

ARMS TRADE TREATY SIGNATORY STATES - GAPS AND POSSIBILITIES FOR TREATY UNIVERSALIZATION

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SUMMARY

This report presents the findings of a SaferGlobe study based on an analysis of the 41 member states of the United Nations that signed the Arms Trade Treaty between 2013 and 2014, but are still to join it as States Parties. The report presents potential challenges and obstacles in the ratification process and proposes avenues for future action in support of the ATT's universalization.

Conducted with financial support from the Ministry of Foreign Affairs of Finland, the study identifies three priority areas for each of the regional groups of signatory states selected for the study based on desk research and interviews.

Among the 17 African signatory states, the main challenges to be overcome in the national ratification processes are: building national ATT implementation capacity; raising awareness about the Treaty amongst relevant decision-makers and the general public; and ensuring timely and smooth domestic processing of the ratification initiative.

In Asia and the Pacific, the study found that some of the issues to be addressed by the 14 signatory states include: taking into account challenges related to the general electoral cycle and rotation of top officials; studying the domestic implications of the ATT; and building national implementation capacity prior to joining the Treaty.

In Latin America and the Caribbean, the study found that it would be especially important to address challenges related to balancing competing political priorities; overcoming institutional challenges; and taking into account ATT-relevant defence industry interests.

Six states in the League of Arab States signed the ATT but are yet to become States Parties. Some of the challenges and concerns identified in the countries include: assessing the administrative aspects of national decision-making processes; answering questions related to issues that are perceived as taking priority over the benefits of ATT membership; and addressing concerns about the implications of joining the ATT.

The ATT membership levels are the highest among states belonging to the Western and Eastern Groups. The challenges faced by the five members of the groups that are currently signatories to the ATT are often overlapping, but consist of at least the following priority areas: overcoming domestic opposition to joining the Treaty; setting the ATT in the context of security threats and policy priorities; and addressing concerns regarding defence industry interests and pressures resulting from cross-regional alliances.

As possible actions to overcome these challenges perceived by the various signatory states, the report lists five typical situations to be addressed while noting that the context, specific needs and challenges vary greatly from state to state and as such the mechanisms presented here require further tailoring for implementation in each individual case. As examples of potential actions, the report suggests inter alia further utilization of ministerial level exchanges and other targeted diplomatic efforts; continued outreach and awareness-raising events as well as research; and promoting media coverage about the ATT and the need to improve arms transfer controls.

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LIST OF ACRONYMS AND ABBREVIATIONS

AOAV	Action on Armed Violence
ASD	Aeronautics, Space, Security and Defence Industries in Europe
ATT	Arms Trade Treaty
AU	African Union
CARICOM	Caribbean Community
CSP	Conference of States Parties
CSP3	Third Conference of States Parties
DRC	Democratic Republic of Congo
EU	European Union
Farc	Revolutionary Armed Forces of Colombia
GGE	Group of Governmental Experts
GRIP	Groupe de recherche et d'information sur la paix et la sécurité
JILAP	Episcopal Justice and Peace Commission (Haiti)
LAS	League of Arab States
MENA	Middle East and North Africa
NGO	Non-governmental organization
NRA	National Rifle Association (United States)
OAS	Organization of American States
OSCE	Organization for Security and Co-operation in Europe
PGA	Parliamentarians for Global Action
PNENEM	National Export Policy for Military Equipment (Brazil)
SALW	Small arms and light weapons
SIPRI	Stockholm International Peace Research Institute
UN	United Nations
UNRCPD	United Nations Regional Centre for Peace and Disarmament in Asia and the Pacific
WEOG	Western European and Others Group
WHO	World Health Organization
WGTU	Working Group on Treaty Universalization
WMD	Weapons of Mass Destruction

1. INTRODUCTION

The Arms Trade Treaty (ATT, in the text also referred to as “the Treaty”),¹ was negotiated at the United Nations (UN) between 2011 and 2013.² It entered into force on 24 December 2014. As of 15 July 2017, a total of 92 states had joined the Treaty as States Parties. Before the Treaty’s entry into force it was possible for states to become signatories to the ATT; after its entry into force they can only ratify, accede to or accept the Treaty, depending on their domestic processes. As of 15 June, 41 of the total 130 signatory states were still to join the Treaty as states parties.³

This report focuses on the 41 UN member states that remain as ATT signatories. By dividing the signatory states to the UN regional groups⁴ it provides a brief overview of the main challenges related to controlling conventional arms trade and proliferation in the different regions and presents a regional overview of UN member states’ participation in the ATT process up to July 2017. In each regional chapter, the report identifies three primary challenges and obstacles faced by states in proceeding with or finalizing their ATT ratification process. The chapters also present some case studies that were identified as being particularly interesting, challenging or typical for the regions.

After the regional analysis of the ATT universalization efforts, possible concerns and stumbling blocks with the ratification, the report concludes with some food-for-thought type of ideas about how the different kinds of obstacles with becoming an ATT State Party could be addressed either by states themselves or by utilizing external assistance and co-operation. By doing this, it aims to add to the understanding of what has kept the current signatory states from becoming full ATT states parties, what possible challenges they are facing in their accession process, and which support activities might prove beneficial in different circumstances and regions.

The report is part of a SaferGlobe project funded by the Ministry of Foreign Affairs of Finland and implemented during January-September 2017 to support the ATT universalization and the efforts of the Finnish Chairmanship of the Third Conference of States Parties to the ATT (CSP3). Information in the report is based on background research, publicly available resources and a limited number of interviews conducted with state officials and civil society experts in January-June 2017. The case studies presented in the chapters are intended to be read as examples rather than comprehensive descriptions of the situations in the various ATT signatory states.

1 For the full Treaty text in all official UN languages, see <<http://www.un.org/disarmament/convarms/ArmsTradeTreaty/>>.

2 The initiative for an international arms trade treaty was first introduced at the UN in 2006. After initial consultations, it was negotiated over two years of official meetings.

3 By signing the ATT, a state signals its intention to become a party to it in the future. After signing, a State must also not take any action that would undermine the Treaty’s object or purpose. Signature does not legally bind the signatory State or require it to begin implementing the ATT’s provisions. To become legally bound by the ATT, a signatory state must deposit its instrument of ratification, acceptance or approval. For more information, see UN ODA, 2013.

4 The United Nations Regional Groups are the geopolitical regional groups of UN member states. The report uses them as the basis for analysis. For the interests of the ATT universalization efforts, the League of Arab States is discussed in a separate chapter.

As the ATT enters into its fourth year of implementation, more research will be needed both on the member states’ experiences of being part of the Treaty strengths and on the practical challenges in implementing the Treaty both nationally and in promoting international compliance. Hopefully this report will provide ideas and suggestions for possible solutions for states and civil society actors to overcome the challenges that ATT signatory states are facing on the road towards becoming ATT States Parties.

2. BACKGROUND

2.1. ATT PROCESS AND CURRENT SITUATION

The ATT, adopted at the UN in 2013 after seven years of intense discussions and negotiations, entered into force at the end of 2014. It is the first international legally binding treaty to control the transfers of conventional arms intended to increase transparency, responsibility, and accountability in their international trade and combat illicit arms trafficking and diversion.⁵ Through its 28 Articles the Treaty sets minimum standards that all its States Parties should introduce and implement at the national level,

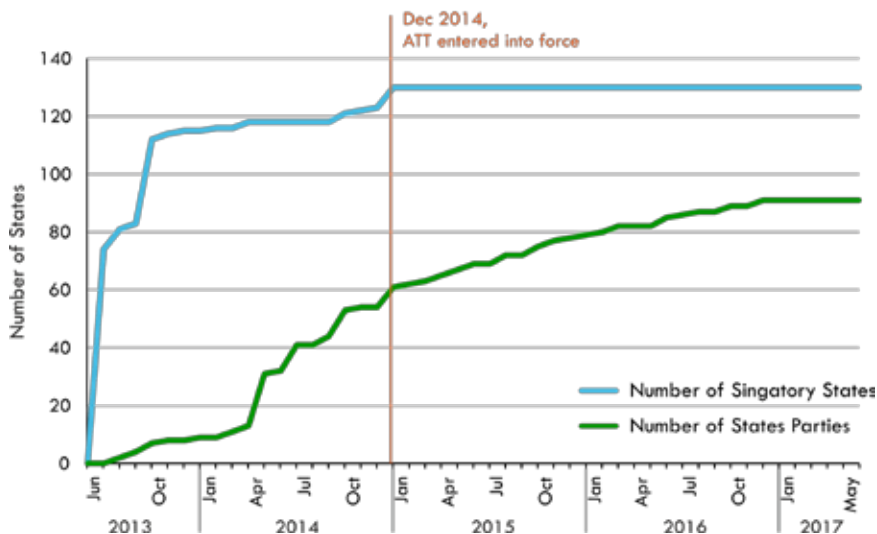
⁵ The ATT regulates the transfer of most conventional arms, the ammunition they fire, and integral parts and components. The arms covered by the Treaty are: battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, and small arms and light weapons (Article 2(1)). By virtue of Article 5(3), states parties are encouraged voluntarily to apply the Treaty to a broader range of conventional arms. According to Article 2(2), the terms 'trade' and 'international transfer' are synonyms for the purpose of the Treaty and include export, import, transit, trans-shipment, and brokering of conventional arms.

including comprehensive legislation, national control lists, case-by-case risk assessment of arms transfer licence requests, and reporting measures.

During the first years of its operation, the ATT has gained a rapidly widening participation base: the Treaty opened for signature on 3 June 2013 right after having been adopted and almost 70 states signed it during the first few weeks. Following active campaigning and awareness-raising efforts by both states that had pushed for its adoption and the civil society, the Treaty saw another peak of signatures during the General Assembly in September 2013. Also ratifications started to come in. They grew especially rapidly between April and October 2014 (see Graph 1).

As noted in the ATT's Article 22(1), the Treaty was to enter into force 90 days after the day on which the 50th state deposited its instrument of ratification, acceptance, or approval with

Graph 1: Number of Signatory States and States Parties in ATT from June 2013 to May 2017



the UN Secretary-General. This threshold was passed on 25 September 2014 setting the entry-into-force of the ATT to be 24 December 2014. Speaking in the eve of the Treaty's birthday, the then UN Secretary-General Ban Ki-moon noted that '[f]rom now on, the states parties to this important treaty will have a legal obligation to apply the highest common standards to their international transfers of weapons and ammunition.' He also called on all states that had not yet done so to join the ATT 'without delay'.⁶

By 15 June 2017, the Treaty had 92 States Parties and a further 41 states had expressed their intention to be bound by its goals and objectives as signatory states. However, 60 UN member states remain outside the Treaty. Some of the biggest weapons producers and traders are among them.⁷

Participation in both the Treaty negotiations and in the early phases of its implementation has been characterized by somewhat unequal responses from across geographical regions. While the ATT has attracted membership from all over the world, its strongholds have since the outset been especially within Western European and Latin American states: all members of the European Union (EU) have ratified the ATT, and the participation percentage in the Organization of American States (OAS) is 67. As a contrast, after two-and-a-half years of the Treaty implementation, less than 12 per cent of the states in Asia-Pacific and some 48 percent of states in Africa have joined the Treaty. For the time being, there is only one ATT State Party within the League of Arab States (LAS),⁸ with six further signatory states. Graph 2 shows the membership of the ATT in terms of geographical regions.

When signing the Treaty and often also afterwards, most signatory states affirmed that they will ratify or accede to the ATT "at the earliest possible occasion", "as soon as possible", or "very soon". Most of them have followed up this promise, but in June 2017 the ratification process was still ongoing in over 30 percent of the signatory states.⁹ Graph 2 shows the membership of the ATT in terms of geographical regions.

2.2. UNIVERSALIZATION

As a treaty under international law, the ATT is based on the assumption that states as players in the international system will adopt and conduct themselves according to international trade norms, rules and laws. In this spirit, the Treaty's preambular section emphasizes the desirability of achieving universal adherence. Universalization is also mentioned as one of the tasks of the annually convened Conferences of States Parties (CSP), which the ATT tasks to: "[c]onsider and adopt recommendations regarding the implementation and operation of this Treaty, in particular the promotion of its universality."¹⁰

The main responsibility for elaborating and coordinating universalization efforts within the Treaty regime lies with the respective Presidencies of the CSPs, supported by the ATT Secretariat and an informal presidency Troika system.¹¹ As states that have not yet ratified the Treaty have various reasons why they have not joined, it was felt that there is value in analyzing them to better tailor and target different remediation measures. To support these universalization aims, the 2016 CSP established a special working group on the issue (ATT Working Group on Treaty

⁶ Ki-moon, 2014. Originally quoted in Parker (ed.), 2016, p. 22.

⁷ For more information, including state lists, see <<http://www.thearmstradetreaty.org/index.php/en/the-arms-trade-treaty>>.

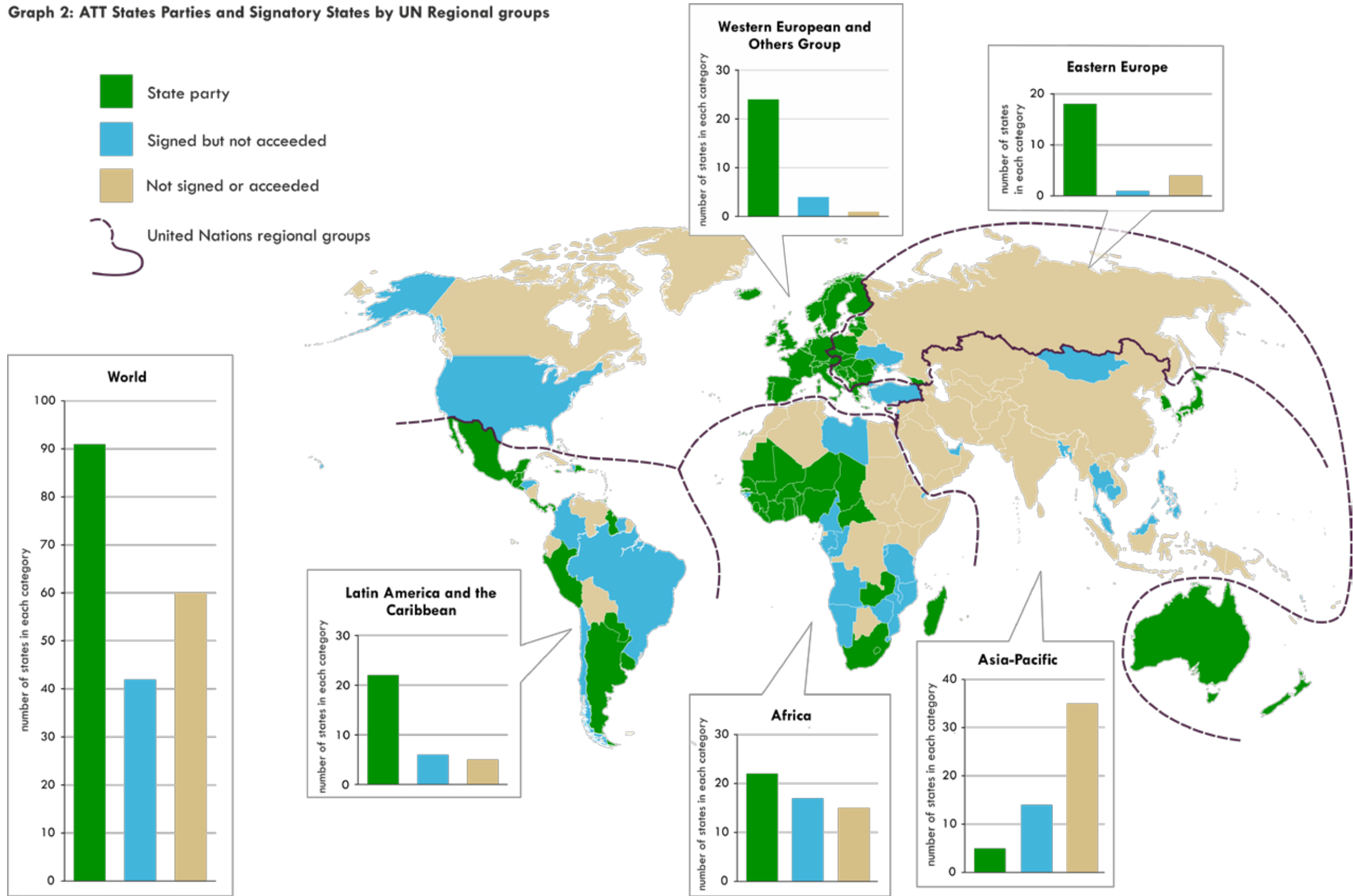
⁸ Mauritania

⁹ Bahrain, Comoros, Djibouti, Lebanon, Libya, and the United Arab Emirates.

¹⁰ Article 17, "Conference of States Parties".

¹¹ Consisting of the outgoing, current and incoming CSP Presidents.

Graph 2: ATT States Parties and Signatory States by UN Regional groups



Universalization, or WGTU).¹ It is to lead the process of harmonizing thoughts on the issue of universalization with a view to determining the best approach for taking the issue forward by holding intersessional meetings to prepare for the CSP discussions and decisions.²

In the lead-up to the 2017 CSP the WGTU held two meetings in which it generated and shared views and implementation measures to promote early and effective universalization.

1 "The Conference decided on the establishment of an informal Working Group to operate under the Terms of Reference as outlined in the paper (ATT/CSP2/2016/WP.4/Rev 1) and mandated the President with the responsibility of facilitating the work of the Working Group up until the next annual ordinary session of the Conference."

2 The WGTU is co-chaired by the President of the Third Conference of States Parties, Ambassador Klaus Korhonen of Finland, and Ambassador Emmanuel E. Imohe of Nigeria. See WGTU, 2017a and WGTU, 2017b.

Among its proposed actions it listed the need to create a momentum for more ratifications by setting ratification/accession targets; rotating the regional focus of universalization efforts annually; facilitating the production and access to multilingual international region-specific universalization materials and policy resources; and coordinating with all relevant stakeholders, including regional organizations and civil society.³ As part of his efforts, the President of the 2017 CSP also made universalization trips in different regions.⁴

3 CSP2 President's views and proposals on treaty universalization, as outlined in ATT/CSP2/2016/WP.4/Rev 1, entitled "Revised Treaty Universalization Paper and proposal on the establishment of universalization working group, submitted by the President."

4 For more information, see <<http://www.thearmstradetreaty.org/index.php/en/the-arms-trade-treaty/presidents-page>>.



Image: Pixabay

3. CHALLENGES FACED BY SIGNATORY STATES IN BECOMING ATT STATES PARTIES

The following regional sections discuss the various challenges and issues of concern that were identified during the SaferGlobe project as being of special importance or interest among the states that signed the ATT before its entry into force but are yet to join it as States Parties. First, each section provides a brief overview of the priorities and challenges related to conventional arms control and trade and presents a regional overview of UN member states' participation in the ATT process up to July 2017. At the end of each section, three primary regional challenges and obstacles are presented with state-specific examples to provide further background information.

3.1. AFRICA

The African continent has in the past decades become infamously associated with continuous conflicts, armed violence and mass displacement of civilian populations. Illicit arms and their irresponsible trade, especially with regard to small arms and light weapons (SALW) are considered to be one of the principal reasons for the region's prolonged struggle with civil wars, poor societal security and negative human development record. To counter the problems related to the spread of weapons and international competition of influence over the unstable situations in many states in the region, African states have since the 1990s worked hard to build frameworks for sub-regional arms control of conventional weapons, demonstrating great interest especially in regulating the flows of illicit SALW.

Given this background, it seems natural that most African states are strong supporters of

the ATT: many of them first became involved already in 2006-2008 by expressing their views about a potential Treaty. Five AU MS were part of the Group of Governmental Experts (GGE) that met in 2008 to examine the feasibility, scope and draft parameters of a possible Treaty.⁵ Kenya was one of the seven co-authors that led the UN process towards the ATT. During the Treaty negotiations, Africa however appeared to be somewhat divided: some states from the region were calling for a robust Treaty with implementation goals and sanctions, while others preferred a greater scope for flexibility. Some analysts assessed that the division occurred because some African states are suppliers of conventional arms while others are mainly recipients. There was also division because some African states maintained that they needed arms to defend themselves and for some, the purchases were mostly seen as a mere drain on their resources.⁶ Still African states played a crucial role in the Treaty negotiations and their strong voice was instrumental in ensuring that for example SALW and ammunition were included in its scope.⁷

In the final vote for the ATT on 2 April 2013, only two African states abstained⁸ – the rest voted in favour of the Treaty. Several of them were also among the first to sign the ATT after it opened for signature in April 2013.⁹ Many of them brought high level officials to the signing ceremonies organized on 3 April and 25 September 2013.

⁵ Algeria, Egypt, Kenya, Nigeria and South Africa.

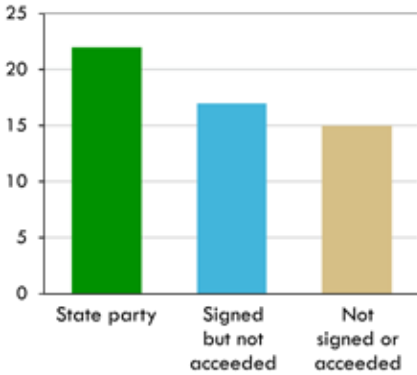
⁶ Nayan, 2015.

⁷ Control Arms, 2016a, p. 24.

⁸ Egypt and Sudan. Also Angola was recorded to have abstained, even though according to sources it had intended to vote "yes". See Charbonneau, 2013.

⁹ Benin, Burundi, Cote d'Ivoire, Djibouti, Mali, Mauritania, Mozambique, Senegal, Tanzania and Togo.

Graph 3: ATT participation among the members of the African Union



Since 2013 African engagement in the Treaty development has not been as active: As of 1 July 2017 there were 22 States Parties in Africa while a further 17 had signed it but were yet to ratify the ATT.¹⁰ Fifteen African Union (AU) member states remained outside the Treaty (Graph 3).¹¹

Several international and local civil society organizations supported the participation of African states in the ATT negotiations and pushed for early signatures from the region. A potential lack of continued support for the ratification process after the early signatures may have slowed the ratification process as not all African states that signed the Treaty have actively continued the follow-up with national ratification process. A number of civil society organizations have also continued with activities to support and advocate early ATT ratifications amongst both signatory and non-signatory states. For example in 2015-2016, the UK-based Action on Armed Violence (AOAV) reported to have worked closely with partners in Burundi and in the Democratic Republic of the Congo (DRC) to address

10 Angola, Burundi, Cameroon, Comoros, Congo, Djibouti, Gabon, Guinea Bissau, Libya, Malawi, Mozambique, Namibia, Rwanda, Sao Tome & Principe, Swaziland, Tanzania and Zimbabwe.

11 The statistics presented in this chapter include all the 54 AU members that are also member states of the UN. The Sahrawi Republic (Western Sahara) is not included in the numbers as despite being an AU member state it is not a UN MS. Further, the numbers in the graph overlap slightly with statistics presented in the chapter on the League of Arab States, as some AU MS are also participants of the LAS.

illicit SALW trafficking and advocate for ratification/accession of the ATT. Part of this project involved bringing together decision-makers and stakeholders to discuss the necessity of ATT ratification and to consider how it would be implemented and working with local non-governmental organizations (NGOs) to raise awareness and encourage public support for the Treaty.¹²

Africa could be one of the regions to benefit most from the ATT, including through the reduction of an influx of uncontrolled weaponry, standardizing import and export criteria, ensuring greater respect for international law and development needs, and through increased transparency and accountability in arms procurement.¹³ Yet many signatory states on the continent are facing challenges with meeting the requirements of the ATT and effectively proceeding with the ratification process.

The following sections identify three major challenges that ATT signatory states in Africa are facing with becoming States Parties to the Treaty: building national implementation capacity; raising awareness; and overcoming sometimes complicated or cumbersome national political processes.

BUILDING NATIONAL IMPLEMENTATION CAPACITY

Governments often face a difficult task in balancing competing priorities with limited resources. States may need to adopt new legislation or update existing laws in order to be compliant with the ATT's requirements, which will require considerable human and financial resources. The task is especially acute in many African states that are already struggling to develop their capacities, fight corruption and secure the necessary financial, technical and human resources to take action.

The lack of current capacity to implement the

12 AOAV, 2016. See also IANSA, 2012, and Arabia and Bromley, 2016.

13 Control Arms. 2016a, p. 24; Dye, 2009.

ATT should not be seen as a stumbling block for joining the Treaty: The ATT calls on States Parties with adequate resources to provide assistance to other States Parties that will need assistance to implement the Treaty. National officials must decide whether their needs are better served by joining the ATT first and then seeking to increase compliance capability with external assistance and co-operation, or by remaining as signatories until at least the minimum required legislation and structures are put in place.

RAISING AWARENESS

Despite the active participation of many African governments in the ATT negotiations, it seems that knowledge about the Treaty as well as its implications and requirements for States Parties remains limited. Therefore it seems that in the first instance it would be important to raise awareness in many signatory states about the ATT and the importance of controlled, responsible and transparent arms trade amongst parliamentarians and other politicians responsible for assessing the ratification process. Practice also from other regions has shown that the rotation of government officials and dissemination of information between for example the national UN delegations and National Commissions, Focal Points or desk officers in the capital often poses challenges in terms of information sharing and can slow down or even block the Treaty ratification process.

ENSURING TIMELY DOMESTIC PROCESSING OF THE RATIFICATION INITIATIVE

States around the world are struggling with challenges related to transforming the initial desire of becoming an ATT State Party to actual domestic action to ensure that the initiative is processed according to the required legislative requirements, communicated to all relevant parties and discussed internally before the motion of ratification can be approved. This task can be even more challenging in situations

where governments or top-level officials change frequently and have to grapple multiple security policy challenges with very limited resources.

Procedural challenges of processing the ATT ratification seem to be especially acute in a number of African signatory states, which have repeatedly highlighted joining the ATT as a priority at the international sphere but where the passing of the actual ratification has been delayed or stalled in the domestic political machinery because of a variety of reasons including the general schedule of election cycles, challenges related to bringing together a variety of stakeholders and the need to complete and harmonize the ATT ratification in line with other related processes.¹⁴

3.2. ASIA AND THE PACIFIC

The devastating consequences of the proliferation of arms in the Asia-Pacific and especially the spread of illicit SALW in some parts of the Asia-Pacific demonstrates how occasionally even a small number of illicit or poorly regulated arms sales can destabilize states, increase insecurity and prolong conflicts. Given the large number of very different states in the region, it is understandable that the problems and concerns regarding conventional arms trade also vary widely. While some states have been ridden by long conflicts, military tensions and civil wars, others – such as the small Pacific states – see the negative consequences of weapons mostly through increased criminality including illicit arms trafficking linked with trafficking in illicit drugs.¹⁵

The participation of states from the Asia-Pacific region in the ATT process has been affected by security policy tensions, ongoing growth of local defence industries, as well as problems

¹⁴ The author's confidential interviews on 6 and 11 May 2017. See also *inter alia* Control Arms, 2016b.

¹⁵ Levin, 2016.

related to the spread of illicit weapons. So far, commitment in the ATT from the Asia-Pacific region has so far been significantly lower than in most other parts of the world. By 15 June 2017, five of the states in the region¹⁶ had ratified the Treaty, 14 were in as signatory states and 35 remained outside (see Graph 4).

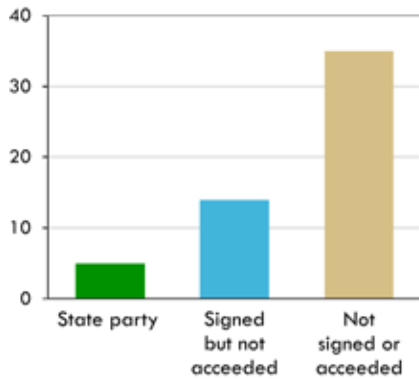
During the ATT negotiations, many states especially from East and South-East Asia highlighted the need for the ATT to be objective and balanced towards states that export weapons, those that mainly import them and those affected by the international trade in arms as transit or transshipment. A major driving force in the Asia-Pacific region towards the ATT was also the need to better combat the illicit trade of weapons, especially small arms, given the many negative consequences that their trade and proliferation currently can have. Many also called for the inclusion of better controls on transit and transshipment of weapons.

The following sections present a number of cases from the states in Asia-Pacific that demonstrate some of the challenges faced by the different authorities in the region in joining the ATT as States Parties. The topics identified here are the electoral cycle and the rotation of top officials; studying the domestic implications of the ATT; and building national implementation capacity prior to joining the Treaty.

GENERAL ELECTORAL CYCLE AND ROTATION OF TOP OFFICIALS

Some states in Asia-Pacific that took actively part in the ATT process, signed the Treaty early and have continued to publicly declare their support to it, have not been able to become States Parties because of various procedural domestic issues. An example of this is the Philippines (see Box 1).

Graph 4: ATT participation in Asia and the Pacific



As has also been seen in some other pro-ATT states, the procedural requirements of domestic processes can play a decisive role in slowing down the accession process even in cases where the political machinery is behind the Treaty ratification and a country has all or most of the required structures and legislation in place. Some Asia-Pacific states are facing some challenges with the procedural requirements related to passing of new legislation related to approving the ATT ratification. Because of this it might happen that even advanced proposals get postponed and/or changed because of periodic or unexpected presidential or parliamentary elections.

STUDYING DOMESTIC IMPLICATIONS AND TREATY OBLIGATIONS

Some of the signatory states in the Asia-Pacific with well-developed and detailed arms transfer regulations have indicated their preference for studying the ATT and its implications on their national legislation before taking the final step of joining the Treaty as States Parties. For instance Singapore has indicated this preference: In the latter half of 2016 the country noted that it was studying the ATT to “fully implement the obligations domestically, which will lay the path towards ratification.” While emphasising longstanding commitment to ATT, it said it wants to fully understand “the path towards ratification by studying the ATT as well as how it is being

¹⁶ Japan, the Republic of Korea, Samoa, Tuvalu and Cyprus.

BOX 1: TOWARDS BECOMING AN ATT STATE PARTY – THE PHILIPPINES

The Philippines has been a supporter of the idea of an ATT from the beginning and has according to public statements worked towards ratification since signing the Treaty in September 2013. The political leadership has been consistently in support of the state's ATT accession, and the Philippines has repeatedly assured ATT states parties about its determination to join the Treaty the soonest. To support the ratification process, the country has been conducting a review of its overall legislation and regulations over the trade in strategic goods since 2013, and has received assistance from various sources, including the EU and the UN Regional Office for Peace and Disarmament in Asia and the Pacific (UNRCPD) to ensure that the new national framework will be in compliance with the ATT.

Despite some early discord among some national officials about the benefits about the ATT there now (Spring 2017) seems to be a consensus among the officials that the Philippines should become a State Party during 2017. The President's accord for ATT ratification was forwarded to the Senate in early 2017, and by May 2017 it was expected that the Senate would give its concurrence to it by summer 2017. However, the Chairman of the Foreign Affairs Committee that is discussing the ATT was in May nominated as the country's new Secretary of Foreign Affairs. He was personally very supportive of concluding the process speedily, but his departure has caused some delays in the process.

BOX 2: STUDYING THE TREATY IMPLICATIONS - MALAYSIA

Malaysia was an active participant in the ATT process and introduced several aspects to be considered when drafting the Treaty, such as states' right to self-defence, the needs of states that mostly import conventional arms, and definition of terminology. The country signed the ATT on 26 September 2013. A regional civil society expert noted, "helping bridge differences and promoting security in the region is Malaysia's thrust and signing the ATT is a step towards that direction."¹

The country's high-ranking officials have in several instances emphasised the importance of the ATT in improving international controls on arms trade and in combating illicit trafficking as well as noted that the process towards ratification commenced right after the signing of the Treaty. As in many other states, the first steps in the ratification process were the translation of the Treaty text into Malay, studying the possible implications of the Treaty on national laws, holding national coordination meetings, and updating national legislation where necessary.² Specific attention was – according to the interviews – paid to the interpretation of different definitions used in the Treaty and what they would mean for Malaysia once it becomes a State Party, as well as implementing the ATT's reporting and transparency requirements.

Malaysia has noted that it has no rush to join the ATT, as the state already has a comprehensive and well-functioning transfer control system. The interviewed officials also noted that before taking the final step of ratification, it might be useful for Malaysia to see how the ATT's implementation commences in other states and how its participation base and impact develop. In 2016 Malaysia said it is "currently in the process of ratifying the ATT to regulate international transfers of conventional arms to warring parties which plan or manifest perpetrating war crimes."³ The process was still ongoing in May 2017.

¹ Control Arms, 2013.

² Malaysia, 2016.

³ MLTIC, 2015.

BOX 3: BUILDING IMPLEMENTATION CAPACITY – VANUATU AND BANGLADESH

Vanuatu stated in 2016 that there is “only one reason delaying Vanuatu’s ratification of the treaty, - - and that is inadequate capacity to comply with the terms of the ATT. Vanuatu can ratify the treaty any time but the question is whether the country has the capacity – such as the number of police officers and personnel, needed to ensure the country adheres to the requirements of the treaty.” The first step in Vanuatu, like in many other signatory states has been the commencement of national consultation process to fully understand what the ATT’s implementation requirements will be.¹

Similarly, Bangladesh is developing its national capacity to implement the ATT before proceeding with the ratification process. Armed violence continues to be a prevalent threat to the country’s economic and social development. Specifically challenging to Bangladesh are the availability of small arms in the black market and through illicit smuggling, which has resulted in high levels of crime and armed violence. During the ATT negotiations Bangladesh provided active support and has emphasised multiple times the need for a universally acceptable and legally binding arms trade treaty. In 2013, the country became the first South Asian country to sign the ATT, but by June 2017 it had not yet ratified the Treaty. A statement by Bangladesh’s deputy permanent representative to the UN back in 2012 suggested that non-government actors could be a catalyst for achieving treaty objectives through advocacy and mobilizing public support.² The main challenge ahead for the country in the road towards becoming an ATT State Party has been said to be moving “beyond the rhetoric and establish a set of robust and legally-binding policies.”³

1 Cullwick, 2016. “

2 Rahman, 2012.

3 IMCP, 2016.

implemented by other States Parties in order to fully implement the obligations domestically.” Singapore has also noted that it will only proceed with ratification after the necessary domestic background checks and analyses have been completed.¹⁷ Another example of this type of ratification processing is displayed in Box 2.

BUILDING NATIONAL IMPLEMENTATION CAPACITY

Joining the ATT as a state party significantly impacts a country’s required legislative and/or regulatory base. This impact of the ATT has been noted by several signatory states from Asia-Pacific, who prioritise development of their national system before proceeding with the ratification procedure. Although an existing ATT-compliant legislation is not a prerogative to ratify or accede to the Treaty, a number of states from the region have indicated they

want to update their domestic control systems before joining the ATT, in order to be able to be in a position to fully and effectively implement it from the very beginning.

A number of signatory states in the Asia-Pacific region have indicated that they will need to invest in additional efforts to develop or update their national legislation and regulations before becoming ATT states parties. Especially the Pacific states will face capacity challenges in implementing the ATT as the result of having relatively small populations, limited resources, long maritime borders and as of yet limited legislative frameworks to manage weapons supplies. Therefore legislative development is needed, if they choose to become fully ATT-compliant prior to joining the Treaty, related to inter alia the controls over brokering, transit and transshipment, as well as to recording and sharing information about arms trade in the region.¹⁸

17 Singapore, 2016.

18 Spano and Page, 2016.

3.3. LATIN AMERICA AND THE CARIBBEAN

The relationships between Latin America and the Caribbean states and the ATT are versatile and interesting. The regions have approximately nine per cent of the world's population, but feature about 27 per cent of the world's recorded homicides.¹⁹ As elsewhere, illicit small arms are a major challenge: it is said that there are between 45 to 80 million SALW in the region,²⁰ and gunshots take the lives of approximately 73,000-90,000 people each year. According to World Health Organization (WHO) estimates, shootings are the leading cause of death among Latin Americans between the ages of 15 and 44.²¹ The same applies to the Caribbean, where murder rates are among the highest in the world, and predominantly committed by firearms.²² Most legal weapons in Latin America currently come from the United States, Europe and are also produced by a small but growing regional arms industry.²³

Primarily due to the major challenges caused by illicit firearms, the ATT has since its inception been of central importance to states in both Latin America and the Caribbean and several states in the regions have consistently been among the Treaty's most vocal advocates. A number of Latin American states were active participants in the ATT negotiations (e.g. Argentina, Chile, Costa Rica and Mexico) and called for a comprehensive, strong and binding Treaty. Argentina and Costa Rica were among the Treaty's original seven co-sponsors, and Argentina's Ambassador Roberto García Moritán guided the Treaty negotiations throughout the negotiation process.

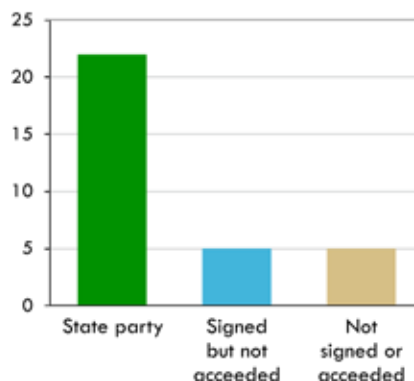
As many Latin American states, most Caribbean states called for a legally binding ATT from

the beginning of the Treaty negotiations and signed the Treaty as soon as it opened for signature. Overall, member states of the Caribbean Community (CARICOM) have yielded a much greater influence on the ATT than their numbers or role in the international arms trade would suggest. This significant influence on ATT has mainly been due to CARICOM's ability to optimize their limited diplomatic instruments and resources, form alliances with other states and regions, and work with local and international civil society.²⁴ There are also some states in the regions that raised their concerns about the ATT during the negotiations and have so far stayed outside it (e.g. Venezuela and Bolivia). In addition, a handful of states from the regions have consistently voted in favour of the ATT resolutions and signed the Treaty, but are yet to ratify it (Brazil, Chile, Colombia, Suriname).

By 15 June 2017, 22 states in Latin America and the Caribbean had joined the ATT as states parties, five remained signatories²⁵ and five were not participating.²⁶ (See Graph 5).

Recent years have seen a significant number of assistance activities carried out in the regions to improve arms transfer regulation and especially controls over the flows and accounting of small arms and light weapons.

Graph 5: ATT participation in Latin America and the Caribbean



¹⁹ SIPRI, 2017a.

²⁰ Small Arms Survey, 2004, p. 4.

²¹ Cohen and Rubio, 2007, p. 5.

²² Small Arms Survey, 2012.

²³ Stohl and Tuttle, N.d.

²⁴ Levin, 2016..

²⁵ Brasilia, Chile, Columbia, Haiti and Suriname.

²⁶ Bolivia, Cuba, Ecuador, Nicaragua and Venezuela.

The Stockholm International Peace Research Institute (SIPRI) has recorded over 130 different ATT-related assistance activities in Latin America and the Caribbean since 2006, ranging from general violence prevention projects to weapons destruction, awareness-raising seminars and specialized regional and country-specific training on arms transfer controls.²⁷ Yet a number of challenges and obstacles remain to joining the Treaty. The factors identified during the study keeping six signatory states from ratifying the ATT include balancing competing priorities, overcoming structural and procedural challenges, and taking defence industry interests into account.

COMPETING PRIORITIES

For most of the signatory states in the Latin American and Caribbean, capacity issues have proven significant when considering ATT accession. State capacity is limited in many areas and governments face a range of competing priorities. As such, there is a clear need to focus attention on the most acute areas and to avoid duplication of efforts.

²⁷ For details of these activities, see <http://www.att-assistance.org/?page_id=49>.

STRUCTURAL AND PROCEDURAL CHALLENGES

In addition to competing political priorities also structural and procedural challenges related to the governing procedures and/or electoral systems pose challenges in Latin American and Caribbean signatory states.

For instance, Chile signed the ATT as soon as it opened for signature on 3 June 2013.²⁸ Despite some concerns regarding the Treaty text it brought up during the negotiations, the country has continued to support the ATT through several public statements. In these statements, it has both said that it is working towards Treaty ratification and called for other states to join the ATT, too. In the first CSP in Cancun, Chile noted that it would deposit its instrument of ratification "in the coming months."²⁹ As of June 2017, it had not done so. Reasons behind the delay seem more procedural or capacity-related than political, as there is high level political support for joining the ATT, and the country has been actively reviewing and developing its national

²⁸ Chile Ministry of Foreign Affairs, 2013.

²⁹ Chile, 2015.

BOX 4: COMPETING SECURITY POLICY PRIORITIES - COLOMBIA

In Colombia, participation in the ATT process been challenged by the history of internal violence and conflict in the country as well as problems related to illicit drug trafficking and gang violence from the beginning¹ Although armed homicide levels are decreasing, almost 9,000 reported victims of armed violence in 2015.²

In its statement at the General Assembly in 2014 Colombia assured that quick ratification of the ATT was a priority. Yet, as of May 2017 the proposal was still being discussed at the Congress, and deliberations have been postponed several times because of other competing priority issues such as peace negotiations and related initiatives. In addition, the country's Constitutional Court rejected the ratification proposal due to procedural issues, and the initiative was returned to the Parliament.³ Given the delicate state of the 2016 revised peace deal with the Revolutionary Armed Forces of Colombia (FARC), ratification of the ATT is unlikely to be pushed forward in the political machinery in 2017 or even 2018. Colombia is also in the process of reviewing its arms legislation, which could further delay the ratification process.

¹ Cohen, 2013.

² Gunpolicy.org. N.d.

³ The Author's confidential interview conducted on 5 May 2017.

BOX 5: DEALING WITH COMPETING POLITICAL PRIORITIES - HAITI

Haiti signed the ATT in March 2014. Already before that le Groupe de recherche et d'information sur la paix et la sécurité (GRIP) noted that Haiti's accession process might face challenges against the overall governmental system of passing new legislation: "With current concerns about elections, and the traditional slowness of parliament to look at legal texts, it remains to be seen how long it will take Haiti to ratify the (international) arms trade treaty."¹

In a letter it sent to the Parliament in 2014, the Episcopal Justice and Peace Commission (JILAP) called on the Haitian parliament to vote on the ATT, "with the aim of helping to prevent the proliferation of illegal firearms." According to the appeal, the "Treaty will allow the country to undertake an obligation to go further in the fight against insecurity, illegal arms and the illicit trade in arms and ammunition ... once ratified, this treaty will Law and will be beneficial for the construction of Peace in Haiti ... This will be an opportunity for Parliament to express the need for a real disarmament of illegal weapons and to commit to setting up mechanisms for Control of arms trafficking."² Indeed, despite some efforts by both civil society actors and local parliamentary lobby groups, it seems that the ATT's ratification or other related legislative changes had by June 2017 not made it possible to pass the instrument's approval in the country's Parliament. As an encouraging sign, at a meeting of the ATT's universalization working group in May 2017, the country made a statement, where it announced its intention to ratify the Treaty "soon".³

¹ Alterpresse, 2013.

² Haiti Libre, 2014.

³ See, for instance Delegation of the European Union to the UN and other international organisations in Geneva, 2017.

BOX 6: DEFENCE INDUSTRY INTERESTS AND THE ATT – BRAZIL

Brazil is Latin America's largest importer and exporter of conventional arms, and has a sizable and growing national arms industry. Brazil has followed the ATT discussions at the UN since the beginning and also participated in the Treaty negotiations. However, according to some sources that closely followed the Treaty formation, it has not been as active or progressive as it could have been.¹ The importance of the country's national defence industry and its aspirations for expand its export markets is likely to have effected Brazil's participation in the ATT process, and led to the lack of ratification country has not yet ratified the Treaty.² In addition to an effective industry lobby in political decision-making, the ratification process has met challenges related to institutional requirements, political turmoil and the need to update the country's arms transfer regulation (National Export Policy for Military Equipment, PNENEM).³

Having been analyzed by the Executive and Legislative Branches of the Government for over 1,5 years between 2013 and 2014, the proposal to join the ATT as a State Party is currently (May 2017) being handled by the Committee on Public Security at the Congress. It is dominated by a conservative group "bancada da bala" (bullet caucus), to which also its Chairman belongs. Defence industry interests and possibly scepticism related to the implications of joining the ATT is likely to impact the processing of the initiative in the Committee and cause further delay in the ratification.⁴ However, given the country's problems with illicit SALW trade and its high levels of firearm crime and violence it could be argued that joining the ATT as a full member in the near future would be in Brazil's interest.

¹ Author's confidential interview, 27 April 2017.

² See Asano and Nascimento, 2015; Muggah and Thompson, 2016.

³ Author's confidential interview, 5 May 2017; Asano and Nascimento, 2015.

⁴ Author's confidential interview, 5 May 2017; Conectas Human Rights, 2015.

arms transfer control procedures. Still, ATT ratification process may be, and is pushed aside because of other, more pressing issues. The new election campaign with general and presidential elections scheduled for November. Year 2017 is likely to further postpone the processing of the ATT ratification initiative. Similar reasons of competing challenges seem to be the cause of delays also for example in Haiti (see Box 5).

DEFENCE INDUSTRY INTERESTS

Some of the Latin American states are important players in the international arms trade. While some industry actors have become active in supporting the ATT process, others especially in the emerging markets such as Latin America have raised some concerns about the implications that joining the Treaty might have for them in terms of expanding their export markets and continuing existing co-operation arrangements with states that so far have decided to remain outside the Treaty. Of the signatory states in Latin America and the Caribbean, Brazil is probably the most distinct example in terms of the need to balance industry interests with developing international arms trade controls via the ATT (see Box 6).

3.4. THE LEAGUE OF ARAB STATES

The 22 states belonging to the League of Arab States (LAS) are divided in UN regional groupings between Africa and Asia.³⁰ For the interest of this report, they are discussed separately through the LAS instead of within the sections covering the other UN groups.

The LAS states are facing many challenges that are of direct relevance to the ATT and have undoubtedly affected their perceptions about the Treaty: many states in the Middle East and

North Africa (MENA) are impacted by conflicts and civil wars and the operations of strong military non-state actors such as the Islamic State. Even in states not directly involved in conflict, tensions can remain high. According to some estimates, the MENA region has the highest density of weapons in the world.³¹ Many MENA states are also large importers of conventional weapons: according to SIPRI, arms imports by states in the Middle East have been rising in recent years, mostly because of the ongoing conflicts and regional tensions. In 2012-2016 the region accounted for almost thirty per cent of global imports with Saudi Arabia being the world's second largest arms importer.³²

The start of the ATT process within the LAS membership was quite positive: the organization organized a number of discussions about its member states' positions towards the proposed Treaty and its Secretariat also participated in international events.³³ In July 2010, the League also adopted a Common Position regarding the key principles that it wished to be observed in the ATT.³⁴ The proclaimed priorities included right to self-determination, the respect for states' sovereignty and territorial integrity, a non-discriminatory and apolitical approach, inclusion of the needs and responsibilities of both exporter and importer states, and consideration of regional priorities and specific circumstances.³⁵

As the negotiations for the Treaty progressed, many LAS members started to bring out more concerns and reservations. In the final vote for the ATT, one LAS member – Syria – voted against its adoption and eight more abstained.³⁶ However, there has also been continuous support in the region towards the Treaty after it was adopted: for example in 2014, 12 Arab states voted in favour of the

30 Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, the United Arab Emirates and Yemen. As a "non-member observer state" in the United Nations Palestine is despite its LAS membership not included in the statistics presented in this chapter.

31 PPM, 2017.

32 SIPRI, 2017b.

33 See, for example Achaia, 2012.

34 Achaia, 2012.

35 Group of Arab States, 2010.

36 Bahrain, Egypt, Kuwait, Oman, Qatar, Saudi Arabia, Sudan and Yemen.

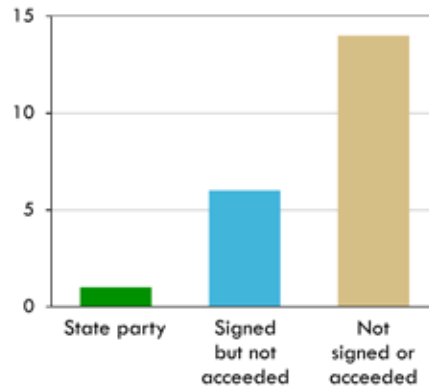
ATT resolution at the UN First Committee. Since then the developments in the region towards universalization seem to have slowed down, and many LAS states remain quite sceptical about the ATT. Civil society continues to raise awareness about the benefits of the Treaty also in the LAS region and have undertaken a number of projects to lobby for the Treaty's universalization.³⁷ By June 2017, one LAS member – Mauritania – had joined the ATT as a state party, six³⁸ were signatory states and 14³⁹ had chosen to remain outside the Treaty (see Graph 6).

The three issue areas identified in the study as examples of particulate importance among the LAS signatory states are processes of national decision-making and required updates or additional actions; perceived dominance of other security policy issues that are seen as deserving priority or urgency; and (mostly political) concerns about the implications of joining the Treaty.

NATIONAL DECISION-MAKING PROCESSES

In some cases within the LAS, the signatory states have taken some steps to join the ATT as States Parties, but further domestic legal analysis and updates to the system of current arms transfer control regulations are required. Lebanon, for example, stated in a workshop held by the EU's P2P project in March 2017 that there is a general consensus in the state to “amend the current legal framework, and notably the national Customs Law, in order to define a licensing process underpinned by competences already exercised by competent Ministries and complemented where necessary by inter-ministerial coordination mechanisms” before the full accession to the ATT can be completed.⁴⁰ In these instances it will be difficult

Graph 6: ATT participation among the LAS member states



to determine any timelines for the ratification, even if a signatory state has publicly declared to be actively working towards joining the Treaty.

PRIORITY GIVEN TO OTHER SECURITY POLICY-RELATED ISSUES

Official statements about the LAS signatory states' positions are hard to come by, but it can be assumed that the so far slow pace of their and other LAS members' ratifications are to a large extent related to the region's wider political priorities, concerns and the many ongoing tensions and conflicts. Given the challenging regional security situation, ensuring a speedy accession to the ATT will probably not be on the top of the list when it comes to new national commitments.

In terms of wider disarmament and arms control measures, the Arab states have long stressed the need to first and foremost combat the proliferation and existence of weapons of mass destruction (WMD), in particular nuclear weapons, which has further pushed back the prioritization of improving controls over the spread of conventional arms.⁴¹

Given the importance that responsible vs. uncontrolled or illicit arms trade has for the region and the potential that the ATT has in improving overall controls of international

³⁷ PPM, 2017.

³⁸ Comoros, Djibouti, Libya and the United Arab Emirates.

³⁹ Algeria, Egypt, Iraq, Jordan, Kuwait, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia and Yemen. In addition, Palestine is a member of the LAS and hence counted in the full membership of 22 states. As a “non-member observer state” in the United Nations Palestine is despite its LAS membership not included in the statistics presented in this chapter.

⁴⁰ EU P2P, 2017.

⁴¹ The Author's confidential interview on 6 June 2017; Group of Arab States, 2010.

arms trade, be that to prevent terrorism, instability or prolonged fighting, effective implementation of the ATT in the LAS could contribute to the efforts of increasing stability across its member states by reducing the influx of weapons into the region. In this, a new set of LAS activities supported by regional statements and activities could prove helpful. As noted by a local researcher, “joint Arab cooperation is inevitable, especially since the situation of the region is catastrophic as extremist groups exert their influence on the territories of Arab states and have become a direct threat to their national security. This necessitates the activation of Arab cooperation and -- an Arab framework for arms control to put an end to the irresponsible arms flows to individuals and extremist groups.”⁴²

CONCERNS ABOUT THE IMPLICATIONS OF JOINING THE ATT

As major recipients of weapons from many of the world’s leading producers of conventional armoury, the ATT signatory states from the LAS are also probably facing political pressure regarding their possible joining in on the Treaty. Already before and during the ATT negotiations the LAS states expressed some concerns about the Treaty’s possible implications on their ability to purchase weaponry, maintain the necessary level of secrecy concerning their possessions and develop new cooperation agreements.⁴³ It can be suspected that the potential benefits of joining the ATT have until now been seen inferior to the perceived risks related to joining the Treaty, irrespective of the extent to which the analyses are based on facts of political beliefs. At least two ATT signatory states from the LAS have also indicated that they prefer seeing how the Treaty implementation develops during the first years before making the final decision about whether to join it as States Parties.⁴⁴

⁴² Al-Qasuri, 2015.

⁴³ See, for example Achaia, 2012; Perlo-Freeman, 2009.

⁴⁴ The Author’s confidential interviews on 6 June 2017 and 8 June 2017.

3.5. THE WESTERN AND EASTERN GROUPS

The states in the Western European and Others Group⁴⁵ (WEOG) and Eastern Group⁴⁶ encompass some of the world’s biggest arms producers, exporters and importers, and overall their participation in international arms trade is often active and/or large scale. The national control systems in many of the states in the groups are highly developed and most of them are also bound by a number of multilateral export control regimes or decisions taken by regional organizations, such as the Wassenaar Arrangement, the Organization for Security and Co-operation in Europe (OSCE) or the EU. Apart from a few ongoing conflicts and military tensions, the majority of the states are relatively peaceful and their problems with illicit and uncontrolled trade in conventional arms relate mostly to the threat of terrorism, criminality and smuggling of other illegal commodities. Several states in the groups are also actively involved in armed conflicts outside their territories as allies or suppliers of weaponry.

WEOG and Eastern Group are in many ways unique also in their approach to and relationship with the ATT: many states in the regions are long term vivid supporters of the Treaty, lobbied for its introduction at the UN and actively participated in its negotiations. The ATT participation rate in both groups is very high: 25 out of 30 WEOG states are States Parties, while 22 out of 23 Eastern Group states have ratified or acceded to the Treaty.

However, there is also a handful of states in both groups that have from the outset expressed some scepticism towards the ATT and chosen to

⁴⁵ In total, there are 30 states in the Western Group. By 15 June 2017, four of them (Andorra, Israel, Turkey and the US) were signatories but had not ratified the Treaty, and one (Canada) was completely outside the Treaty.

⁴⁶ The Eastern Group comprises of 23 states, of which 18 are states parties, one (Ukraine) is a signatory state, and four (Armenia, Azerbaijan, Belarus and the Russian Federation) remain outside the Treaty as of 15 June 2017.

BOX 7: SIMULTANEOUS FACTORS AFFECTING ATT ACCESSION – ISRAEL

Israel's position towards the ATT seems to be affected by several factors, including industry interests, wider security policy factors and priorities, and other domestic factors related to the more procedural aspects of a possible ratification. As most other Western Group states, Israel spoke in favour of the ATT and ensured its active and constructive participation in the process. Despite early action and interest Israel was one of the last states to sign up to the Treaty before its entry into force in December 2014.¹ Some external analysts have postulated that joining the Treaty as a signatory was a strategic move rather than evidence of the country's true intention to join the ATT: as a signatory state, Israel is able to participate as an observer in the CSPs and keeps the possibility of later ratification.

By signing the ATT, Israel has also sent a message of favouring well-controlled and transparent arms trade, which may also sending a positive message of Israel as a responsible trade partner.² There are no major gaps or loopholes in the existing Israeli arms transfer legislation that would prevent it from joining the ATT very soon. The main hurdles are related to the domestic processing of the ratification proposal. The country's national strategic interests, its largest defence trade partners as well as the strong defence industry lobby will undoubtedly influence when and how the motion to ratify the ATT will be taken into discussion.

¹ Israel's Ministry of Foreign Affairs, 2014.

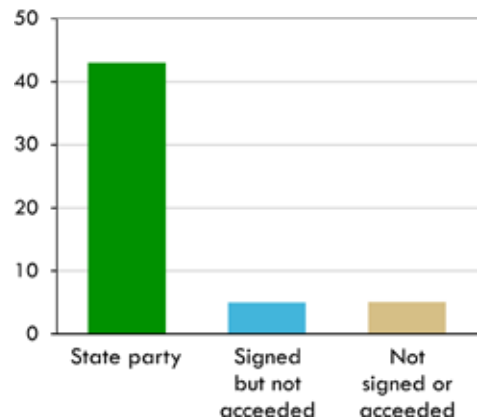
² Gher, 2014.

remain outside it. In between the two extremes there are a handful of states that signed the ATT before its entry into force but are yet to become states parties (see Graph 7).⁴⁷

As many of the states in the region are actively involved in the production and trade in conventional arms but only a handful are directly affected by armed conflicts or instability make the positions of the signatory states in these groups quite different from those in many other regions: none of them are likely facing challenges in the ratification process due insufficient capacity to implement arms transfer controls, nor are they – with a couple of exceptions – facing national political or security emergencies.

The ratification challenges in these two groups of states were during the research for this project identified to be primarily related to competing domestic political priorities, perceived foreign and security-policy threats, and interests expressed by domestic defence

Graph 7: ATT participation in the Western and Eastern Groups



industry actors together with implications of existing alliances/co-operation agreements.

Unlike in some of the other regions and regional groupings discussed in this report, the three main factors identified amongst the five states in WEOG and Eastern Group are usually all present simultaneously (see Box 7).

⁴⁷ Andorra, Israel, Turkey and the US in the Western Group, and Ukraine in the Eastern Group.

DOMESTIC FACTORS

The ratification process in also some WEOG and Eastern Group signatory states has in recent years been primarily slowed down by factors related to domestic political structures and processes. The most notable example of this is probably the United States, discussed in Box 8.

SECURITY POLICY PRIORITIES AND THREATS

Security policy priorities and defence-related threats faced are likely to be among the main factors to be taken into account when considering joining the ATT. This is the case also amongst the Signatory states in the WEOG and Eastern Group. In addition to having faced some issues with domestic policy processes, for instance Turkey's position towards the Treaty is affected by the ongoing conflict in Syria and the country's own domestic security situation and ongoing political tensions. The same can be perceived in Israel and Ukraine. While joining the ATT under pressing domestic circumstances can be seen as an inadvisable option, being a State Party could also bring significant benefits to states suffering from tensions and concerned about the controls of imports and exports of weapons: in the case of Ukraine, for example, some civil society actors have for years been promoting speedy ratification. According to them, the ATT – as one of the most progressive steps taken in global arms control in the past years – could provide a valuable contribution to better regulation of weapons in the states through increasing transparency, openness and responsibility of traders.⁴⁸

DEFENCE INDUSTRY INTERESTS AND ALLIANCES

Many states in the WEOG and Eastern Groups are significant players in international trade of conventional arms. While defence industry's direct participation in the ATT process as a whole has been limited, towards the end

of the negotiations many defence industry representatives especially in the WEOG region had established regular contacts with their national authorities and, where relevant, participated in domestic ATT coordination.⁴⁹ The continued involvement of the defence industry is likely to affect also the ratification considerations and processes in the current (June 2017) signatory states from the regions.⁵⁰

The reservations of defence industry actors over ratification of the ATT relate mostly to concerns about how the Treaty might affect states' ability to expand their export markets, continue working with existing cooperation agreements and make licensed production contracts with states not participating in the ATT process. In addition, states with strong national defence industry tend to weigh the potential benefits of joining the ATT against the perceived commercial risks related to becoming States Parties.

At least for states in the WEOG and Eastern Group, the benefits of joining seem to outweigh potential negative consequences. For example the Aeronautics, Space, Security and Defence Industries in Europe (ASD) welcomed the ATT right after its adoption and noted it was an important step towards creating more responsible common rules for international arms trade and levelling the playing field for industrial actors. The ASD Secretary General Gert Runde stated that the ATT is beneficial for defence industry actors, as "increasing the number of states operating common standards of control will provide more predictability and confidence for organisations that operate in a global market place and with global supply chains. A global solution is required to address this."⁵¹ The ATT has also been seen as an opportunity to promote – not complicate or hinder – industrial collaboration in arms production through the introduction of common standards.⁵²

⁴⁹ See, for example Kytömäki, 2014, p. 20.

⁵⁰ The author's confidential interview, 13 June 2017.

⁵¹ ASD, 2013.

⁵² UK Government, 2013.

⁴⁸ Mazur, 2015..

BOX 8: DOMESTIC FACTORS AFFECTING THE ACCESSION TO THE ATT – THE UNITED STATES

The US position towards the ATT changed quite drastically during the discussions and the consequent negotiations at the UN: in 2006 the country voted alone against the first ATT resolution that called for further analysis and studying of a possible new international treaty (UNGA resolution 61/89). The US position remained unchanged with regard to the second resolution in 2008 (UNGA resolution 63/240), but the following year the US – with a new administration – voted in favour of commencing the ATT negotiations (UNGA resolution 64/48).

The US participated actively in both the negotiation preparations and the meetings themselves, and played a crucial role in shaping the form of the final Treaty. The US also signed the ATT during the first year of its existence, on 23 September 2013. The strong US participation was speculated to be driven by the Democrats hope for speedy processing of the ratification process to ensure the country's full participation in the Treaty implementation from early on.¹

However, throughout the ATT process there has been strong domestic opposition especially from activists in the pro-gun lobby and related industrial and political sectors towards US participation in the Treaty. The most common counter argument used by the domestic actors is that the ATT was not only designed to improve controls over international transfers of conventional arms but rather to limit the right of civilians to carry and own firearms (in violation of the Second Amendment of the US Constitution). For example in 2013, the National Rifle Association (NRA) claimed that “[t]his treaty threatens individual firearm ownership with an invasive registration scheme [and is full of regulations and requirements that are] blatant attacks on the constitutional rights of every law-abiding American.” The treaty does this according to the NRA, in part, by “[urging] record keeping of end users, directing importing states to provide information to an exporting country regarding arms transfers, including ‘end use or end user documentation’ for a ‘minimum of ten years.’”²

The domestic US gun lobby has garnered support from several Senators to support non-ratification of ATT. Directly after the then Secretary of State John Kerry had signed the ATT, 50 Senators sent a letter to President Obama, strongly opposing US ratifying the treaty or even beginning the process by bringing the motion to the Senate hearings. A similar letter of was sent also in 2015, this time signed by 58 Senators. To be passed by the Senate, a motion can be opposed by a maximum of 33 Senators³ giving a strong indication that currently ATT lacks the domestic support to be ratified.

In December 2016, right before the end of his term, President Barack Obama forwarded a motion favouring the ratification of the ATT to the Senate. The motion did not pass before the elections, and the ATT process has not been facilitated by the new President Donald Trump.⁴ In addition, the complications surrounding the presidential elections and resulting changes in both high- and desk-level officials has put a halt on the US participation in the ATT process in practice.⁵

To overcome the domestic opposition and administrative challenges that have so far dominated the US participation in the ATT is likely to take both time and further efforts. The country also has a strong pro-ATT civil society lobby, which continues to campaign in favour of speedy ratification. In general, the drivers in the US seem to be very much dominated by domestic factors instead of international influence or considerations related to the overall development of the ATT universalization process.⁶

1 The author's confidential interview on 3 May 2017.

2 Hawkins, 2016.

3 Goodenough, 2014.

4 See, for example, Bromund, 2017.

5 The author's confidential interview, 3 May 2017.

6 The author's confidential interview, 4 May 2017.

4. OVERCOMING THE MAIN CHALLENGES IDENTIFIED

All states are unique in the way their arms transfer control system is formed and works: there is no “one size fits all” –solution to issues related to legislation, regulations, procedures or coordination efforts on conventional arms trade. States have to identify the model that works for them in the most efficient, reliable and responsible way. The great variance of domestic systems is also the reason why the ATT was not designed to provide a comprehensive model for arms transfer controls, but rather to set the highest common denominator for the States Parties on issues and actions to be complied by and taken into account in their international arms transfer decisions.

The report identified some of the common challenges and obstacles that the 41 ATT signatory states have faced when proceeding with the Treaty ratification. As can be seen in the different geographical sections of Chapter 3, there are issues that might be unique to a particular signatory state or common only to a handful of them. There are also challenges that seem to be common across the signatory states and processes ongoing in a many states that might otherwise have very little in common in terms of their arms trade profiles or face very different security situations.

4.1. FIVE GROUPS OF CHALLENGES FACED BY ATT SIGNATORY STATES

OVERCOMING ISSUES RELATED PRIORITIZATION REGARDING VARIOUS SECURITY-POLICY ISSUES AND CONCERNS

A common challenge amongst the signatory states regarding ATT ratification seems to

be related to the struggle between different pressing political priorities: some signatory states have been conflict-ridden for several years or even decades while others are facing new security risks related to crime, instability or regional or societal tensions. With the already heavy workload of national legislative and executive powers and given all the other competing priorities and more pressing security threats in the signatory states, it can prove difficult to ensure that the motion of ATT ratification gets discussed and approved timely according to the set domestic system.

ALIGNING THE DESIRE TO JOIN THE ATT PROCEDURALLY WITH NATIONAL POLITICAL PROCESSES AND DECISION-MAKING AND STUDYING THE IMPLICATIONS OF THE TREATY

Many of the current signatory states were among the first ones to sign the ATT after it opened for signature in April 2013, but their ratification has been pending since then for reasons that seem to be mostly related to purely administrative and procedural issues. In some states, the schedule of general and/or presidential elections has caused delays in the way that the ratification proposal has been discussed, and in several instances it seems that the aspired speedy ratification has encountered problems because of the change in political power even in cases where the high political elite has continuously been in favour of joining the ATT.

In addition, some signatory states that have since the outset publicly declared their support for the Treaty have after the initial signing realized that they prefer studying the Treaty’s possible implications to their national legislation

and regulations before taking the final step of becoming States Parties. The translation of the Treaty text into the national language(s) often accompanies the wish of further analysis before committing to joining the ATT.

ADDRESSING CONCERNS ABOUT BEING ABLE TO ABIDE BY AND IMPLEMENT THE TREATY

Closely related to the procedural challenges with the ratification process and the need to comprehensively study the national regulatory base governing arms transfer controls before joining the ATT is the challenge of determining whether a state will be able to comply with the ATT's requirements to the full since the outset after ratification. This challenge was identified by many signatory states as a factor that has so far kept them from becoming States Parties. While the ATT does not per se require its States Parties to be fully compliant with all its articles since the beginning of implementation, nor does it set any sanctions for potential breaches, many signatory states seem to prefer ensuring their compliance before starting the official implementation of the Treaty.

FILLING GAPS IN AWARENESS AND CAPACITY

Some ATT signatory states that actively participated in the Treaty negotiations seem not to have had much domestic discussion or follow-up regarding their signature since 2013/2014. During the research for this study this was noted to be largely due to communication gaps between the authorities in charge of negotiating international treaties and agreements at the UN and the officials back home who will be the main responsible actors in charge of Treaty ratification and later implementation. In some instances it was also identified that the ratification process amongst the signatory states could benefit from more public awareness among the general population highlighting the possibilities and potential benefits of becoming an ATT State Party.

ANALYZING THE STRATEGIC AND POLITICAL REASONS FOR JOINING THE ATT INCLUDING TAKING INTO ACCOUNT THE NEEDS AND DESIRES OF THE DEFENCE INDUSTRY

Possibly the most challenging task facing national authorities in charge of ATT accession in the signatory states is related to handling the various wider political factors that come into play when a state considers joining an international agreement concerning better controls over the trade of weapons. Several signatory states have in the past couple of years indicated that they are supportive of the idea of the ATT and wish to become States Parties as soon as possible, but so far the decision to join the Treaty has been postponed or put on hold because of other, wider but related security policy interests. These may include, but are not limited to, participation in existing joint co-operation agreements, military alliances and interests and/or concerns expressed by the national defence industry actors.

4.2 POSSIBILITIES FOR FURTHER ACTION

The following set of suggestions provide options for national officials, decision-makers and external actors when considering possible projects to facilitate the universalization of the ATT especially as it relates to ratifications from current signatory states.⁵³

MINISTERIAL LEVEL EXCHANGES

Signatory states may benefit from outreach at the highest political level through direct contacts between relevant ministers of the ATT States Parties and signatories to develop or ensure continued top-level political support to the efforts of joining the Treaty. Ministerial level exchanges seem especially beneficial

⁵³ The WGTU established at CSP2 has held extensive discussions on possible actions that could be taken in order to support the ATT universalization, and the proposals put forward by the Co-Chairs of the working group point out many similar points as those listed as suggestions in this paper. For more information, see CSP Chairs, 2017; WGTU, 2017c.

In cases where challenges related to Treaty ratification are related to overcoming issues related prioritization regarding wider security policy issues and concerns, and could also be used to address some specific concerns of signatory states about being able to abide by and implement the ATT.

In practice, ministerial level exchanges could be conducted as part of already arranged meetings and Summits, either within the UN or in other fora, or bilaterally through the exchange of letters, calls or demarche visits. As noted by the Chair of the CSP2, “States Parties should seek all opportunities to remind other States of the need to join the Treaty, by ensuring their leaders and Ministers make apt references to the ATT in international fora such as UN meetings, World Summits, Regional Conferences and key bi- lateral meetings. Keeping the profile of the ATT high on the political agenda will be the fastest route to universalization.”⁵⁴

HIGH-LEVEL AND TARGETED DIPLOMATIC OUTREACH

Like ministerial exchanges, high-level and targeted diplomatic outreach activities could be further utilized to inform the signatory states about the benefits of joining the ATT and address in more detail the situation in both current States Parties and those en route to ratification. Direct ministerial contacts between relevant parties could enable a slightly more detailed high-level discussions, taking into account wider policy issues affecting the ratification process. As with ministerial exchanges, outreach is likely to be most beneficial where the signatory state’s position on the ATT is influenced by national, regional, of international security policy concerns, and where the state is concerned about its ability to abide by the requirements of the ATT during implementation.

High-level diplomatic outreach could also be conducted by regional and international organizations, civil society and advocacy groups, either as part of other, related meetings or bilaterally through written or verbal correspondence, or in person. In this, expert-level contacts could also be utilized, especially when wanting to discuss more detailed or technical issues related to Treaty ratification.

CONTACTS BETWEEN PARLIAMENTARIANS

Parliamentarians are in a key position during the ATT ratification/accession process, and several international and regional activities have already been undertaken to reach out to the Parliaments of the signatory states to discuss the ATT and its benefits to different states. Further exchanges could be beneficial for the signatory states to ensure that momentum in the ratification process is maintained. Exchanges between parliamentarians from different states could be conducted in or as multilateral meetings, or directly and bilaterally between active and informed parties. Discussions could also be organized nationally with relevant committee members and Speakers of Parliaments, bringing in parliamentarians from other states as speakers and expert participants.

IN-COUNTRY PARLIAMENTARY DEBATES AND INFORMATION EXCHANGE

In addition to conducting parliamentary outreach, it might be useful to encourage in-country discussions in the various signatory states to promote parliamentary discussion about the Treaty and keep parliamentarians informed about the ATT and its ratification process. Parliamentary Committees analyzing the ATT may require further deliberation especially where challenges in the ratification are related to how the desire to join the Treaty can be best procedurally aligned with national political processes and decision-making and to analyze the implications of the Treaty.

⁵⁴ CSP Chairs, 2017.

Possible avenues for parliamentary action include questions posed in the Parliament and specific debates on the issue. An indirect contribution to the ratification process could involve further work on transparency and accountability mechanisms including, for example, the production of an annual public report to be debated in parliament and – if not yet in place – the establishment of a dedicated parliamentary committee to oversee the policy and practice of arms-transfer control.

OUTREACH AND AWARENESS-RAISING EVENTS

Events, seminars and workshops were often the chosen method of outreach particularly in the beginning of the ATT process and negotiations. Organized internationally, regionally or nationally, they may prove useful also with regard to signatory states' ratification aspirations, especially in cases where encountered challenges are related to gaps in awareness and capacity, or where a country has specific concerns about a particular aspect of the Treaty ratification.

Partnering with states, UN agencies, civil society and industry to conduct outreach programs could prove useful, and exchanges with invited experts should be utilized to the fullest extent.

TARGETED LEGAL AND TECHNICAL ASSISTANCE PROGRAMMES

A step further in terms of specificity would be to organize targeted legal and technical assistance programmes, which could contain also aspects of awareness-raising and capacity-building through seminars or other meetings, but be complemented by the provision of specific technical expertise and advice to governments seeking to ratify or accede to the Treaty, including resource material, guides, toolkits and campaign materials to assist with advocating for signature and ratification.

Such efforts should, where possible, be coordinated with existing initiatives, such as those by the UN regional agencies, individual UN Member states and the EU, so as to ensure tailor-made comprehensive and integrated needs-assessment, outreach and capacity-building that could answer especially signatory states' possible concerns about being able to abide by and implement the Treaty and to help fill gaps in awareness and capacity.

FURTHER RESEARCH ON THE BENEFITS AND CHALLENGES RELATED TO JOINING THE ATT AND IMPLEMENTING ARMS TRANSFER CONTROLS

The ATT process is supported by a wide range of academic and advocacy materials addressing issues from establishing and implementing an international instrument to improving controls over the international trade in conventional weapons and developing comprehensive and effective national control systems. Even though the body of research is wide, the Treaty's universalization efforts will probably have to be continuously supported through further informed materials and background studies ranging from practical guides on national structures and ratification processes to policy resources on specific arms-control areas, such as reducing diversion to terrorism and the linkages between the ATT and other instruments.

Further research materials on wider security policy concerns to procedural issues related to treaty ratification, awareness-raising and analyzing the implications of the Treaty in different contexts and the needs of the defence industry could benefit signatory states across all the five main areas identified in this report.

PROMOTING MEDIA COVERAGE ABOUT THE ATT AND THE NEED TO IMPROVE ARMS TRANSFER CONTROLS

Raising and maintaining media coverage about the benefits of the ATT and the negative

effects of illicit and poorly controlled arms trade could help signatory states keep momentum in their ratification efforts. They could also help raise awareness amongst policy-makers and the general public alike, and address possible concerns related to effective Treaty implementation. Attracting attention of different types of media from print to documentaries, radio programmes and op-eds could be utilized simultaneously with other types of activities listed above to support the ratification process nationally, but also in regional and international contexts.

While each country and different domestic situations differ, there are a number of general options to consider when promoting the ATT accessions and later effective implementation. Based on the regional study, the report identified five broad challenges for the current

ATT signatory states. These challenges overlap and overcoming them is likely to require a combination of different efforts, possibly undertaken over a lengthy period of time.

The ATT will celebrate its third anniversary on 24 December 2017. As we embark on the fourth year of Treaty implementation, more diplomatic outreach and exchanges, advocacy efforts and research will be needed to support those that are already States Parties and those that are currently considering or in the process of ratifying or acceding to the Treaty. It is hoped that the findings and suggestions of this report will provide options for government officials, regional and civil society organizations, and actors in the civil society and defence industry alike on how to overcome some of the challenges related to the ATT's universalization.

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