar/Register/Categories.html>

While some anti-tank and anti-aircraft guns could be captured by the category of small arms and light weapons,<sup>18</sup> States Parties could argue that a very narrow interpretation of the UNROCA category description would mean they would not need to include direct-fire artillery. For example, the arms-transfers database of the Stockholm International Peace Research Institute (SIPRI) records France delivering CAESAR 155 millimetres self-propelled howitzers to Saudi Arabia in 2010 and 2011, but its submissions to the UNROCA for those years do not contain information on the transfer.<sup>19</sup> However, the reference to 'primarily' indirect fire should encompass all howitzers even though they can also be used for low-angle fire, a trajectory that is typically associated with direct fire at a target.

## COMBAT AIRCRAFT

The description of combat aircraft used in the UNROCA upon entry into force of the ATT was:

Fixed-wing or variable-geometry wing aircraft designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction, including versions of these aircraft which perform specialized electronic warfare, suppression of air defence or reconnaissance missions. The term 'combat aircraft' does not include primary trainer aircraft, unless designed, equipped or modified as described above.<sup>20</sup>

This does not encompass military aircraft that are 'designed, equipped or modified to perform command and control, air-to-air refuelling, transport of personnel or airdrop missions', even

though these 'could add considerable offensive capabilities to armed forces'.<sup>21</sup> This excludes many military aircraft recorded in SIPRI's Arms Transfers database, which defines military aircraft as 'all fixed-wing aircraft and helicopters, including unmanned aircraft (UAV/UCAV) with a minimum loaded weight of 20kg. Exceptions are microlight aircraft, powered and unpowered gliders and target drones'.<sup>22</sup>

The specific exclusion of primary trainer aircraft in the UNROCA is also regrettable given that aircraft used in some counterinsurgency or military operations include trainer aircraft that are subsequently equipped as combat aircraft. Indeed, many trainer aircraft are also available in combat variants. The Hongdu L-15, for instance, is a twin-engine supersonic jet trainer/light attack aircraft produced by China's Hongdu Aviation Industry Group.<sup>23</sup>

## ARE DRONES COVERED BY THE ATT?

An unmanned aerial vehicle, commonly known as a drone, is, according to the Wassenaar Arrangement 'Any 'aircraft' capable of initiating flight and sustaining controlled flight and navigation without any human presence on board'.<sup>24</sup> They are further 'typically airbreathing vehicles which use aerodynamic lift to fly (and thereby perform their entire mission within the earth's atmosphere)'.<sup>25</sup> It had been suggested, prior to the adoption of the ATT, that armed drones would not be covered by it.<sup>26</sup> Although this was already in all likelihood inaccurate at the time, given discussions in the UNROCA Group of Governmental Experts (GGE),<sup>27</sup> it is clearly so now. The UNROCA definition does not require that aircraft be 'manned' and so armed drones are clearly covered by the ATT.

18 Parker, S. (2016). "Commentary on Article 2", in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary". §2.92.

19 UN Secretary General (2012). "United Nations Register of Conventional Arms, Report of the Secretary-General". A/66/127/Add.1, 18 June 2012, p. 9. [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/66/127/Add.1](http://www.un.org/ga/search/view_doc.asp?symbol=A/66/127/Add.1); UN Secretary General (2012). "United Nations Register of Conventional Arms, Report of the Secretary-General". A/67/212, 30 July 2012, p. 12. [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/67/212](http://www.un.org/ga/search/view_doc.asp?symbol=A/67/212)

20 UN Disarmament Commission, Department for Disarmament Affairs. "Categories of equipment and their definitions". <http://www.un.org/Depts/ddar/Register/Categories.html>

21 Wood, A. (2010). "Background Paper: Scope". in Parker (2016), "Commentary on Article 2". in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary". §2.120. These are, though, covered by the Wassenaar Arrangement's Munitions List, see Category 10.

22 Stockholm International Peace Research Institute (SIPRI), "Arms Transfers database – 'Coverage'". <http://www.sipri.org/databases/armstransfers/background#Coverage>

23 "Hongdu L-15 Supersonic Trainer/Attack Aircraft, China", [airforce-technology.com](http://airforce-technology.com), Accessed 30 June 2016.

24 The Wassenaar Arrangement (2016). "List of Dual-Use Goods and Technologies and Munitions List". 4 April 2016, p. 223. <http://www.wassenaar.org/wp-content/uploads/2016/04/WA-LIST-15-1-CORR-1-2015-List-of-DU-Goods-and-Technologies-and-Munitions-List.pdf>

25 Missile Technology Control Regime (2010). "Missile Technology Control Regime (MTCR) Annex Handbook – 2010." p. 1-6. [http://www.mtcr.info/english/MTCR\\_Annex\\_Handbook\\_ENG.pdf](http://www.mtcr.info/english/MTCR_Annex_Handbook_ENG.pdf)

26 Brück, T. and Holtom, P. (2013). "Will the arms trade treaty be stuck in the past?". Stockholm International Peace Research Institute (SIPRI) 26 March 2013. [http://www.sipri.org/media/newsletter/essay/brueck\\_holtom\\_March13](http://www.sipri.org/media/newsletter/essay/brueck_holtom_March13)

27 The 2006 Group of Governmental Experts (GGE) observed that 'category IV already covered those unmanned platforms that were versions of combat aircraft or that otherwise fell within the existing definition but not specially designed UAVs'. UN Secretary General (2006). "Report on the continuing operation of the UNROCA and its Further Development". A/61/261/, 15 August 2006, §96. The 2013 GGE recommended that UN member states that had transferred unmanned aerial vehicles report items that met the requisite description ('Unmanned fixed-wing or variable-geometry wing aircraft, designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons, or other weapons of destruction'). Though the category description was not changed by the 2013 GGE, it did recommend member states report armed unmanned aerial vehicles in a manner consistent with this description. UN Secretary General (2013). "Continuing operation of the United Nations Register of Conventional Arms and its further development". A/68/140, 15 July 2013, §45.



**THE UNROCA DEFINITION DOES NOT REQUIRE THAT AIRCRAFT BE 'MANNED' AND SO ARMED DRONES ARE CLEARLY COVERED BY THE ATT.**

It is contested, though, whether it is only armed drones and not also reconnaissance ones that fall within the ATT's scope. The UN Office for Disarmament Affairs, based on discussions in the 2013 GGE, suggests that unarmed drones do not fall within the UNROCA.<sup>28</sup> The text of the description for this category shows otherwise. In any event, where a reconnaissance version of a drone is transferred in a separate transaction to munitions that it could fire (e.g. Hellfire missiles or Paveway bombs), the ability to fix those munitions to the wings of the drone means that this would fall within Article 4 (Parts and Components) of the Treaty.

### ATTACK HELICOPTERS

The description of attack helicopters used in the UNROCA at the time of entry into force of the ATT was:

Rotary-wing aircraft designed, equipped or modified to engage targets by employing guided or unguided anti-armour, air-to-surface, air-to-subsurface, or air-to-air weapons and equipped with an integrated fire control and aiming system for these weapons, including versions of these aircraft which perform specialized reconnaissance or electronic warfare missions.<sup>29</sup>

Already in 1994 it was questioned why armoured personnel carriers were covered by the UNROCA but their aerial equivalents were not.<sup>30</sup> In addition, the same arguments for expanding the description for combat aircraft can be made with regard to attack helicopters owing to their contribution to combat and offensive operations by engaging in communications command and control or by transporting personnel. States Parties to the ATT should not interpret the category in overly narrow terms and omit helicopters that perform such military and combat support roles.

### MISSILES AND MISSILE LAUNCHERS

The description of missiles and missile launchers used in the UNROCA at the time of entry into force of the ATT was:

- (i) Guided or unguided rockets, ballistic or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 25 kilometres, and means designed or modified specifically for launching such missiles or rockets, if not covered by categories I through VI. Including: remotely piloted vehicles with the characteristics for missiles as defined above but does not include ground-to-air missiles.
- (ii) Man-portable air-defence systems (MANPADS).<sup>31</sup>

Three broad categories of missiles are not covered by this description: air-to-air and air-to-surface/ground missiles with a range below 25 kilometres, guided anti-tank missiles and rockets with a range below 25 kilometres, and ground-to-air missiles.<sup>32</sup> The 25 kilometres range threshold excludes from the category modern and new generations of short-range air-to-air missiles and air-to-surface guided and unguided rockets.<sup>33</sup> Some missiles have different ranges depending on which version is acquired or how they are used.<sup>34</sup> Of course,

<sup>28</sup> 'Combat aircraft includes manned and unmanned aerial vehicles as defined below:

(a) Manned fixed-wing or variable-geometry wing aircraft, designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction, including versions of these aircraft which perform specialized electronic warfare, suppression of air defence or reconnaissance missions;

(b) Unmanned fixed-wing or variable-geometry wing aircraft, designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction' UN Register of Conventional Arms (UNROCA). Accessed 30 June 2016. <https://www.unroca.org/about>

<sup>29</sup> UN Disarmament Commission, Department for Disarmament Affairs. "Categories of equipment and their definitions". <http://www.un.org/Depts/ddar/Register/Categories.html>

<sup>30</sup> Chalmers, M and Greene, O. (1994). "The Development of the United Nations Register of Conventional Arms: Prospects and Proposals". In *Nonproliferation Review*, No 3, p. 7. See Parker (2016). "Commentary on Article 2", in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary". §2.138.

<sup>31</sup> UN General Assembly (1991). "Resolution 46/36L". A/RES/46/36, 6 December 1991, Annex, §2(a).

<sup>32</sup> Parker, S. (2016). "Commentary on Article 2". in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary". §§2.172–2.174.

<sup>33</sup> For example, the Chinese PL-9 short-range air-to-air missile (SRAAM) is reported to have a range of 22 kilometres, while the Israeli Python-4 air-to-air missile has a range of 15 kilometres. Parker (2016). "Commentary on Article 2" in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary". Oxford: Oxford University Press.

<sup>34</sup> Parker notes, for example, that the Russian R-73 SRAAM R-73E model has a range of 20 kilometres, while the R-73M1 has a range of 30 kilometres, and the R-74 a range of 40 kilometres. Parker, S. (2016). "Commentary on Article 2". in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary".

many short-range missiles and projectiles, such as short-range guided anti-tank missiles and rockets and rocket-propelled grenades, are covered by the category of small arms and light weapons. In contrast, point (ii) of the definition of missiles and missile launchers explicitly includes MANPADS in the scope of this UNROCA category.

### SMALL ARMS AND LIGHT WEAPONS

At the time of entry into force of the ATT only one UN instrument explicitly defined small arms and light weapons: the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (ITI), a soft-law instrument adopted by UN member states in 2005.<sup>35</sup> Section II of the ITI provides that:

For the purposes of this instrument, 'small arms and light weapons' will mean any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas. Antique small arms and light weapons and their replicas will be defined in accordance with domestic law. In no case will antique small arms and light weapons include those manufactured after 1899:

- (a) 'Small arms' are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns;

- (b) 'Light weapons' are, broadly speaking, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, inter alia, heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a calibre of less than 100 millimetres.<sup>36</sup>

The broad nature of this definition would capture, for example, the short-range missiles and rockets that would not meet the UNROCA definition of missiles and missile launchers.<sup>37</sup>

### ARE SHOTGUNS COVERED BY THE ATT?

As the lists of types of small arms and light weapons included in the ITI definition are illustrative, not exhaustive, certain small arms and light weapons are not included in the lists but are nonetheless covered by the general provision in the chapeau of the description, which comprehends any 'man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive'.<sup>38</sup> Foremost among these are shotguns, which are omitted from the categories or examples of small arms and light weapons specifically listed in the ITI definition but which are encompassed by the chapeau. As noted,

This is significant, since shotguns constitute a type of small arm that is frequently encountered in conflict zones. Recent conflicts in the Middle East have witnessed even major armies acquiring modern shotguns for their short-range effectiveness. For example, in 2009 the British Army procured and issued the Benelli M4 Super 90 semi-automatic 12 gauge shotgun under the designation L128A1. Beyond commercially produced weapons, many improvised ('craft produced') firearm designs, which are also in use worldwide, are smooth-bore weapons.<sup>39</sup>

<sup>35</sup> The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime (the Firearms Protocol) defines a 'firearm' but not small arms and light weapons. Thus, Article 3(a) of the Firearms Protocol defines a firearm as 'any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899'. The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime, (adopted 31 May 2001, entered into force 3 July 2005) L2326\_UNTS\_208, Article 3(a).

<sup>36</sup> International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, S. IV.4. <http://www.poa-iss.org/InternationalTracing/InternationalTracing.aspx>

<sup>37</sup> See similarly Articles 1(1) and (2) of the 2006 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>

<sup>38</sup> Parker, S. (2016). "Commentary on Article 2". in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary". §§2.229–2.230.

<sup>39</sup> Ibid.





**155MM HIGH EXPLOSIVE  
AMMUNITION FOR THE  
105MM LIGHT GUNBEING  
USED DURING ON EXERCISE  
STEEL SABRE.**

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### ADDITIONAL CATEGORIES

There are additional categories of weapons that do not fall under the definition of the ITI such as: flamethrowers, directed-energy weapons including lasers, and electro-magnetic projectile accelerators such as railguns and coilguns. Compressed air/gas-operated weapons of all types, including Tasers and other conducted electrical weapons, as well as crossbows, knives and similar weapons also do not meet the ITI definition.<sup>40</sup> In accordance with Article 5.3, States Parties are encouraged to apply the ATT provisions to all additional categories of weapons.

### AMMUNITION/MUNITIONS<sup>41</sup>

The obligation on States Parties under Article 3 of the ATT is to regulate the export of ammunition or munitions that are, or can be, fired, launched or delivered by battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile launchers, and small arms or light weapons. The term 'fired, launched or delivered' excludes explosive devices either laid by hand or that are thrown, such as manually emplaced landmines or hand grenades. But it does not exclude remotely delivered mines or rocket-propelled grenades, both of which fall within the scope of the Treaty. All cluster munitions are covered, whether delivered aerially or from artillery.<sup>42</sup>

### IS TEAR GAS COVERED BY THE ATT?

It has been suggested that chemical riot-control agents or plastic or rubber bullets do not fall within the scope of the ATT.<sup>43</sup> This is not persuasive. Plastic and rubber bullets are not 'non-lethal' but 'less lethal', and are therefore covered by the Treaty. Tear gas dispersed by canister and the metal canister itself have potentially lethal consequences, so they fall within the scope of the chapeau definition of small arms and light weapons in the ITI in accordance with Article 5.3. In turn, they are 'fired, launched or delivered' by small arms, so are within the purview of Article 3.

<sup>40</sup> See, though, UN Secretary General (1997). "Report of the Panel of Governmental Experts on Small Arms". §24, annex to UN doc. A/52/298, 27 August 1997. <http://www.un.org/depts/ddar/Firstcom/SGreport52/a52298.html>. This report was used as the basis for the ITI definition.

<sup>41</sup> This section is based on Parker, S. (2016). "Commentary on Article 3". in Clapham, A. et al (2016). "The Arms Trade Treaty: A Commentary".

<sup>42</sup> States Parties to the 2008 Convention on Cluster Munitions (CCM) would be prohibited under that treaty and also under Article 6(2) of the ATT from transferring these weapons. The scope of the ATT would be slightly wider than the CCM, however, since Article 1(3) of the CCM explicitly excludes all landmines (anti-personnel and anti-vehicle) delivered from a munitions dispenser from its purview.

<sup>43</sup> With respect to tear gas see, for example, Crowley, M. (2015). "Chemical Control: Regulation of Incapacitating Chemical Agent Weapons, Riot Control Agents and their Means of Delivery". London: Palgrave Macmillan.

## THE APPROACH OF STATES PARTIES TO THE ATT IN NATIONAL CONTROL LISTS

States Parties have, by and large, not adopted specific control lists that are narrowly tailored to the scope of the ATT. Instead, they have tended to use pre-existing regional or international control lists, such as those propagated by the European Union (EU) or the Wassenaar Arrangement. Participating states in the Wassenaar Arrangement, for example, have largely either adopted wholesale, or have adapted and then adopted as their national control list, its Munitions List. This concerns, among others, Australia,<sup>44</sup> Germany,<sup>45</sup> New Zealand,<sup>46</sup> Norway,<sup>47</sup> and the United Kingdom.<sup>48</sup>

The Munitions Lists includes shotguns (as smooth-bore weapons),<sup>49</sup> riot-control agents such as tear gas (other than for personal self-defence use),<sup>50</sup> submunitions and mines delivered by cluster munition dispenser,<sup>51</sup> grenades and mines (even manually thrown or hand emplaced),<sup>52</sup> and directed-energy weapons, including blinding laser weapons.<sup>53</sup> Plastic baton rounds and rubber bullets are also not excluded from the Munitions Lists.

EU member states and associated European states have, as one might expect, tended to use and apply the EU rules on arms exports. This applies to, among others, Austria, Belgium, Bulgaria, the Czech Republic, Finland, France and Serbia,<sup>54</sup> as set out in their respective Initial Reports to the ATT Secretariat. The arms to which these rules are applied are set out in the EU Common Military List. But this list, the most recent version of which was adopted by the Council of the EU on 9 February 2015, simply mirrors the Wassenaar Arrangement's Munitions List (even using the same terminology and formatting), making the latter a de facto standard for ATT States Parties.<sup>55</sup> Thus, as France observes in its Initial Report, the list extends beyond the scope of arms and items dictated by Articles 2 to 4 of the Treaty.<sup>56</sup> This is a positive development, reflecting the encouragement in Article 5.3 to apply the provisions of the Treaty 'to the broadest range of conventional arms'.

Every State Party should be strongly encouraged to apply the ATT criteria to transfers of all conventional arms, including hand grenades and manually emplaced landmines. Using the Wassenaar Arrangement's Munitions List is a good way to proceed irrespective of whether a State Party participates in the arrangement.

44 See Government of Australia (1996). "Defence and Strategic Goods List – November 1996". last updated 8 April 2015. <https://www.legislation.gov.au/Details/F2015C00310/Download>

45 Germany has stated that its national control list is 'largely identical, to the Munition's List. See Initial Report of the Federal Republic of Germany. [http://thearmstradetreaty.org/images/ATT\\_Initial\\_Report\\_Germany.pdf](http://thearmstradetreaty.org/images/ATT_Initial_Report_Germany.pdf)

46 See Ministry of Foreign Affairs and Trade, New Zealand (2013). "New Zealand Strategic Goods List", March 2013. [https://www.mfat.govt.nz/assets/\\_securedfiles/Uploads/NZSGL-2013.pdf](https://www.mfat.govt.nz/assets/_securedfiles/Uploads/NZSGL-2013.pdf), and Initial Report of the Government of New Zealand. [http://thearmstradetreaty.org/images/New\\_Zealand\\_Arms\\_Trade\\_Treaty\\_national\\_implementation\\_report\\_December\\_2015.pdf](http://thearmstradetreaty.org/images/New_Zealand_Arms_Trade_Treaty_national_implementation_report_December_2015.pdf)

47 Ministry of Foreign Affairs, Norway (2014). "Vedlegg I til Forskrift om eksport av forsvarsmateriell, flerbruksvarer, teknologi og tjenester, Liste I – forsvarsrelaterte varer", 2014 v.2. <https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/eksportkontroll/liste--ii---flerbruksvarer-2014.pdf> Norway also notes its compliance with the EU Common Military List.

48 United Kingdom ATT Initial Report, [http://thearmstradetreaty.org/images/151223\\_ATT\\_UK\\_Initial\\_Report.pdf](http://thearmstradetreaty.org/images/151223_ATT_UK_Initial_Report.pdf) §5.

49 Wassenaar Arrangement's Munitions List, ML1(b).

50 Ibid., ML7.

51 Ibid., ML3. Mines are explicitly excluded from the definition of a cluster munition in the 2008 Convention on Cluster Munitions (Article 1(3)).

52 Ibid., ML4.

53 Ibid., ML19.

54 See for example Serbia, "Arms Trade Treaty: Baseline Assessment Questionnaire", §1E. <http://www.armstrade.info/countryprofile/serbia/>

55 In its Initial Report, FYR Macedonia notes that its national control list is 'For conventional arms Wassenaar Arrangement list, for small arms and light weapons United Nations Firearms Protocol [sic]'. FYR Macedonia, "Arms Trade Treaty: Baseline Assessment Questionnaire" [http://thearmstradetreaty.org/images/Macedonia\\_ATT-BAP\\_Survey.pdf](http://thearmstradetreaty.org/images/Macedonia_ATT-BAP_Survey.pdf). More positive is the approach taken by Trinidad and Tobago, which announced in its initial report its intention 'to enact legislation to fully implement the ATT and to develop a consolidated national control list for the purposes of the Treaty. Upon completion of this process, the revised national control list will be forwarded to the Secretariat. At present, the national control list is derived from various pieces of legislation.' Initial Report of the Government of The Republic of Trinidad and Tobago, [http://thearmstradetreaty.org/images/ATT\\_Initial\\_Report\\_-\\_Trinidad\\_and\\_Tobago.pdf](http://thearmstradetreaty.org/images/ATT_Initial_Report_-_Trinidad_and_Tobago.pdf)

56 Initial Report of the Government of France, §2.2.1 [http://thearmstradetreaty.org/images/TCA\\_France\\_Rapportinitial.pdf](http://thearmstradetreaty.org/images/TCA_France_Rapportinitial.pdf)



**SOLDIERS FROM 2ND GENERAL  
SUPPORT AVIATION BATTALION, 4TH  
AVIATION REGIMENT, 4TH COMBAT  
AVIATION BRIGADE, 4TH INFANTRY  
DIVISION, AND GROUP SUPPORT  
BATTALION, 10TH SPECIAL FORCES  
GROUP (AIRBORNE), SECURE A  
STORAGE CONTAINER.**

CREDIT: © SGT. JONATHAN C. THIBAUT,  
4TH COMBAT AVIATION BRIGADE PUBLIC  
AFFAIRS OFFICE



## CHAPTER 4: BRIEF ASSESSMENT OF ANNUAL TRANSFER REPORTS

Annual Transfer reports are due on 31 May every year. In order for the ATT Monitor to undertake any analysis on the content of these, States Parties would have to meet this deadline and make their reports public. So long as the annual Conference of States Parties (CSP) is scheduled for August every year, the ATT Monitor will not have adequate time to carry out a thorough analysis of annual reports within this short window. The ATT Monitor's own production schedule presents an unavoidable structural incompatibility given the time constraints established by the two fixed points of the 31 May reporting deadline and the dates of the annual CSP in August.

To ensure that the analysis of these annual transfer reports is of the highest quality, the ATT Monitor will publish a detailed assessment of the contents of the Annual Transfer reports in a Special Report, to be launched later in the year.

As part of their obligations under the Arms Trade Treaty (ATT), States Parties must submit an Annual Report on their transfer activity in the previous calendar year. Specifically, Article 13.3 states that:

Each State Party shall submit annually to the Secretariat by 31 May a report for the preceding calendar year concerning authorized or actual exports and imports of conventional arms covered under Article 2 (1). Reports shall be made available, and distributed to States Parties by the Secretariat. The report submitted to the Secretariat may contain the same information submitted by the State Party to relevant United Nations frameworks, including the United Nations Register of Conventional Arms. Reports may exclude commercially sensitive or national security information.<sup>1</sup>



**AMMUNITION IS SEEN ON THE  
GROUND AS PARATROOPERS  
ASSIGNED TO COMANCHE  
COMPANY, 1ST BATTALION  
(AIRBORNE), 501ST INFANTRY  
REGIMENT, 4TH INFANTRY  
BRIGADE COMBAT TEAM  
(AIRBORNE), U.S. ARMY ALASKA.**

CREDIT: © U.S. AIR FORCE PHOTO /  
JUSTIN CONNAHER

<sup>1</sup> Arms Trade Treaty, Article 13.3 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 13(3). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>



In accord with the Object and Purpose of the Treaty, these reports aim to build confidence between States Parties, to promote greater transparency in the arms trade, and to enable States Parties to demonstrate that their arms-trade policies are consistent with their obligations in the Treaty (especially Articles 6 and 7).

To provide the most useful information, States Parties should report on authorized as well as actual exports and imports of conventional arms. Article 13.3 requires them to report on exports and imports of equipment specified in Article 2.1. It is important that reporting States Parties recognize that Article 13.3 only outlines the minimum expectations for them, and under Article 5.3, they are all encouraged to apply the provisions of the Treaty to the broadest range of conventional weapons.

### THE IMPORTANCE OF PUBLIC REPORTING

Public reporting will be critical for the ATT's long-term success. Only with greater transparency will governments and observers be able to verify adherence to the Treaty's obligations as well as its Object and Purpose, and build confidence in the Treaty itself. The ATT Monitor has previously demonstrated the high level of existing public reporting to other mechanisms relating to the arms trade by States Parties and Signatories – indicating a widespread acceptance of public reporting as a norm.<sup>2</sup> Of the 130 states who were either States Parties or Signatories to the Treaty when it entered into force on 24 December 2014, 105 had explicitly called for public reporting.<sup>3</sup>

Sixty-three States Parties were due to submit Annual Reports by 31 May 2016.<sup>4</sup> Once the Treaty has entered into force for a new State Party, it is obligated to submit a report covering the previous calendar year by the next May deadline.<sup>5</sup>

The following is an analysis of Annual Reports on Imports and Exports that were published on the ATT Secretariat website as of 14 June 2016. Reports submitted by the following 30 States Parties were published online by the ATT Secretariat:

Albania, Argentina, Australia, Bosnia and Herzegovina, Bulgaria, Costa Rica, Czech Republic, Dominican Republic, France, FYR Macedonia, Germany, Hungary, Italy, Latvia, Liechtenstein, Mexico, Netherlands, New Zealand, Norway, Portugal, Romania, Samoa, Senegal, Serbia, Slovenia, South Africa, Spain, Sweden, Switzerland, United Kingdom.

Overall, **only half** of States Parties that should have reported on their exports and imports actually did so.

In addition, the ATT Secretariat website notes that two States Parties (Moldova and Slovakia) submitted a report, but 'with preference that the report is posted only on the restricted area of the ATT website.' Moldova ratified the Treaty on 28 September 2015, so it is to be congratulated for submitting a report that presumably covered a period in 2015 before it became a State Party. These two represent three per cent of all 63 reports that are mentioned as confidential on the ATT Secretariat website.

Of the 30 states whose reports were published, in terms of UN regions, 2 were from Africa, 1 from the Asia Pacific, 10 from Eastern Europe, 4 from Latin America and the Caribbean, and 13 from Western Europe and Others. The highest rate of reporting was from Eastern Europe at **71 per cent**, and the lowest was from Africa at **25 per cent**.

2 Control Arms (2015). "ATT Monitor 2015". ATT Monitor, 25 August 2015, Chapter 3, pp. 98-101. <http://armstreatymonitor.org/current/wp-content/uploads/2015/08/Full-Annual-Report.pdf>

3 See Karim, A. and Marsh, N. (2015). "State positions and practices concerning reporting and the Arms Trade Treaty". ATT Monitor. <http://controlarms.org/en/wp-content/uploads/sites/2/2015/02/States-Practices-PT1.pdf>

4 The states that were due to report were Albania, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Denmark, Dominican Republic, El Salvador, Estonia, Finland, France, FYR Macedonia, Germany, Ghana, Grenada, Guyana, Hungary, Iceland, Ireland, Italy, Jamaica, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Mexico, Montenegro, Netherlands, New Zealand, Nigeria, Norway, Panama, Poland, Portugal, Romania, Samoa, Senegal, Serbia, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Sweden, Switzerland, Trinidad and Tobago, UK, Uruguay.

5 The ATT's obligations relating to arms transfers do not take effect until the Treaty has entered into force for a State. As such, a State is required to submit its first annual transfer report covering the first full calendar year after entry into force of the Treaty for that State Party. Sixty-three States had ratified the ATT by 2 March 2015 (the last date prior to 31 May 2015 before the 90 days specified by Article 22.2 for the Treaty to enter into force) and where therefore due to report on 31 May 2016. See, "The ATT Working Group on Reporting Templates- the Issue of initial reporting deadlines," 27 May 2016. [http://thearmstradetreaty.org/images/160527\\_ATT\\_Working\\_Group\\_on\\_Reporting\\_Templates\\_-\\_Issue\\_of\\_initial\\_reporting\\_deadlines.pdf](http://thearmstradetreaty.org/images/160527_ATT_Working_Group_on_Reporting_Templates_-_Issue_of_initial_reporting_deadlines.pdf)

Concerning the content of the reports, of the 30 that were published online:

- Seven stated that sensitive information had been withheld (Bosnia and Herzegovina, Bulgaria, Dominican Republic, Germany, Macedonia, Senegal and Sweden).
- Twenty-six used the provisional reporting template discussed at CSP 2015, and four used their own reporting formats (Australia, France, Senegal and United Kingdom).
- Nine reported on national definitions of arms covered by the report.
- Five reported on additional equipment types (beyond those specified in Article 2.1) (Dominican Republic, New Zealand, Norway, Senegal and Sweden).
- Concerning exports of major weapons, six reported authorizations, and 14 reported actual exports. Some submitted 'nil' reports or did not specify what the data concerned. Two (Romania and South Africa) reported both.
- Concerning exports of small arms and light weapons, five reported authorizations, and 14 reported actual exports.
- Three (Portugal, Slovenia and Sweden) reported the financial value and the numbers of major weapons exported, and 19 reported just the number of arms exported.
- Three (Bosnia and Herzegovina, Portugal and Slovenia) reported on the financial value and the numbers of small arms and light weapons exported. Sweden reported just the financial value, and 20 reported on just the number of small arms and light weapons exported.

Note that some States Parties submitted 'nil' reports indicating that they did not import or export any relevant arms, and some did not specify the form of the data reported, so in some of the points above the number of States Parties does not add up to 30.

## RECOMMENDATIONS

- States Parties must continue to meet their annual reporting deadlines as part of their legal obligations under Article 13.3 of the ATT.
- States Parties are encouraged to submit as much information as possible into the public domain so as to enhance confidence-building measures.
- States Parties should continue to work towards the improvement of the annual reporting template in the future, taking every opportunity to continually refine and improve the template.



## APPENDIX 1: METHODOLOGY FOR INITIAL REPORTS TABLE

The table lists States' responses to questions from publicly available initial reports submitted prior to 30 May 2016.\* The questions are separated into six thematic sections representing the main topics contained within the Arms Trade Treaty. State responses are denoted by check marks and X's. Checks and Xs are based on answers to yes or no questions as well as information provided in free-form text boxes (where States had the option of providing additional information). Checks represent when information was included in a report, and X's represent when information was not included or questions were left blank. Asterisks represent special situations in which States either indicated they did not know whether their control system included a given measure or provided information indicating progress towards establishing specific measures.

Information reflects what States self-reported and was not independently verified. The list of States represents those with initial reports due by 30 May 2016.

\*Since 31 May 2016, additional States Parties have submitted their initial reports, including Argentina and Côte d'Ivoire.



**U.S. MARINE CPL. JESSE WILLIAMS, LOADS AN 81 MM MORTAR INTO THE TUBE OF GUN 8 DURING EXERCISE TALISMAN SABRE 2011.**

CREDIT: © DVIDS / JANINE FABRE



## APPENDIX 2: DATA FROM INITIAL REPORTS

### NATIONAL CONTROL SYSTEM

State	National control system includes national control list	National control system covers exports	National control system covers imports	National control system covers transit/transshipment	National control system covers brokering	National control system covers 8 categories covered in Article 2(1)	National control system covers ammunition	National control system covers parts and components
Albania	✓	✓	✓	✓	✓	✓	✓	✓
ANTIGUA AND BARBUDA								
ARGENTINA								
Australia	✓	✓	✓	✓	✓	✓	✓	✓
Austria	✓	✓	✓	✓	✓	✓	✓	✓
BAHAMAS								
Belgium	✓	✓	✓	✓	✓	✓	✓	✓
Bosnia and Herzegovina	✓	✓	✓	✓	✓	✓	✓	✓
Bulgaria	✓	✓	✓	✓	✓	✓	✓	✓
Burkina Faso*								
Costa Rica	✓	✗	✓	✓	✓	✓	✓	✗
Croatia	✓	✓	✓	✓	✓	✓	✓	✓
Czech Republic	✓	✓	✓	✓	✓	✓	✓	✓
DENMARK								
Dominican Republic	✓	✗	✓	✓	✗	✓	✓	✓
EL SALVADOR								
Estonia	✓	✓	✓	✓	✓	✓	✓	✓
Finland	✓	✓	✓	✓	✓	✓	✓	✓
France	✓	✓	✓	✓	✓	✓	✓	✓
Germany	✓	✓	✓	✓	✓	✓	✓	✓
GRENADA								
GUINEA								
GUYANA								
Hungary	✓	✓	✓	✓	✓	✓	✓	✓

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

## APPENDIX 2

### NATIONAL CONTROL SYSTEM (CONTINUED)

State	National control system includes national control list	National control system covers exports	National control system covers imports	National control system covers transit/transhipment	National control system covers brokering	National control system covers 8 categories covered in Article 2(1)	National control system covers ammunition	National control system covers parts and components
Iceland	✓	✓	✓	✓	✓	✓	✓	✓
Ireland	✓	✓	✓	✓	✓	✓	✓	✓
Italy	✓	✓	✓	✓	✓	✓	✓	✓
Jamaica	✗	✓	✓	✓	✗	✗	✗	✗
Japan	✓	✓	✓	✓	✓	✓	✓	✓
Latvia	✓	✓	✓	✓	✓	✓	✓	✓
Liechtenstein	✓	✓	✓	✓	✓	✓	✓	✓
Lithuania	✓	✓	✓	✓	✓	✓	✓	✓
Luembourg	✓	✓	✓	✓	✗	✓	✓	✓
Macedonia	✓	✓	✓	✓	✓	✓	✓	✓
MALI								
MALTA								
Meico	✓	✓	✓	✓	✓	✓	✓	✓
Montenegro	✓	✓	✓	✓	✓	✓	✓	✓
Netherlands	✓	✓	✓	✓	✓	✓	✓	✓
New Zealand	✓	✓	✓	✓	✓	✓	✓	✓
Nigeria*								
Norway	✓	✓	✓	✓	✓	✓	✓	✓
PANAMA								
Poland	✓	✓	✓	✓	✓	✓	✓	✓
Portugal	✓	✓	✓	✓	✓	✓	✓	✓
Romania	✓	✓	✓	✓	✓	✓	✓	✓
SAINT KITTS AND NEVIS								
SAINT LUCIA								
SAINT VINCENT AND THE GRENADINES								

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

## NATIONAL CONTROL SYSTEM (CONTINUED)

State	National control system includes national control list	National control system covers exports	National control system covers imports	National control system covers transit/transhipment	National control system covers brokering	National control system covers 8 categories covered in Article 2(1)	National control system covers ammunition	National control system covers parts and components
Samoa	✓	X	✓	✓	X	✓	✓	✓
Senegal*								
Serbia	✓	✓	✓	✓	✓	✓	✓	✓
Sierra Leone	✓	X	✓	X	X	X	✓	✓
Slovakia	✓	✓	✓	✓	✓	✓	✓	✓
Slovenia	✓	✓	✓	✓	✓	✓	✓	✓
South Africa	✓	✓	✓	✓	✓	✓	✓	✓
Spain	✓	✓	✓	✓	✓	✓	✓	✓
Sweden	✓	✓	✓	✓	✓	✓	✓	✓
Switzerland	✓	✓	✓	✓	✓	✓	✓	✓
Trinidad and Tobago	✓	✓	✓	✓	✓	✓	✓	X
United Kingdom	✓	✓	✓	✓	✓	✓	✓	✓
URUGUAY								

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

## APPENDIX 2

### EXPORTS AND IMPORTS

	EXPORTS		IMPORTS
State	Have measures to ensure authorizations are detailed and issued prior to export	Authorizations can be reassessed if new and relevant information becomes available	Have measures to ensure appropriate and relevant information is available to exporting State in order to assist an export assessment
Albania	✓	✓	✓
ANTIGUA AND BARBUDA			
ARGENTINA			
Australia	✓	✓	✓
Austria	✓	✓	✓
BAHAMAS			
Belgium	✓	✓	✓
Bosnia and Herzegovina	✓	✓	✓
Bulgaria	✓	✓	✓
Burkina Faso*			
Costa Rica	X	X	✓
Croatia	✓	✓	✓
Czech Republic	✓	✓	✓
DENMARK			
Dominican Republic	X	X	✓
EL SALVADOR			
Estonia	✓	✓	✓
Finland	✓	✓	✓
France	✓	✓	✓
Germany	✓	✓	✓
GRENADA			
GUINEA			
GUYANA			
Hungary	✓	X	X
Iceland	✓	✓	✓
Ireland	✓	✓	✓

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT



## EXPORTS AND IMPORTS (CONTINUED)

State	EXPORTS		IMPORTS
	Have measures to ensure authorizations are detailed and issued prior to export	Authorizations can be reassessed if new and relevant information becomes available	Have measures to ensure appropriate and relevant information is available to exporting State in order to assist an export assessment
Italy	✓	✓	✓
Jamaica	✓	✓	✓
Japan	✓	✓	✓
Latvia	✓	✓	✓
Liechtenstein	✓	✓	✓
Lithuania	✓	✓	✓
Luxembourg	✓	✓	✓
Macedonia	✓	✓	✓
MALI			
MALTA			
Mexico	✓	✓	✓
Montenegro	✓	✓	✓
Netherlands	✓	✓	✓
New Zealand	✓	✓	✓
Nigeria*			
Norway	✓	✓	✓
Panama			
Poland	✓	✓	✓
Portugal	✓	✓	✓
Romania	✓	✓	✓
SAINT KITTS AND NEVIS			
SAINT LUCIA			
SAINT VINCENT AND THE GRENADINES			
Samoa	✓	✓	X
Senegal*			

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

## EXPORTS AND IMPORTS (CONTINUED)

State	EXPORTS		IMPORTS
	Have measures to ensure authorizations are detailed and issued prior to export	Authorizations can be reassessed if new and relevant information becomes available	Have measures to ensure appropriate and relevant information is available to exporting State in order to assist an export assessment
Serbia	✓	✓	✓
Sierra Leone	X	X	✓
Slovakia	✓	✓	✓
Slovenia	✓	✓	✓
South Africa	✓	✓	✓
Spain	✓	✓	✓
Sweden	✓	✓	✓
Switzerland	✓	✓	✓
Trinidad and Tobago	✓	✓	X
United Kingdom	✓	✓	✓
URUGUAY			

## APPENDIX 2

### TRANSIT/TRANSHIPMENT & BROKERING

State	Provides definition of transit/transhipment	Provides definition of brokering
Albania	X	✓
ANTIGUA AND BARBUDA		
ARGENTINA		
Australia	X	(not defined, but explained)
Austria	✓	✓
BAHAMAS		
Belgium	✓	✓
Bosnia and Herzegovina	X	✓
Bulgaria	X	✓
Burkina Faso*		
Costa Rica	✓	✓
Croatia	X	✓
Czech Republic	X	✓
DENMARK		
Dominican Republic	X	✓
EL SALVADOR		
Estonia	X	✓
Finland	X	✓
FRANCE		
Germany	X	✓
GRENADA		
GUINEA		
GUYANA		
Hungary	X	✓
Iceland		✓
Ireland	X	✓

State	Provides definition of transit/transhipment	Provides definition of brokering
Italy	X	✓
Jamaica	X	X
Japan	X	X
Latvia	X	✓
Liechtenstein	X	✓
Lithuania	✓	✓
Luxembourg	X	✓
Macedonia	✓	✓
MALI		
MALTA		
Mexico	✓	✓
Montenegro	✓	✓
Netherlands	X	✓
New Zealand	X	✓ (draft definition)
Nigeria*		
Norway	X	✓
PANAMA		
Poland	X	✓
Portugal	X	✓
Romania	X	✓
SAINT KITTS AND NEVIS		
SAINT LUCIA		
SAINT VINCENT AND THE GRENADINES		
Samoa	X	X
Senegal*		
Serbia	✓	✓

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

TRANSIT/TRANSHIPMENT & BROKERING (CONTINUED)

State	Provides definition of transit/transhipment	Provides definition of brokering
Sierra Leone	X	X
Slovakia	X	✓
Slovenia	X	✓
South Africa	X	X
Spain	X	✓
Sweden	✓	✓
Switzerland	X	✓
Trinidad and Tobago	X	X
United Kingdom	✓	X
URUGUAY		

\*Report is private  
Has submitted public report  
HAVE NOT SUBMITTED REPORT



## APPENDIX 2

### PROHIBITIONS

State	Prohibits arms transfers in all circumstances specified in Article 6
Albania	✓
ANTIGUA AND BARBUDA	
ARGENTINA	
Australia	✓
Austria	✓
BAHAMAS	
Belgium	✓
Bosnia and Herzegovina	✓
Bulgaria	✓
Burkina Faso*	
Costa Rica	✓
Croatia	✓
Czech Republic	✓
DENMARK	
Dominican Republic	✓
EL SALVADOR	
Estonia	✓
Finland	✓
France	✓
Germany	✓
GRENADA	
GUINEA	
GUYANA	
Hungary	✓
Iceland	✓
Ireland	✓

State	Prohibits arms transfers in all circumstances specified in Article 6
Italy	✓
Jamaica	✓
Japan	✓
Latvia	✓
Liechtenstein	✓
Lithuania	✓
Luxembourg	✓
Macedonia	✓
MALI	
MALTA	
Mexico	✓
Montenegro	✓
Netherlands	✓
New Zealand	✓
Nigeria*	
Norway	✓
PANAMA	
Poland	✓
Portugal	✓
Romania	✓
SAINT KITTS AND NEVIS	
SAINT LUCIA	
SAINT VINCENT AND THE GRENADINES	
Samoa	✓
Senegal*	
Serbia	✓

State	Prohibits arms transfers in all circumstances specified in Article 6
Sierra Leone	✓
Slovakia	✓
Slovenia	✓
South Africa	✓
Spain	✓
Sweden	✓
Switzerland	✓
Trinidad and Tobago	✗
United Kingdom	✓
URUGUAY	

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

## APPENDIX 2

### DIVERSION

State	Measures in place to prevent diversion	Require end-use(r) documentation, statements, and/or other assurances	Examine parties involved in transfer	Require additional documentation, certification, and/or other assurances	Exchange relevant information with other States Parties	Measures in place to be taken when diversion has been detected
Albania	✓	✓	✓	✓	✓	✓
ANTIGUA AND BARBUDA						
ARGENTINA						
Australia	✓	✓	✓	✓	✓	✓
Austria	✓	✓	✓	✓	✓	✓
BAHAMAS						
Belgium	✓	✓	✓	✓	✓	✓
Bosnia and Herzegovina	✓	✓	✓	✓	✓	✓
Bulgaria	✓	✓	✓	✓	✓	✓
Burkina Faso*						
Costa Rica	✓	✓	X	✓	✓	✓
Croatia	✓	✓	✓	✓	✓	✓
Czech Republic	✓	✓	✓	✓	✓	✓
DENMARK						
Dominican Republic	✓	✓	✓	✓	✓	✓
EL SALVADOR						
Estonia	✓	✓	✓	✓	✓	✓
Finland	✓	✓	✓	✓	✓	✓
France	✓	✓	✓	✓	✓	✓
Germany	✓	✓	✓	✓	✓	✓
GRENADA						
GUINEA						
GUYANA						
Hungary	✓					
Iceland	✓	✓	✓	✓	✓	✓
Ireland	✓	✓	✓	✓	✓	✓

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

## DIVERSION (CONTINUED)

State	Measures in place to prevent diversion	Require end-use(r) documentation, statements, and/or other assurances	Examine parties involved in transfer	Require additional documentation, certification, and/or other assurances	Exchange relevant information with other States Parties	Measures in place to be taken when diversion has been detected
Italy	✓	✓	✓	✓	✓	✓
Jamaica	✓	✓	✓	✓	✓	X
Japan	✓	X	X	X	✓	✓
Latvia	✓	✓	✓	✓	✓	✓
Liechtenstein	✓	✓	✓	✓	✓	✓
Lithuania	✓	✓	✓	✓	✓	✓
Luxembourg	✓	✓	✓	✓	✓	X
Macedonia	✓	X	X	X	✓	✓
MALI						
MALTA						
Mexico	✓	✓	✓	✓	✓	✓
Montenegro	X	X	X	X	X	X
Netherlands	✓	✓	✓	✓	✓	✓
New Zealand	✓	✓	✓	✓	✓	✓
Nigeria*						
Norway	✓	✓	✓	✓	✓	✓
PANAMA						
Poland	✓	✓	✓	✓	✓	✓
Portugal	✓	✓	✓	✓	✓	✓
Romania	✓	✓	✓	✓	✓	✓
SAINT KITTS AND NEVIS						
SAINT LUCIA						
SAINT VINCENT AND THE GRENADINES						
Samoa	✓	✓	✓	✓	✓	X
SENEGAL*						

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

**DIVERSION (CONTINUED)**

State	Measures in place to prevent diversion	Require end-use(r) documentation, statements, and/or other assurances	Examine parties involved in transfer	Require additional documentation, certification, and/or other assurances	Exchange relevant information with other States Parties	Measures in place to be taken when diversion has been detected
Serbia	✓	✓	✓	✓	✓	✓
Sierra Leone	✓	✓	✓	✓	✓	✓
Slovakia	✓	✓	✓	✓	✓	✓
Slovenia	✓	✓	✓	✓	✓	✓
South Africa	✓	✓	✓	✓	✓	✓
Spain	✓	✓	✓	✓	✓	✓
Sweden	✓	✓	✓	✓	✓	✓
Switzerland	✓	✓	✓	✓	✓	✓
Trinidad and Tobago	X	✓	X	X	X	X
United Kingdom	✓	✓	X	✓	✓	✓
URUGUAY						



## APPENDIX 2

### ENFORCEMENT

State	Measures in place to enforce national laws and regulations that implement the ATT	National legislation allows for the provision of joint assistance in investigations, prosecutions and judicial proceedings
Albania	✓	✓
ANTIGUA AND BARBUDA		
ARGENTINA		
Australia	✓	
Austria	✓	✓
BAHAMAS		
Belgium	✓	✓
Bosnia and Herzegovina	✓	✓
Bulgaria	✓	✓
Burkina Faso*		
Costa Rica	✗	✗
Croatia	✓	✓
Czech Republic	✓	✓
DENMARK		
Dominican Republic	✓	✓
EL SALVADOR		
Estonia	✓	✓
Finland	✓	✓
France	✓	✗
Germany	✓	✓
GRENADA		
GUINEA		
GUYANA		
Hungary	✓	✓

State	Measures in place to enforce national laws and regulations that implement the ATT	National legislation allows for the provision of joint assistance in investigations, prosecutions and judicial proceedings
Iceland	✓	✓
Ireland	✓	✓
Italy	✓	✓
Jamaica	✗	✗
Japan	✓	✓
Latvia	✓	✓
Liechtenstein	✓	✓
Lithuania	✓	✓
Luembourg	✓	✓
Macedonia	✓	✓
MALI		
MALTA		
Meico	✓	✗
Montenegro	✓	✗
Netherlands	✓	✓
New Zealand	✓	✓
Nigeria*		
Norway	✓	✓
PANAMA		
Poland	✓	✓
Portugal	✓	✓
Romania	✓	✓
SAINT KITTS AND NEVIS		
SAINT LUCIA		

\*Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

**ENFORCEMENT (CONTINUED)**

State	Measures in place to enforce national laws and regulations that implement the ATT	National legislation allows for the provision of joint assistance in investigations, prosecutions and judicial proceedings
SAINT VINCENT AND THE GRENADINES		
Samoa	✓	✓
Senegal <sup>*</sup>		
Serbia	✓	X
Sierra Leone	✓	✓
Slovakia	✓	✓
Slovenia	✓	✓
South Africa	✓	✓
Spain	✓	✓
Sweden	✓	✓
Switzerland	✓	✓
Trinidad and Tobago	✓	✓
United Kingdom	✓	✓
URUGUAY		

<sup>\*</sup>Report is private  
 Has submitted public report  
 HAVE NOT SUBMITTED REPORT

