Strategic Security Analysis

Synergies between the Arms Trade Treaty and the Wassenaar Arrangement

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Key Points

• The Arms Trade Treaty and the Wassenaar Arrangement both seek to address the challenge posed by unconstrained transfer of conventional arms but differ in structure and approach.

• There are opportunities for synergies furthering the regimes’ common purpose. States members to both regimes can accentuate and interweave the strengths of the Arms Trade Treaty and the Wassenaar Arrangement.

• Transferring cutting-edge standards on export controls from the Wassenaar Arrangement to the Arms Trade Treaty would bolster the Arms Trade Treaty and foster global harmonization between exporting and importing countries. Political momentum on certain issues within the Arms Trade Treaty process may benefit the Wassenaar Arrangement’s further development.

• A derivative of the Wassenaar Arrangement’s regular ‘General Information Exchange’ on regions, transfers, and risky actors could be institutionalized within an Arms Trade Treaty working group. Sharing within the Wassenaar Arrangement information, concerns and practical challenges of states parties to the Arms Trade Treaty could make the Wassenaar Arrangement’s work more effective.

• Coordinating both regimes’ outreach activities, mentioning each other’s work and using each other’s documents for capacity building could mainstream arms transfer controls, prevent perceptions of conflicting standards as well as enable efficiencies regarding national efforts for compliance with international standards.

About the Author

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I. Introduction

Conventional weapons inflict high death tolls in modern conflicts yet remain essential for the maintenance of national security and public order. Most states procure conventional weapons through international arms trade. The U.S. Congressional Research Service estimated in its latest report that the global volume of international arms transfers in 2015 amounted to approximately 80 Billion U.S. dollars, whereas the Stockholm International Peace Research Institute (SIPRI) observes an upwards trend since the early 2000s. Yet conventional weapons transfers may pose a threat to countries, fuel conflicts and lead to abusive violence such as terrorism. Thus, both the 2013 Arms Trade Treaty (ATT) and the 1996 Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement, WA) establish standards for the control of international arms transfers. While the ATT and WA differ in structure and certain states would refuse formal linkages between the two regimes, there exist opportunities for synergies furthering their common purpose.
II. Different Characteristics

Despite their shared purpose to address the challenge posed by unconstrained transfers of conventional arms, the WA and ATT differ in design. The WA is a product of the 1990’s and aims to contribute to international security and stability. Based on the Coordinating Committee for Multilateral Export Controls (COCOM), which was established during the Cold War by the United States of America and its allies to prevent the proliferation of cutting-edge military goods and technologies to the Soviet bloc, the WA is a politically binding export control regime encompassing 42 participating states – including most major exporting countries of conventional weapons. WA participating states agree on the basis of consensus which weapons and related dual-use technologies are subject to export controls, adopt guidelines for the implementation of export controls, and share information on arms transfer authorizations as well as general and region-specific risks regarding transfers.

The ATT is a legally binding treaty characteristic of 21st Century arms control that aims to strengthen not only international security but also human security. Besides obliging states to establish national control authorities, the ATT enshrines prohibitions on arms transfers notably related to the commission of international crimes as well as criteria to be considered before granting export authorizations. These criteria include the likelihood that exported weapons would be used for committing or facilitating serious violations of international humanitarian law, international human rights law, terrorist acts, or transnational organized crime. The ATT also institutes reporting obligations. Contrary to the WA, the ATT has a global participation of currently 102 states, including importing and transiting states. Thirty-three additional states have signed the ATT.

The regimes’ different designs result in different functioning. The WA's meetings and information exchange are confidential among participating states. The ATT holds public meetings, allowing for the inclusion of civil society and industry representatives. It also encourages public reporting of actual arms exports and imports or such authorizations.

Their outputs differ as well. The WA produces technologically up-to-date and state-of-the-art documents for the implementation of export controls. The WA's very specific Munitions List and Dual-Use List define which items are subject to national controls, thereby ensuring coherent cross-regional control of goods among participating states. The WA guidelines, elements and procedures provide very elaborate guidance for certain activities, such as the exportation of small arms and light weapons and end-user controls. Furthermore, the meetings of the WA Expert Group and the WA General Working Group enable technical and focused discussions.

The ATT's greatest asset is that its obligations, including the prohibitions and export criteria, are legally binding. Thus, national compliance with the treaty's standards can be enforced by judicial measures, mainly at the domestic level. This was achieved in the negotiations process by allowing some ambiguity in the treaty's obligations, notably regarding their implementation, which is inherent to many international legal agreements. Originating from a United Nations process, the discussions in the framework of the ATT are more political and include a more diverse set of states than the WA.
States Membership of the Arms Trade Treaty and the Wassenaar Arrangement
III. Complementarity

With different characteristics yet a shared raison d’être, the WA and the ATT are complementary. Indeed, the chief justification for the ATT’s creation was the absence of any legally binding international standard on the regulation of transnational arms transfers. Many WA participating states, such as the United Kingdom, Germany and Sweden, were drivers in the negotiations of the ATT. These states used experiences gained in the WA’s framework to strengthen the treaty.

Since the adoption of the ATT, states participating in both the WA and ATT have assisted ATT state parties in creating and improving national control authorities based on insights from the WA. WA officials have also made themselves available to share experiences, which has included the presentation of the WA Munitions List to the ATT Working Group on Effective Treaty Implementation on 30 May 2018. Additionally, the WA publishes its guiding documents on its webpage to further public understanding of export controls and attends ATT meetings as observer.

Nevertheless, the ATT’s four years of existence have not led to formal cooperation between the two regimes. WA participating states that have not adhered to the ATT are likely to block any attempt at formal alignment or collaboration between the two institutions, in attempts to avoid losing influence over the WA agenda. Importing countries within the ATT may also disapprove of any attempt at collaboration. Traditionally subject to discrretional decisions by exporting states, some importing states have perceived the WA as an illegitimate ‘exporters’ club’ which withholds modern military technology from developing countries. Hence, the complementarity between the WA and ATT can be harnessed only through informal cooperation.
IV. From Coexistence to Synergies

Relying on the strengths of each regime’s processes may bolster both and in turn foster their common purpose. Those states that participate in both the WA and ATT can forge synergies and avoid duplications through their actions within both fora. Many such states have a single office that deals with both the WA and ATT and, in some cases, the same set of personnel. Ideas transfers from one regime to the other, de facto coordination of their policies and activities, and efficient management so as to preserve state resources are therefore not only feasible but in the interest of such states.

A. Specific Issues

Synergies may arise first and foremost regarding the specific issues dealt by both regimes. The WA’s sophisticated documents could be introduced to the ATT process. Notably the WA documents on export control enforcement, transit/transshipment, and legislation on arms brokering are useful as the ATT is ambiguous regarding these issues and ATT state parties may not have suitable mechanisms to address these problems. In addition, the WA ‘Elements for Objective Analysis and Advice concerning Potentially Destabilizing Accumulations of Conventional Arms’ can help clarify the implementation of the largely ambiguous ATT-criteria on weapon transfers’ effects on peace and security.

The technical updates of the WA Munitions List could also be regularly explained to the ATT community so that states with limited bureaucratic resources may keep up with technological developments. While the WA already publishes summaries of changes to its control lists, briefing ATT states parties on the changes would increase the awareness and understanding of the technical updates. In addition, such briefings could foster technical discussions with the ATT framework.

Transferring cutting-edge standards of export control from the WA to the ATT would make the ATT more effective. This would also foster greater global harmonization between exporting and importing countries that the WA cannot achieve due to its limited membership. Although the adoption of WA documents or adaptations thereof by the ATT Conference of State Parties would be ideal, an informal coordination of national commitments for their implementation would also be a step in the right direction. This would also allow for a partial integration of WA standards and for their simplification in cases where ATT states do not need highly complex control systems. ATT states parties that generally do not export conventional weapons do not need elaborate measures on export assessments, for instance.

Political momentum on certain issues within the ATT process may also benefit the WA’s further development. The ATT’s inclusiveness may lead to the emergence of matters – such as the link between arms transfers and the respect of international humanitarian law or prevention of gender-based violence – which might not arise within the more restricted and closed WA. Taking issues of concern from the ATT to the WA process would therefore allow the WA to keep itself updated regarding the specific export control issues it addresses. On the other hand, given the WA’s technical expertise, the WA may likely be better placed than the ATT to develop elaborate and practical solutions to issue-specific challenges that arise in the ATT framework. The smaller size of the WA, including that of its technical working meetings, may also allow quicker progress.
B. Information Exchange

States may also reap synergies regarding information exchange. It is unlikely that ATT states parties would commit to a similarly extensive information exchange on arms deliveries as conducted within the WA as ‘Specific Information Exchange’. However, a derivative of the WA’s regular ‘General Information Exchange’ could be institutionalized within the ATT. This information exchange foresees sharing information among WA participating states on risks associated with transfers of conventional arms to consider coordinating national control policies to combat these risks. States also exchange information on regions they consider relevant to the purposes of the WA. The ATT Conference of States Parties and informal preparatory meetings could dedicate working sessions to similar information exchange among ATT states parties on regions, transfers and actors of concern. This would allow higher awareness of specific risks associated with international arms transfers.

Information, concerns and practical challenges regarding (re-)export, import, transit/transshipment, brokering and diversion of ATT states parties that are not members of the WA can also make the WA’s work more effective. Making informed export decisions is crucial notably for preventing the abuse of weapons and their diversion to unauthorized end-users. Third-party states from a particular region of concern or states involved in particular transfer routes are often privy to information that exporting WA participating states do not have. In addition to open communication channels between importing and exporting states, the ATT also offers information from civil society and research institutions. These sorts of information could be greatly beneficial to the WA, if introduced. Similarly, although WA information exchange is confidential, information on risks highlighted within the WA that can be reconstituted on the basis of public sources may be shared with the ATT community.

C. Outreach

Further synergies may arise regarding the ATT’s and WA’s outreach activities. Both regimes’ secretariats, supportive member states, and other aligned actors raise awareness of international arms transfers and their control, disseminate the results of the institutions’ work, and encourage states to join or adhere to their standards. Coordinating the WA’s outreach programme with the ATT’s efforts towards universalization could be possible through informal collaboration between the respective secretariats and member states.

More importantly, the WA’s regular policy and technical briefings to non-WA states, bilateral dialogues and participation at events with a regional or thematic focus could incorporate the ATT’s standards to align the sharing of experience and expertise with the requirements of the ATT. In this way, the awareness of the ATT can be increased, the perception of conflicting standards can be avoided, and national efforts towards compliance with one institution can serve the other as well.

Universalization and capacity-building efforts within the framework of the ATT, on the other hand, can use the WA’s experience and standards as valuable input. A side effect of such endeavours is that controls of international arms transfers are being mainstreamed. As a result, the WA and its participating states benefit from the legitimacy the ATT gives to stringent export controls and thus broader acceptance among importing states. As a first step, states members to both regimes as well as the EU, which offers significant international assistance, could ensure that their capacity-building projects serve both the ATT and WA.
V. Conclusion

The global regulation of international arms transfers has significantly evolved since the end of the Cold War. The WA has established high standards on export controls among the major exporting states. The ATT has led to legally binding standards and the creation of new control authorities around the globe. Challenges persist: the awareness of uncontrolled arms transfers' negative impacts needs to be raised continuously, global commitment to responsible arms transfers needs to be expanded, and capacity building remains a major challenge in many regions. Nevertheless, the WA and ATT have achieved much so far.

Synergies between the ATT and WA may now lead to enhanced effectiveness. No formal cooperation is realistic, no convergence necessary. States members to both regimes, however, could informally work to accentuate and interweave the strengths of the ATT and WA. Besides initiatives regarding specific issues, information exchange and outreach, states members to both could nominate one and the same point of contact (POC) for both regimes, if not done already. States could also support exchanges between the ATT and WA secretariats as well as ATT Presidents of Conference of States Parties and WA Plenary Chairs. A state member to both regimes presiding the ATT and chairing the WA in the same year would also be a good occasion to further explore and implement options for synergies. Indeed, there are many opportunities for synergies – opportunities that would strengthen both institutions and foster their common purpose.
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References


3. Arms Trade Treaty; adopted at the UN General Assembly in New York, 2 April 2013; entered into force, 24 December 2014. For a general overview and regularly updated information, see the ATT’s webpage, retrievable at: https://thearmstradetreaty.org/


5. The WA has been established to contribute to regional and international security and stability, by promoting transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilising accumulations. The aim is also to prevent the acquisition of these items by terrorists. See: WA Initial Elements, op. cit., n. 4, s. I; and https://www.wassenaar.org/about-us/

6. For the list of all WA participating states, see the graph on page 5.

7. The conventional weapons and related dual-use goods and technologies covered by the WA are listed in the WA ‘Munitions List’ and ‘List of Dual-Use Goods and Technologies’. While the Munitions List contains 22 categories, the Dual-Use List contains nine categories of dual-use goods and technologies. These lists are regularly updated and publicly available. See: Wassenaar Arrangement, Public Documents, Volume II, List of Dual-Use Goods and Technologies and Munitions List, Compiled by the WA Secretariat, December 2018.

8. The WA has adopted 23 best practices and guidelines as of May 2019, according to the following categories: Documents of General Use, Arms Transfers, Transit/Trans-shipment, Demilitarised Military Equipment, Dual-Use Goods and Technologies, Industry and Academy, End Use and End User Controls, and Applicant Countries. See: Wassenaar Arrangement, Public Documents, Volume III, Compendium of Best Practice Documents, Compiled by the WA Secretariat, December 2018.

9. WA Initial Elements, op. cit., n. 4, s. IV VI; and Appendix 1-3.

10. The ATT’s object is to establish common international standards for regulating and improving the regulation of the international trade in conventional arms as well as prevent and eradicate the illicit trade in arms and prevent their diversion. It aims to contribute to international and regional peace, security and stability as well as reduce human suffering. Furthermore, it aims to promote cooperation, transparency and responsible action by its states parties, thereby building confidence. See: Article 1 of the ATT.

11. Article 5 of the ATT.

12. Article 6 of the ATT.

13. Article 7 of the ATT.

14. Article 13 of the ATT.

15. For the list of all ATT states parties, see the graph on page 5.


17. WA Initial Elements, op. cit., n. 4, s. IX.

18. While the ATT itself does not specify if meetings are to be held publicly or closed, Article 13 of the ATT’s rules of procedures establishes that the

19. In accordance with Article 13(1) of the ATT, the large majority of ATT states parties make their annual reports on exports and imports of conventional arms under Article 2(1) of the ATT publicly available.


22. Introduction to End User / End Use Controls for Exports of Military-List Equipment, agreed at the 2014 Plenary; Statement of Understanding on Implementation of End-Use Controls for Dual-Use Items, agreed at the 2007 Plenary; and End-User Assurances Commonly Used Consolidated Indicative List, agreed at the 1999 Plenary, amended at the 2005 Plenary. See: WA Compendium of Best Practice Documents, op. cit., n. 8, pp. 75-86.

23. While the WA Plenary is the decision-making body of the Arrangement, the main subsidiary bodies are the General Working Group (GWG) dealing with policy-related matters, and the Experts Group (EG) addressing issues related to the lists of controlled items. See: WA Initial Elements, op. cit., n. 4, s. VII; and https://www.wassenaar.org/about-us/

24. States parties to the ATT are bound under international law to implement and comply with the Treaty’s provisions; a failure to do so triggers states’ international responsibility.

25. Notably the ATT’s preamble reflects the many political considerations and implications of the ATT and its application. Discussions at the ATT Conference of States Parties as well as their informal preparatory meetings are oftentimes subject to these political and diplomatic dimensions.

26. See, in this regard, the Statement by the Wassenaar Arrangement on the Arms Trade Treaty (ATT), 3 June 2013. See: Wassenaar Arrangement, Public Documents, Volume IV, Background Documents and Plenary-related and Other Statements, Compiled by the WA Secretariat, December 2017, p. 65.


29. Such views had been issued during the ATT negotiations. The entry into force of the ATT as well as international assistance and support offered by WA participating states and WA officials may have well altered this view, however.


Conferences of States Parties (CSP) and their informal preparation meetings - which include three thematic working groups - are public unless otherwise decided. Discussions in 2018 resulted in the decision to continue public meetings yet retain the option of closed meetings. See: Rules of Procedure, Arms Trade Treaty, ATT/CSP4/CONF/1, 25 August 2015; and (Non-Paper) Summary of the informal consultation on the provisions of the terms of reference of the ATT Working Group regarding the holding of closed meetings, ATT/CSP4/2018/ PRES/56/Conf.ClosedMeet, 27 July 2018.

35. See, e.g.: Summary of Changes of Dual-Use Goods & Technologies and Munitions List as of 6 December 2018, retrievable at: https://www.wassenaar.org/control-lists/


38. The Presidency of the Fifth Conference of States Parties (CSP5) dedicated special attention to gender-based violence. Notably the Working Group on Effective Treaty Implementation focused on the topic. See, e.g.: List of Elements for Possible Adoption by CSP5, Presented by the President of the Fifth Conference of State Parties to the ATT, Gender and Gender-Based Violence, ATT/CSP5/2019/PRES/447/PM2.GenderGBV, 19 March 2019.

39. Regarding arms transfer decisions, this information exchange requires WA participating states to exchange information every six months on deliveries to non-participating states of conventional arms covered by Appendix 3 of the WA Initial Elements, derived from the categories of the UN Register of Conventional Arms. The information includes the quantity, the name of the recipient state, and - except for missiles and missile launchers - details of model and type of weapons. See: WA Initial Elements, *op. cit.*, n. 4, s. VI.

40. WA Initial Elements, *op. cit.*, n. 4, s. IV. Appendix 1 to the WA Initial Elements lists possible elements of the general information exchange.

41. The WA organizes two regular collective outreach events in Vienna for interested partners, namely the Post-Plenary Briefings and Enhanced Technical Briefings. Periodically, the WA organises outreach seminars and workshops or other events. The WA also conducts outreach dialogue with individual countries and may undertake bilateral outreach visits. The WA Secretariat also interacts on a regular basis with a variety of international and regional organisations and maintains contacts with other export control regimes. See: https://www.wassenaar.org/outreach/


44. For an overview of ATT-relevant cooperation and assistance activities in the framework of the ATT, see the Stockholm International Peace Research Institute’s (SIPRI) Mapping ATT-relevant Cooperation and Assistance Activities Project, retrievable at: http://www.att-assistance.org/
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