3.2 - UPDATES ON ATT INITIAL REPORTS AND MONITORING TREATY IMPLEMENTATION

INTRODUCTION
States Parties are required under Article 13.1 of the ATT Treaty to submit, within one year of the Treaty’s entry into force for them, an initial report to the ATT Secretariat on measures undertaken to implement it. States Parties are also required to report to the Secretariat on any new measures undertaken to implement the treaty, as appropriate.

Initial reports are important tools for monitoring and assessing Treaty implementation. They can provide valuable insights into how States Parties interpret and implement their ATT obligations; provide an opportunity for States Parties to assess the efficacy of their existing control measures; facilitate the identification of implementation gaps, assistance needs and good practice; help demonstrate Treaty compliance over time; and shed light on the ATT’s impact on strengthening national control systems. Despite this, a fifth of States Parties due to submit an initial report have yet to do so, with nearly two-thirds of these more than five years past their reporting deadline.

This chapter provides an update on the status of ATT initial reporting as of 21 June 2023. It discusses how initial reporting has stagnated over the past year, with only two new reports and no updated reports submitted, and it provides an overview of the overall state of compliance with the ATT’s initial reporting obligation. This chapter also considers how, despite their limitations, initial reports can shed light on issues of engagement between States Parties and industry, which is a thematic focus of the Ninth Conference of States Parties (CSP9).

RECENT REPORTS
Two States Parties have submitted overdue initial reports since the publication of last year’s ATT Monitor Annual Report: Brazil, which was due to report in 2019 and Lesotho in 2017. One State Party (Philippines) was required to submit its initial report by 21 June 2023, but had not yet done so according to the ATT Secretariat’s website on that date. The submission of overdue initial reports by Brazil and Lesotho is an example that other States Parties should follow. Brazil and Lesotho made their reports public and used the revised initial reporting template that was endorsed by the Seventh Conference of States Parties in September 2021. The latter is helpful as the revised template includes new and more explicit questions that invite States Parties to provide more detailed information on their control systems as well as their assistance needs and capabilities.

Brazil provided detailed responses to the questions in the template, often going beyond simply providing the information requested to also citing the relevant provision of its national legislation. For example, in response to question 6.E, which asks States Parties to identify ‘the competent national authority(-ies) for the regulation of brokering’, Brazil not only identified the Army Command but also cited and quoted the decree that sets out its responsibilities in that respect. This level of detail is extremely useful, as it enables more fine-tuned assessments of national control systems as well as more targeted follow-up on information provided.

That only two initial reports were submitted over the past year, however, is worrying. It marks a decrease compared to each of the previous three years, during which five or more State Parties submitted initial reports. It also represents a continuation of the low rate of initial reporting compliance among the newest States Parties. The 2022 ATT Monitor Annual Report already highlighted the lack of compliance with initial reporting deadline requirements as only one (People’s Republic of China) of the five States Parties due to submit an initial report between June 2021 and June 2022 had done so. The 23 States Parties that have missed their initial reporting deadlines should be encouraged to follow the example of Brazil and Lesotho and submit their overdue reports as soon as possible. The ATT Secretariat should undertake individualized outreach to these States Parties and identify ways in which to support their compliance.

Both initial reports submitted over the past year illustrate the valuable insights these reports can provide, even when they are submitted late, and offer several examples of good reporting practice. Brazil and Lesotho made their reports public and used the revised initial reporting template that was endorsed by the Seventh Conference of States Parties in September 2021. The latter is helpful as the revised template includes new and more explicit questions that invite States Parties to provide more detailed information on their control systems as well as their assistance needs and capabilities.

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2 This chapter’s analysis is based on the initial reporting data on the ATT Secretariat’s website as of 21 June 2023, which may not necessarily reflect all the initial reports submitted to the Secretariat by that date.
4 Afghanistan, Namibia, Niue, People’s Republic of China and São Tomé and Príncipe.
Lesotho used its initial report to highlight its implementation gaps and assistance needs. For example, it noted that its national control system does not include a national control list or definitions of import, transit and trans-shipment, and that its transit and trans-shipment control measures apply to general goods and not to the conventional arms and items covered by the ATT. Lesotho also took advantage of the expanded international assistance section in the revised reporting template to indicate and provide descriptions of the implementation assistance it would like to receive across a range of issue areas. States Parties should be encouraged to follow Lesotho’s example by calling attention to any implementation gaps or assistance needs they may have to ensure that the international community understands how best to assist them in effectively implementing the ATT as well as to facilitate assessments of global implementation trends and the Treaty’s overall impact.

**NON-COMPLIANCE**

All but two of the ATT’s 113 States Parties were required to have submitted an initial report as of 21 June 2023. (Only the two newest ones, Andorra and Gabon, were not yet required to have done so.) As of 21 June 2023, according to the ATT Secretariat’s website, 88 of the 111 States Parties concerned had done so – a compliance rate of 79 per cent. The rate has remained relatively steady over the years: for example, it was 78 per cent and 77 percent at this point in 2022 and in 2021 respectively.

Most of the 23 States Parties whose initial reports are overdue are several years past their deadline. Five of them (22 per cent) are less than two years late, three (13 per cent) are two-to-four-years late and 15 (65 per cent) are more than five years late.

Most of these States Parties report on aspects of their national transfer controls under other, voluntary transparency frameworks, including the UN Program of Action on Small Arms and Light Weapons (PoA). Seventeen (74 per cent) have submitted at least one PoA report. Twelve of them did so after 2015 – the first year of ATT reporting – and eight later in the years after their initial report was due.

It is not entirely clear why States Parties do not submit their initial reports despite reporting on their national control measures under other, voluntary frameworks. This may be due to a more established practice of reporting to the PoA, to the limited scope of the PoA or to the burdens that can arise when States Parties with limited capacity participate in multiple reporting frameworks. The Working Group on Transparency and Reporting (WGTR) could further explore the factors behind these disparate reporting practices and ways to close the gap between ATT initial reporting and PoA reporting among States Parties as well as support synergies in reporting. Just as efforts have been undertaken to leverage synergies between the ATT and UN Register of Conventional Arms to enhance reporting on arms exports and imports under both frameworks, there may be more that the ATT Secretariat and the WGTR could do to enhance reporting on national transfer controls by leveraging synergies between the ATT and the PoA.

**JUST AS EFFORTS HAVE BEEN UNDERTAKEN TO LEVERAGE SYNERGIES BETWEEN THE ATT AND UN REGISTER OF CONVENTIONAL ARMS TO ENHANCE REPORTING ON ARMS EXPORTS AND IMPORTS UNDER BOTH FRAMEWORKS, THERE MAY BE MORE THAT THE ATT SECRETARIAT AND THE WGTR COULD DO TO ENHANCE REPORTING ON NATIONAL TRANSFER CONTROLS BY LEVERAGING SYNERGIES BETWEEN THE ATT AND THE POA.**

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5 Gabon’s initial report is due by 19 December 2023 and Andorra’s by 1 March 2024.
6 Afghanistan, Namibia, Niue, Philippines and São Tomé and Príncipe.
7 Guinea Bissau, Lebanon and Mozambique.
8 Bahamas, Barbados, Cabo Verde, Central African Republic, Chad, Dominica, Ghana, Guinea, Guyana, Mali, Mauritania, Saint Kitts and Nevis, Saint Lucia, San Marino and Seychelles.
9 Afghanistan, Barbados, Cabo Verde, Central African Republic, Chad, Ghana, Guinea, Guinea Bissau, Guyana, Lebanon, Mali, Mauritania, Mozambique, Namibia, Philippines, San Marino and São Tomé and Principe.
**UPDATED REPORTS**

States Parties are required under Article 13.1 of the Treaty to not only provide an initial report to the ATT Secretariat, but also to ‘report to the Secretariat on any new measures undertaken in order to implement this Treaty, when appropriate’. The ATT does not specifically explain how this information is to be provided. However, States Parties can fulfill this obligation by submitting an updated version of their initial report.

None of the initial reports that were posted on the ATT Secretariat’s website as of 21 June 2023 appear to have been updated since the publication of last year’s ATT Monitor Annual Report. To date, only six States Parties (Hungary, Japan, New Zealand, Romania, Slovenia and Sweden) have submitted updated reports – despite several additional States Parties indicating in interventions at formal and informal ATT meetings that they have made changes to their national control systems since submitting their initial reports.14

The lack of updated initial reports raises several concerns. Updated initial reports are unambiguous indicators of compliance with States Parties’ international legal obligation to report to the ATT Secretariat new implementation measures undertaken. In that respect, the fact that only six States Parties have submitted updated reports calls into question how seriously States Parties take their Treaty obligations. Moreover, with most initial reports having been submitted over seven years ago, it is likely that many of them contain outdated information, which severely limits their utility. For instance, outdated reports cannot reliably be used to identify the implementation challenges States Parties are currently facing, to glean up-to-date insights on global good practice or – most fundamentally – to assess the ATT’s long-term impact on enhancing national control systems.

Relatedly, while not explicitly required by the ATT, States Parties have the option of changing their submitted initial reports from confidential to public. Two States Parties (Republic of Korea and Togo) did so in previous years but none did over the past year. To date, 21 States Parties (nearly a quarter of the 88 that have reported) keep their initial reports confidential. Making reports public and changing reports from confidential to public should be encouraged, as these practices advance the Treaty’s transparency aims and facilitate valuable analyses of implementation trends, gaps and good practices.

**BOX: INDUSTRY ENGAGEMENT**

The Republic of Korea’s chose the role of industry in responsible international transfers of conventional arms as the thematic focus of its Presidency of the Ninth Conference of States Parties. In its April 2023 draft working paper on the topic, the Republic of Korea’s Presidency noted that ‘enhancing engagement between industry and private sector entities with other key ATT stakeholders can be mutually beneficial and support efforts to achieve the effective implementation of the ATT’.15

An analysis of the 67 public ATT initial reports submitted as of 20 June 2023 provides insights into whether and how States Parties have incorporated industry engagement into their national transfer control systems.

First, 14 of the States Parties included in the analysis (21 per cent) undertake some form of industry engagement.16 There are likely more who do so. But, with just 88 States Parties having submitted an initial report and 21 of them making their reports confidential, there cannot be yet a comprehensive picture of the policies and practices employed by all 113 States Parties. Furthermore, the initial reporting template does not place emphasis on industry engagement or provide clear instructions of where to list instances. Thus, such engagement may be more widespread than the reports might suggest.

Second, despite these limitations, an analysis of the public initial reports shows the range of measures by States Parties to engage with industry. In their initial reports, several described visiting, auditing or inspecting the facilities or operations of arms manufacturers or exporters to ensure compliance with national transfer controls. Some States Parties go further by requiring or encouraging industry actors to develop and implement internal compliance programs. States Parties also described organizing events – such as training sessions, seminars or speaking engagements – engaging in consultations, and developing guidance documents to raise awareness of relevant laws and policies among arms industry actors.

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14 For further details on States Parties’ public statements with regards to updates to their national control systems, see the ATT Secretariat’s records of informal preparatory meetings. ATT Secretariat (2023). ‘Working Group Group Meetings and 2nd CSP9 Informal Preparatory Meeting’. https://thearmstradetreaty.org/csp9-2nd-working-group-and-preparatory-meeting


16 Bulgaria, Canada, Estonia, France, Latvia, Luxembourg, Montenegro, Netherlands, New Zealand, Republic of Korea, Romania, South Africa, Sweden and Switzerland
CONCLUSION
The submission of just two initial reports and the lack of any updated reports over the past year represent a major setback. With initial reporting having stagnated, we are left with only a partial – and in many cases outdated – understanding of measures States Parties have taken to implement the Treaty. This severely limits the ability of other States Parties, the ATT Secretariat and civil society actors to effectively assist State Parties in enhancing their national control systems and undermines efforts to take stock of the ATT’s impact. Additionally, the continued lack of progress on initial reporting in the tenth year of implementation is a worrying sign for the Treaty’s momentum. Although the absence of a chair of the WGTR this year might appear to have diminished the importance of reporting, compliance with the Treaty’s reporting provisions remains a legal requirement and a necessary component of its success.

“ALTHOUGH THE ABSENCE OF A CHAIR OF THE WGTR THIS YEAR MIGHT APPEAR TO HAVE DIMINISHED THE IMPORTANCE OF REPORTING, COMPLIANCE WITH THE TREATY’S REPORTING PROVISIONS REMAINS A LEGAL REQUIREMENT AND A NECESSARY COMPONENT OF ITS SUCCESS.”

SOLDIERS FROM THE DANISH ARMED FORCES NAVIGATE BARBED WIRE DURING EXERCISE CRYSTAL ARROW 2023.
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