

Ninth Conference of States Parties the Arms Trade Treaty (ATT)  
***Side Event on “Challenges to Effective Implementation of the Arms Trade Treaty: Ten years since the Arms Trade Treaty”***  
Organised by Maat for peace development and human rights  
(Geneva, 25 August 2023)

***A COMPREHENSIVE REVIEW OF THE ARMS TRADE TREATY (ATT)***

*Marc Finaud*

*(Senior Advisor and Associate Fellow, Geneva Centre for Security Policy – GCSP)*

Excellencies, Ladies and Gentlemen,

I wish to thank the organizers of this timely event for having invited me. I will speak on my personal behalf, and of course, in the limited time available, I will not be able to review the ATT in a “comprehensive” manner. I will just focus on three issues or challenges to the implementation of the treaty: the lack of its universality; the humanitarian paradigm that is the foundation of the treaty; and the role of civil society in its implementation.

**1) The ATT is a successful treaty but key countries are absent from it**

Although the ATT is not considered as a disarmament treaty, most of you, diplomats or NGO representatives, are experts in disarmament and often compare the various arms control, non-proliferation, and disarmament instruments among them to assess their effectiveness and impact. Of course, we’re not talking about weapons of mass destruction, which are not within the scope of the ATT that only deals with conventional armaments. In the latter field, let’s look at the status of the key instruments:

- The Convention on Certain Conventional Weapons (CCW), entered into force in 1983, three years after its adoption, has 126 States Parties and 4 signatories, and 65 non-parties
- The Antipersonnel Mine Ban (APMB) Treaty, entered into force in 1999, two years after its adoption, has 164 States Parties, 1 signatory, and 32 non-parties
- The Convention on Cluster Munitions (CMC), entered into force in 2010 two years after its adoption, has 112 States Parties, 12 signatories, and 73 non-parties
- In comparison, the ATT, entered into force in 2014, one year after its adoption, has now 113 States Parties (less than the oldest treaties but more than the CMC), 28 signatories (more than the other treaties; if all signatories ratified, there would be 141 States Parties, i.e., less than the APMB but more than the CCW and the CMC), and 54 non-parties (less than the CCW and the CMC).

Overall, the ATT can be considered as a relatively successful treaty, especially in the number of States Parties it attracted in less than 10 years. However, among the non-parties, there are key states in the conventional arms trade. According to the latest report by SIPRI, for the period 2018-2022, among the top ten exporters, four were not party to the ATT (the United States, Russia, and Israel – China acceded in 2020), while, among the top ten importers, seven were non-parties (India, Saudi Arabia, Qatar, China – that joined in 2020 –, Egypt, Pakistan, and the United States).<sup>1</sup> This is a major failure of the treaty and considerably weakens its impact.

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<sup>1</sup> Simon Wezeman et al., “Trends in International Arms Transfers, 2002”, SIPRI, March 2023 (available at: <https://www.sipri.org/publications/2023/sipri-fact-sheets/trends-international-arms-transfers-2022>).

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As we know, the ATT Working Group on Treaty Universalization of the ATT has been working hard to promote accession to the treaty. China’s accession in this regard is an important achievement. However, more could be done, especially within regional organizations and mechanisms, by States Parties to convince non-parties that it would be in their interest to join. There are excellent lists of arguments put forward by UNODA<sup>2</sup> or civil society organizations such as the Australian Centre for Violence Reduction.<sup>3</sup> Some states that are hesitant could be convinced by their neighbours or allies that not only could States Parties satisfy their national security needs for conventional weapons, but also that they benefitted from membership in accessing useful information, cooperation and assistance programmes when implementation required additional efforts and resources.

## **2) The humanitarian paradigm at the roots of the Arms Trade Treaty**

Let’s keep it always in mind, even if it is not a disarmament treaty, the ATT was, like the instruments already mentioned, the APMB and the CMC, the result of initiatives from civil society organizations animated by the humanitarian paradigm. Indeed, it was realized, at the end of the Cold War, that most of the victims of armed conflict were civilians, who needed to be protected from the weapons that caused the most devastating damage. In the same vein, NGOs pushed for more action by states to fight the illicit trade in small arms and light weapons, which was done in the UN Programme of Action of 2001.

When Peace Nobel Prize laureates and the Control Arms coalition of NGOs, supported by the International Committee of the Red Cross (ICRC), launched the campaign for an Arms Trade Treaty in 2001-2003, and it found sympathetic governments in all regions. The aim of the campaign was to reduce armed violence and conflict through global controls on the arms trade. Working with survivors of armed violence helped focus on the humanitarian objective of the treaty.<sup>4</sup> Eventually, these efforts culminated in the adoption of the ATT and particularly the unprecedented goal, as one of its main purposes (Art. 1), of “reducing human suffering”. This is what the President of the ICRC, Peter Maurer, stated when the treaty was adopted: *“This will ultimately help protect people from wanton armed violence and reduce human suffering.”*

As a result, the ATT is a hybrid treaty: it refers to international humanitarian law, applicable only in armed conflict, but also to international human rights and arms control & disarmament instruments, applicable at all times. In its preamble, it recognizes that *“the illicit and unregulated trade in conventional arms”* has *“security, social, economic and humanitarian consequences.”* And it also refers to *“Article 26 of the Charter of the United Nations which seeks to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world’s human and economic resources.”* In other words, it puts human beings, their survival and well-being at the heart of a system to control the trade in weapons that can threaten them. It is not surprising that,

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<sup>2</sup> United Nations Office for Disarmament Affairs, ATT Implementation Toolkit, “Why Join the ATT?”, available at: <https://front.un-arm.org/wp-content/uploads/2015/08/2015-08-21-Toolkit-Module-1.pdf>.

<sup>3</sup> The Centre for Armed Violence Reduction (CAVR), “Reinvigorating the Narrative: The Broader Benefits of the Arms Trade Treaty”, September 2017 (available at: <https://unrcpd.org/wp-content/uploads/2018/05/Broader-Benefits-of-the-Arms-Trade-Treaty-Full-Online-Version.pdf>).

<sup>4</sup> Duncan Green and Anna Macdonald, “Power and Change: The Arms Trade Treaty”, Oxfam Active Citizenship Case Study, 16 January 2015 (available at: <https://policy-practice.oxfam.org/resources/power-and-change-the-arms-trade-treaty-338471/>).

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during the Control Arms campaign, supporters of an arms trade treaty reminded the public that the trade in bananas was more regulated than the trade in deadly weapons.

Whether the ATT has achieved its goal in reducing human suffering remains to be seen. In its decade of being in force, the arms trade has remained a booming business. According to SIPRI, the global trade in heavy weapon systems between 2014 and 2022 increased by over 15%.<sup>5</sup> Among the top exporters that are party to the ATT, between 2013 and 2022, France increased its exports by 44%, Italy by 45%, South Korea by 75%. Among the top importers that are also party to the ATT, Australia increased its imports by 23%, South Korea by 61%, and Japan by 141%! This shows that the treaty is not an impediment to the arms trade. The key issue is whether the exporters complied with their obligations to ensure that the weapons transferred would be used in conformity with the conditions of the treaty. Doubts are expressed as to whether is the case, particularly when looking at transfers to conflict zones such as the Middle East or Ukraine, and this is certainly an area that requires further transparency and research if there is political will to make the ATT more effective.

As former UN Secretary-General Ban Ki-moon used to say, *“The world is over-armed and peace is underfunded”*. While global military expenditure was estimated by SIPRI to reach \$2.24 trillion last year, the arms production by the top 100 companies (90% of world production) is estimated by SIPRI at almost \$600 billion per year, and the volume of the international arms trade is said to be around \$100 billion per year. Let’s now compare the current budgets of the institutions set up to control conventional arms:

- The Implementation Support Unit (ISU) of the APMB: \$835,000
- The ISU of the CMC: \$564,000
- The ISU of the CCW: \$1.4m
- The Subprogramme Conventional Arms of UNODA \$1.0m
- The ATT Secretariat: \$790,000
- TOTAL: \$4,589,000 (= 0.0046% of the global arms trade!)

### **3) The role of civil society in the treaty’s implementation**

Upon adoption of the ATT, some ten years after the start of the campaign, the UN Secretary-General, Ban Ki-moon commended *“the members of civil society for their tireless campaigns, expert contributions and unwavering support”*, and the Australian President of the negotiating conference, Amb. Peter Woolcott, declared: *“States did not do this alone. It is important we recognize the enormous contribution of civil society who have been advocating for this Treaty for many years, who informed our negotiations and who have an important role in the years ahead.”* Indeed, since the entry into force of the treaty, civil society organizations have played an important role, along with, but sometimes in spite of, States Parties.

To mention just a few examples:

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<sup>5</sup> SIPRI Arms Transfers Database, available at: <https://www.sipri.org/databases/armstransfers>.

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- The Stimson Center in the United States launched its Arms Trade Treaty-Baseline Assessment Project that helped many states to prepare their ATT initial reports describing their legal system of arms control and identifying areas for improvement.<sup>6</sup>
- My colleagues Stuart Casen-Maslen and others published a detailed a legal commentary of the treaty that is still a useful instrument for States Parties.<sup>7</sup>
- The Small Arms Survey and my former organization, the GCSP, published a Practical Guide to National Implementation edited by Sarah Parker before she joined the ATT Secretariat.<sup>8</sup>
- The GCSP, initially together with the Small Arms Survey and UNIDIR, and then on its own, conducted training courses on ATT implementation in English, French, and Spanish, that benefitted to over 650 practitioners since 2014.
- Such courses and other projects are recorded by SIPRI in its database about ATT-relevant Cooperation and Assistance Activities.<sup>9</sup>
- *The ATT Monitor*<sup>10</sup> published by Control Arms provides crucial information and independent analysis to States Parties and stakeholders on implementation of the treaty:
- Saferworld has recently offered proposals to strengthen the ATT process and make it more effective.<sup>11</sup>

Of course, most of the organizations I mentioned and others, such as Maat, Oxfam, IANSA, or QUNO as well as regional groups, are also actively engaged in awareness raising, research, information sharing, advocacy for ATT universalization and effective implementation. In a sense, they fill a vacuum by providing States Parties with services that the Secretariat is not mandated for or even sharing to the public information that some States Parties are reluctant to publish. This is the case at every Conference of States Parties, when diplomats are focusing on some bureaucratic aspects of the treaty, its machinery, elections to subsidiary bodies, etc. while only civil society representatives raise substantive issues such as cases of non-compliance by States Parties with their legally binding obligations regarding transparency, lack of risk assessment prior to exports, insufficient efforts to combat diversion or illicit trafficking, etc.

In some States Parties, some NGOs even availed themselves of the legal base offered by their countries' membership to sue their governments for having granted export licences for arms transfers to states known for their lack of respect for international humanitarian or human rights law. This form of action should be more systematic to pressure governments into better compliance. In this regard, it is interesting to note that, in some of the States Parties, representatives of industry are pleading towards their governments or their clients for membership in and/or better implementation of the ATT: they

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<sup>6</sup> Rachel Stohl, “The Arms Trade Treaty-Baseline Assessment Project: Initial Findings and State Practice”, Stimson Center, 2014 (available at: <https://www.stimson.org/2014/arms-trade-treaty-baseline-assessment-project-initial-findings-and-current-state-practice-0/>).

<sup>7</sup> Stuart Casey-Maslen et al., *The Arms Trade Treaty: A Commentary*, Oxford University Press, 2016 (available at: <https://opil.ouplaw.com/display/10.1093/law/9780198723523.001.0001/law-9780198723523>).

<sup>8</sup> Sarah Parker (ed.), *The Arms Trade Treaty: A Practical Guide to National Implementation*, Small Arms Survey, 2016 (available at: <https://www.smallarmssurvey.org/resource/arms-trade-treaty-practical-guide-national-implementation>).

<sup>9</sup> SIPRI, “Mapping ATT-relevant Cooperation and Assistance Activities” (available at: <https://att-assistance.org/home-page>).

<sup>10</sup> *The ATT Monitor* (available at: <https://attmonitor.org/en/>).

<sup>11</sup> Saferworld, “The Arms Trade Treaty: Preparing for the Next Decade”, June 2023 (available at: <https://www.saferworld.org.uk/downloads/arms-trade-treaty--preparing-for-the-next-decade.pdf>

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seek social responsibility and want to avoid the negative image of being associated with, or even complicit of, international crimes. This is another form of leverage for civil society towards more control on the international arms trade.

In conclusion, one can express satisfaction that the international community has given itself one legally binding instrument to regulate the international conventional arms trade and reduce human suffering, but also express the hope that more key exporting or importing countries will join this collective effort and States Parties will take their obligations more seriously, paving the way for a safer and more humane world.