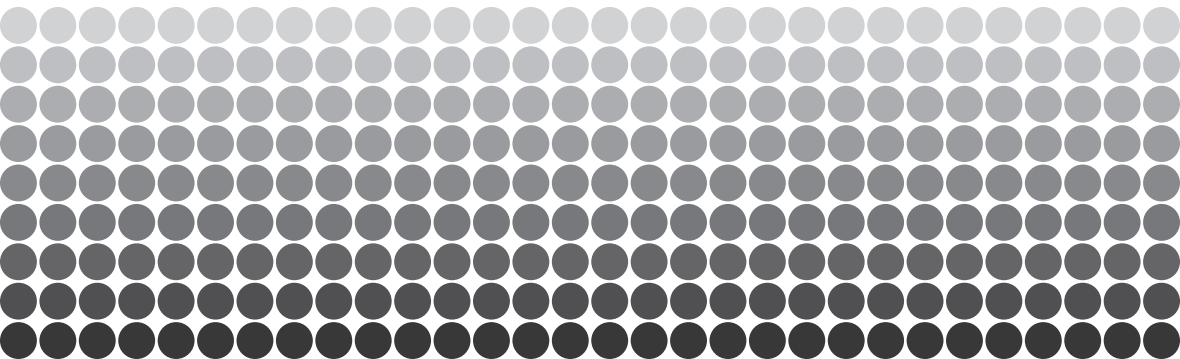


SIPRI YEARBOOK 2014

Armaments, Disarmament and International Security

Restricting arms supplies to Syria

PIETER D. WEZEMAN



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II. Restricting arms supplies to Syria

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The widespread view that international arms transfers need to be controlled to prevent such transfers fuelling violence and armed conflict was reaffirmed in 2013 when a large majority of states adopted the Arms Trade Treaty (ATT), the first international treaty aimed at regulating the arms trade.¹ Among other things, the treaty prohibits a state party from authorizing the transfers of arms if that state has knowledge that the transferred arms would be used in the commission of genocide, crimes against humanity or war crimes. Moreover, the treaty requires that the exporting state, prior to authorizing exports of arms, must assess the potential for those arms to undermine peace and security or be used to commit serious violations of international humanitarian law or international human rights law.

The continuing variance in views on how to implement these and similar multilateral agreements related to the transfer of conventional arms were well illustrated by the way in which states contested the legitimacy and effects on peace and security of the supply of arms and other military assistance to parties to the conflict in Syria.² States' positions on arms supplies to Syria can be roughly divided into two categories. The first category expresses support for a blanket arms embargo on all parties to the conflict in Syria. The second broad category supports supplying, facilitating the supply or allowing the supply of arms to one or more of the many parties to the conflict. This section looks at the choices made by states regarding arms supplies to any of the warring parties in Syria.

Blanket arms embargoes on Syria

The United Nations Security Council regularly uses arms embargoes as an instrument in its efforts to deal with violent conflict. Whereas during the cold war the Security Council could only agree on two arms embargoes (on Rhodesia and South Africa), between 1990 and 2013 arms embargoes were agreed in 16 different conflict areas as part of the Council's efforts to either

¹ For a summary and other details of the Arms Trade Treaty see annex A, section I, in this volume. On the negotiation of the ATT see chapter 10, section I, in this volume.

² Several political agreements aimed regulating arms transfers have previously been agreed between varying groups of states. These include the Wassenaar Arrangement, with 41 participating states including the largest arms export states USA and Russia, and the EU Common Position on arms exports. Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, *Official Journal of the European Union*, L 335, 8 Dec. 2008. On the Wassenaar Arrangement see chapter 10, section III; and annex B, section III, in this volume.

reinstate legitimate governments or to prevent arms supplies fuelling ongoing conflicts.³ In eight cases of violent intrastate conflict, the Council decided to impose blanket arms embargoes prohibiting the supply of arms to any party to the conflicts. For example, in early 2011, just before the conflict in Syria erupted, the Security Council unanimously agreed to impose an arms embargo on Libya as a whole, in reaction to ‘gross and systematic violation of human rights’ by the Libyan Government.⁴

The situation regarding Syria was markedly different. Disagreements within the UN Security Council on whether to threaten or impose an embargo on Syria emerged soon after the conflict started, in 2011.⁵ Russia and China vetoed a draft UN Security Council resolution introduced by four European Union (EU) member states in October 2011 that threatened (but did not impose) sanctions.⁶ In doing so, they stressed the principle of non-interference in the internal affairs of states, highlighting the fact that the resolution focused solely on exerting pressure on the Syrian Government and not the opposition, and expressed the concern that threatening sanctions might ultimately result in military intervention, as in the case of Libya.⁷ Statements by Russian officials suggested that Russia’s strong disagreement with several other states’ interpretation of the UN arms embargo on Libya in 2011 as allowing arms supplies to rebel forces contributed to its opposition to an arms embargo on Syria.⁸ After this experience, Russia had major doubts that an arms embargo on Syria would be fully enforced.⁹

In the light of continuing opposition from Russia and China, no similar draft resolution was presented in 2012 or 2013.¹⁰ Even the Security Council’s resolution adopted in response to the use of chemical weapons in Syria did not include explicit threats to impose an arms embargo on any party to the conflict.¹¹

The EU imposed sanctions on Syria in May 2011 that included a complete embargo on the supply of arms and military equipment to the territory of

³ SIPRI Arms Embargoes Database, <<http://www.sipri.org/databases/embargoes/>>. On the attention given by the UN Security Council to armed conflicts see chapter 2, section II, in this volume.

⁴ UN Security Council Resolution 1970, 26 Feb. 2011.

⁵ On the development of the conflict in Syria see Allansson, M. et al., ‘The first year of the Arab Spring’, *SIPRI Yearbook 2012*; and Allansson, M., Sollenberg, M. and Themnér, L., ‘Armed conflict in the wake of the Arab Spring’, *SIPRI Yearbook 2013*.

⁶ United Nations, Security Council, ‘France, Germany, Portugal and United Kingdom of Great Britain and Northern Ireland: draft resolution’, S/2011/612, 4 Oct. 2011.

⁷ United Nations, Security Council, 6627th meeting, S/PV.6627, 4 Oct. 2011, pp. 3–5.

⁸ On the interpretation of the embargo see Wezeman, P. D. and Kelly, N., ‘Multilateral arms embargoes’, *SIPRI Yearbook 2012*, pp. 432–34.

⁹ E.g. Joon, S., ‘UN chief confronts Syria impasse with arms embargo call’, *Sydney Morning Herald*, 21 June 2014.

¹⁰ See chapter 10, section II, in this volume.

¹¹ UN Security Council Resolution 2118, 27 Sep. 2013. On the chemical weapon aspects of the conflict in Syria see section III below and chapter 8, section I, in this volume.

Syria. Since 1989 the EU has regularly imposed blanket arms embargoes in relation to intra- or interstate armed conflict, internal repression and violations of human rights.¹² However, in other cases of armed conflict, no agreement could be reached on an arms embargo, and several EU states supply arms to governments actively involved in armed conflict, such as Afghanistan, Iraq and Israel.

Supply of arms to selected parties in the conflict in Syria

The conflict in Syria involves a wide and complex variety of parties, some of which have shifted positions and alliances, merged or divided. Apart from the Syrian Government of President Bashar al-Assad and several government-supporting groups, these include the National Coalition for Syrian Revolutionary and Opposition Forces (Syrian National Coalition, SNC), Kurdish groups, the al-Nusra Front, the Islamic Front, and the Islamic State in Iraq and al-Sham (ISIS). The SNC, which brings together a number of opposition groups, including the Free Syrian Army (FSA), is recognized as the 'legitimate representative of the Syrian people' by several Western and Middle Eastern states.

Discussions in the European Union

The EU has a long history of restricting exports of arms according to a well-established set of criteria. These criteria, which date back to 1991, were most recently formulated as the 2008 Common Position defining common rules governing the control of exports of military technology and equipment.¹³ Among other things, the criteria require that EU member states not allow arms exports that would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination, or when there is a risk that the arms might be used in serious violations of human rights or international humanitarian law or for internal repression. EU member states agreed in 1998 on a commitment to supply small arms only to governments or government-authorized entities.¹⁴

France and the United Kingdom made repeated calls during 2012 for the EU's blanket embargo on Syria to be amended to enable direct support to armed opposition groups. In March 2013 the foreign ministers of France and the UK jointly called for lifting the EU arms embargo on the SNC, arguing that such a move would

¹² SIPRI Arms Embargoes Database (note 3).

¹³ Council Common Position 2008/944/CFSP (note 2).

¹⁴ Council of the European Union, Joint Action of 17 December 1998 adopted by the Council on the basis of Article J.3 of the Treaty of the European Union on the European Union's contribution to combating the destabilizing accumulation and spread of small arms and light weapons (1999/34/CFSP), *Official Journal of the European Communities*, L9, 15 Jan. 1999, Article 3(b).

send a strong signal to the Assad regime: that [the EU] policy will continue to develop in response to developments in Syria; second, that [the EU] increases [its] flexibility to respond to the ever worsening situation on the ground, and third that lethal supplies would be allowed, if and when this became a necessary, proportionate and lawful response to a situation of extreme humanitarian suffering and on the basis that there is no practicable alternative.¹⁵

The overwhelming majority of member states reportedly opposed hollowing out the arms embargo in this way.¹⁶ Austria was particular vocal in its opposition, arguing that EU support for arms supply to one party in an internal conflict would set a dangerous precedent; that lifting the EU arms embargo would undermine the process to find a political solution to the conflict; that the SNC did not have full authority over all armed opposition groups and cooperates with extremists fighters; that delivery of more weapons would only spark an arms race; and that there was a risk of weapons ending up in the hands of groups that neither pursue democratization in Syria nor regional peace.¹⁷

As a result of the major rift between France and the UK on one side and the majority of EU states on the other, the EU arms embargo on Syria as a whole was allowed to expire in June 2013, leaving it to individual EU states to apply the EU Common Position on arms exports when deciding on arms supplies to any entity in Syria.¹⁸ This was the first time that the EU had, in essence, lifted an arms embargo related to a continuing and highly violent conflict. However, a preceding Council declaration noted EU states' commitment that weapons supplied to Syria would be for the SNC and intended for the protection of civilians.¹⁹

After the lapsing of the embargo in June 2013 public information suggests that France and the UK allowed the supply of some 'non-lethal military equipment' to the SNC.²⁰ The decision not to supply any lethal equipment, such as small arms or anti-tank missiles, is likely to have been related to the risk that they could be provided to or captured by other groups in Syria or could be diverted to an armed group elsewhere, such as

¹⁵ Fabius, L., French Foreign Minister, and Hague, W., British Foreign Secretary, Letter to Catherine Ashton, High Representative of the European Union for Foreign Affairs and Security Policy, 21 Mar. 2013.

¹⁶ Weiland, S., 'Bürgerkrieg in Syrien: Berlin zaudert bei Waffenlieferung an Rebellen' [Civil war in Syria: Berlin hesitates on arms supplies to rebels], *Der Spiegel*, 15 Mar. 2013; and Borger, J., 'Austria says UK push to arm Syrian rebels would violate international law', *The Guardian*, 14 May 2013.

¹⁷ 'Syria: Austrian position on arms embargo', 13 May 2013, <<http://www.theguardian.com/world/julian-borger-global-security-blog/interactive/2013/may/15/austria-eu-syria-arms-embargo-pdf>>.

See also Shields, M., 'Austria determined to keep EU's Syria arms embargo', Reuters, 14 May 2013; and Borger (note 16).

¹⁸ Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria, *Official Journal of the European Union*, L 147, 1 June 2013.

¹⁹ Council declaration on Syria, 3241st Foreign Affairs Council meeting, 27 May 2013.

²⁰ 'US, UK halt aid to Syrian rebels amid Islamist offensive', France 24, 12 Dec. 2013, <<http://www.france24.com/en/20131212-usa-uk-halt-non-lethal-aid-syrian-rebels-islamist-front/>>.

in Iraq. In response to such risks, France investigated the possibility of supplying arms that could be deactivated from a distance if they were to be diverted to a group other than the originally intended recipient.²¹

The United States

In the US domestic debate on whether to supply arms to Syrian rebels, arguments against such supplies have referred to fears of exacerbating the violence, inviting greater regional spillover of violence, and creating a power vacuum; the risk that supplied weapons might end up in the hands of rebel groups considered extremist by the USA; and the risk of damaging relations with Russia and China, which could have an effect on other foreign policy objectives.²² However, by late 2013 the USA had allocated over \$220 million for non-lethal aid in support of non-armed Syrian opposition.²³ In addition, in September 2013 the US Secretary of Defense, Chuck Hagel, reported that the USA was taking steps to provide arms to some Syrian rebel groups.²⁴ The US Government has released no details about which rebel groups received which weapons.

Some press reports have suggested that little in the way of lethal equipment had been delivered by early October 2013.²⁵ In the first months of 2014 it was reported that the US Congress had approved arms supplies to the rebel forces in a secret vote and that a first ‘significant cache’ of weapons, including small arms, anti-tank rockets and guided anti-tank missiles, had been delivered to rebel groups in southern Syria.²⁶

The League of Arab States

The Arab League imposed an arms embargo—its first ever—on Syria in December 2011 in reaction to what it considered the continued escalation of violence by the Syrian Government.²⁷ It suspended Syria’s membership in November 2011 and has allowed the SNC to occupy Syria’s seat.

²¹ Keaten, J., ‘France studies how to track arms for Syrian rebels’, Associated Press, 6 June 2013.

²² Blanchard, C. M., Humud, C. E. and Nikitin, M. B. D., *Armed Conflict in Syria: Overview and U.S. Response*, Congressional Research Service (CRS) Report for Congress RL33487 (US Congress, CRS: Washington, DC, 15 Jan. 2014), p. 9.

²³ Blanchard et al. (note 22), p. 10.

²⁴ Hagel, C., US Secretary of Defense, Speaking at the hearing ‘The authorization of use of force in Syria’ before the US Senate, Committee on Foreign Relations, 3 Sep. 2013, <<http://www.foreign.senate.gov/hearings/2013/09/03/the-authorization-of-use-of-force-in-syria>>.

²⁵ Blanchard et al. (note 22), pp. 11–12.

²⁶ Sherlock, R. and Sanchez, R., ‘US supplies arms to Syrian opposition as Geneva peace talks falter’, *Daily Telegraph*, 28 Jan. 2014; Hosenball, M., ‘Congress secretly approves U.S. weapons flow to “moderate” Syrian rebels’, Reuters, 27 Jan. 2014; and Knickmeyer, E., Abi-Habib, M. and Entous, A., ‘Advanced U.S. weapons flow to Syrian rebels’, *Wall Street Journal*, 18 Apr. 2014.

²⁷ Wezeman and Kelly (note 8), p. 435; and Wezeman, P. D. and Buchhold, C., ‘Multilateral arms embargoes’, *SIPRI Yearbook 2013*, p. 434.

Discussions within the Arab League about the possibility of arming the Syrian opposition surfaced soon after the embargo was imposed.²⁸ In early 2012, when reaffirming economic sanctions on Syria, the League announced that it had decided to provide the Syrian opposition with ‘all forms of political and material support’, which could include arms transfers.²⁹ Despite this change, there was no official acknowledgement that Arab League member states were involved in such transfers. Their support for anti-Assad groups in Syria has been linked to regional competition between predominantly Sunni Arab states and Shiite-dominated Iran, which supports the Assad regime.³⁰

Qatar and Saudi Arabia are widely considered to be the most actively involved in financing and organizing arms supplies to Syrian rebel groups. Reportedly, they are aided in particular by the United Arab Emirates (UAE), with Jordan and Turkey helping to transport the weapons into Syria, and the USA providing advice on where to acquire arms and on which rebel groups should receive them.³¹ These arms supplies have taken place in secret and none of the countries involved has revealed their extent, even though representatives of these countries have publicly called for the supply of arms to rebel groups.³² Evidence that reveals or even indicates who supplied what, when and in which volumes remains scarce and impossible to verify.

Russia

Russia has been the main supplier of arms to the Syrian Government during the conflict, although the total volume of arms supplies from Russia to Syria is unknown.³³ Throughout 2011–13, Russian officials regularly stated that Russia continued its arms supplies.³⁴ The Russian position is viewed as

²⁸ League of Arab States, Council, Statement on the situation in Syria, 3 Dec. 2011, <http://www.lasportal.org/wps/wcm/connect/c38cc58049521706877cef7abaae88c3/البيان_النهائي_البيان.doc,,.pdf?MOD=AJPERES> (in Arabic).

²⁹ League of Arab States, Council, Resolution 7446, 12 Feb. 2012, <<http://www.lasportal.org/wps/wcm/connect/b093ad804a246c8985c59d526698d42c/7446.pdf?MOD=AJPERES>> (in Arabic), para. 9 (authors’ translation).

³⁰ See e.g. Asia Society, ‘Complete text of Ban Ki-moon’s address, “Crisis in Syria: civil war, global threat”’, 20 June 2014, <<http://asiasociety.org/blog/asia/complete-text-ban-ki-moons-address-crisis-syria-civil-war-global-threat>>.

³¹ Wezeman, P. D., ‘Arms supplies to Syria’, *SIPRI Yearbook 2013*, pp. 272–73; Amos, D., ‘Saudi aid boost to Syrian rebels puts Jordan at risk’, NPR, 16 Mar. 2014, <<http://www.npr.org/2014/03/16/290609402/saudi-aid-boost-to-syrian-rebels-puts-jordan-at-risk>>; Chivers, C. J. and Schmitt, E., ‘Arms airlift to Syria rebels expands, with aid from C.I.A.’, *New York Times*, 24 Mar. 2013; and Al-Khalidi, S., ‘New Saudi-supplied missiles boost rebels in south Syria’, Reuters, 15 Aug. 2013.

³² Wezeman (note 31), p. 272.

³³ SIPRI Arms Transfers Database, <<http://www.sipri.org/databases/armstransfers/>>.

³⁴ Wezeman (note 31), pp. 269–70; ‘Russian arms trade czar says “war” declared on weapon supplies to Syria’, RIA Novosti, 2 Mar. 2013, <<http://en.ria.ru/russia/20130302/17977761/Russia-Says-War-Declared-to-Block-Arms-Supplies-to-Syria.html>>; ‘Russia still arming Syria’, *Jane’s Defence*

being the result of several considerations, most importantly the importance of Syria as a Russian ally in the Middle East, the fear that the fall of the Assad regime would destabilize the region further and lead to Islamist extremists taking power, and as a counter to what Russia considers as undesirable interventionist policies on the part of the USA and other Western states.³⁵ In general, Russia has opposed efforts to support non-state actors in conflicts—it unsuccessfully called for a ban the transfer of weapons to non-state actors to be included in the Arms Trade Treaty, and in September 2013 it abstained from the vote on a Security Council resolution on small arms and light weapons because it did not refer to the unacceptability of arms transfers to non-state actors.³⁶

US officials claimed in October 2013 that Russia had increased its weapon shipments to Syria and in January 2014 unidentified experts claimed further increases.³⁷

However, there are indications that Russia's military supplies to the Syrian Government are not purely military aid, and that there are limitations to Russia's preparedness to supply arms. In response to the EU permitting the supply of arms to certain anti-Assad forces in Syria, Russia indicated that it would reconsider what it called its restrictions on weapon deliveries to Syria, although it was not clear what these restrictions were.³⁸ In 2013 it was reported that the planned delivery of major weapons had been delayed—but that the delay was due to Syria not having paid for them, rather than any self-imposed restriction on the part of Russia.³⁹ The use by the Syrian Government of improvised weapons, including crude 'barrel bombs', indicates that it faces difficulties in acquiring regular ammunition

Weekly, 20 Feb. 2013; and 'Kremlin aide says Russia will fulfill Syria arms contracts', *Al Arabiya*, 31 May 2013, <<http://english.alarabiya.net/en/News/middle-east/2013/05/31/Kremlin-aide-says-Russia-will-fulfill-Syria-arms-contracts-.html>>.

³⁵ Barabanov, M., 'Russian interests in Syria: myths and reality', *Moscow Defence Brief*, no. 4 (30), 2012.

³⁶ United Nations, Security Council, 7036th meeting, S/PV.7036, 26 Sep. 2013, p. 5; and UN Security Council Resolution 2117, 26 Sep. 2013.

³⁷ McLeary, P., 'Russia stepping up arms shipments to Syria, US official says', *Defense News*, 31 Oct. 2013; and Saul, J., 'Exclusive: Russia steps up military lifeline to Syria's Assad—sources', *Reuters*, 17 Jan. 2014.

³⁸ 'Moscow disappointed by EU ending Syria arms embargo—Putin', *RIA Novosti*, 4 June 2013, <<http://en.ria.ru/russia/20130604/181500506/Moscow-Disappointed-by-EU-Ending-Syria-Arms-Embargo--Putin.html>>; and 'Russia may revise ban on Syrian arms exports—minister', *RIA Novosti*, 29 May 2013, <<http://en.ria.ru/russia/20130529/181410473/Russia-May-Revise-Ban-on-Syrian-Arms-Exports---Minister.html>>.

³⁹ 'Russia delays arms supplies to Syria over money—paper', *RIA Novosti*, 31 Aug. 2013, <<http://en.ria.ru/world/20130831/183075695/Russia-Delays-Arms-Supplies-to-Syria-over-Money--Paper.html>>; 'Russia slams end of EU arms embargo, calls S-300s "stabilizing factor" in Syria', *RT*, 28 May 2013, <<http://rt.com/news/eu-arms-syria-embargo-russia-870/>>; and 'Kremlin unaware of Syrian S-300 missile contract payment—aide', *RIA Novosti*, 30 Aug. 2013, <<http://en.ria.ru/world/20130830/183063527/Kremlin-Unaware-of-Syrian-S-300-Missile-Contract-Payment---Aide.html>>.

and raises the question of how forthcoming Russia has been with its weapons supplies.⁴⁰

Conclusions

The acceptance in 2013 of the ATT by most states, or support of at least the ATT's main principles by several others such as Russia and China, coincided with major disagreements among states about how to deal with arms supplies to one of the deadliest ongoing conflicts, which has been marred by gross violations of human rights and international humanitarian law. States had highly varied views on whether such arms supplies can or cannot contribute to establishing peace and security in Syria. Even within the EU, with its long history of closely restricting arms exports and harmonizing arms exports policies and its strong support for the ATT, states could not reach agreement on the risks or utility of supplying arms to certain armed groups in Syria.

The variance in views on arms supplies to Syria raises the question of how harmonized the implementation of the ATT will be, once it enters into force. A considerable problem is that lessons related to the arms-export risk assessments required by such agreements as the ATT are hard to draw from the Syrian case. States have generally been secretive or unclear about the objectives or the scope of their arms supplies to parties to the conflict in Syria. In particular, two states that have most actively supported the SNC with weapons—Saudi Arabia and Qatar—have not publicly detailed their formal intentions or the assessments on which they based their decisions. The USA, UK and France have been more open about their intentions, but have not released information about actual arms supplies or the impact of such supplies on the conflict. Furthermore, the actual impact of arms supplies to Syria remains impossible to assess, as the volume of such arms supplies is not known.

The ATT requires signatory states to exchange information about their arms exports, even though the treaty does not prescribe the format of such information or what it should contain. However, the ATT does strengthen the global norm relating to transparency on arms transfers and could potentially contribute to a more open dialogue between states on the intentions and expectations that drive their arms exports and create a better understanding on how such transfers impact on peace and security.

⁴⁰ Schonfeld, J., 'Are Syrian barrel bombs really worse than normal weaponry?', *Newsweek*, 12 Feb. 2014.