

I. The Arms Trade Treaty

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The Arms Trade Treaty (ATT) was adopted via a United Nations General Assembly vote in April 2013 and entered into force on 24 December 2014. The ATT is the first legally binding international agreement to establish standards regulating the trade in conventional arms and preventing their illicit trade.¹ As of 31 January 2017, the ATT had 89 states parties and 130 signatories.² However, states parties are unevenly distributed globally. In 2016, states parties held an Extraordinary Meeting (CSP1.5) and the Second Conference of States Parties (CSP2), both of which were chaired by Ambassador Emmanuel Imohe of Nigeria. Discussions at both meetings largely focused on reporting, implementation assistance and universalization. Efforts by non-governmental organizations (NGOs) to discuss specific arms transfers by states parties achieved mixed results.

Two meetings of states parties in 2016

CSP1.5 was held in Geneva on 29 February 2016. It was attended by: 50 states parties, the 2 states that have ratified or acceded to the ATT but for which the treaty has yet to enter into force, 22 signatory states and 3 observer states, as well as a number of regional and international organizations, NGOs and industry associations. Its primary aim was to reach decisions on the key issues left undecided at the close of CSP1 in 2015, in particular points relating to the budget, and the role and functioning of the ATT Secretariat.³ CSP1.5 took a number of decisions in this regard. It adopted—by consensus—the Headquarters Agreement between Switzerland and the ATT Secretariat, the draft revised budgets for the Secretariat and the Conference and a proposal on the structure of the Secretariat, including staffing levels.⁴ As a result, the Swiss Government will cover the administrative costs of the ATT Secretariat until at least 2019. In addition, a process was launched to recruit

¹ The 2001 UN Firearms Protocol is also legally binding but only covers controls on the trade in firearms. United Nations, General Assembly, Resolution 55/255, Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime (UN Firearms Protocol), adopted 31 May 2001, entered into force 3 July 2005.

² In addition two States—Benin and the Republic of Korea—have deposited their instruments of ratification or accession to the ATT but are yet to become states parties. The ATT will enter into force for these states in February 2017.

³ Arms Trade Treaty (ATT) Secretariat, 'Final Report: Second Conference of States Parties, Extraordinary Meeting', ATT/CSP2/2016/EM/6', 29 Feb. 2016. For a discussion on the First Conference of States Parties (CSP1) see Bauer, S. and Bromley, M., 'Dual-use and arms trade controls', *SIPRI Yearbook 2016*, pp. 743–47.

⁴ ATT Secretariat (note 3).

the Head of the ATT Secretariat and two additional staff members. To bridge the gap, the contract of the Interim Head of the Secretariat, Dumisani Dladla of South Africa, was extended until 30 November 2016 and further assistance requested from the United Nations Development Programme.⁵

CSP2 was held in Geneva on 22–26 August. It was attended by 73 states parties, 1 state that had ratified the ATT but for which the treaty had yet to enter into force, 30 signatory states, 5 observer states, and 33 regional and international organizations, NGOs and industry associations. It was preceded by two informal preparatory meetings, which were also held in Geneva. CSP2 approved the appointment of Dumisani Dladla as the first permanent Head of the ATT Secretariat.⁶ CSP2 also adopted the draft terms of reference for the ATT Voluntary Trust Fund (VTF), established in accordance with article 16 of the ATT (see below). The Conference also endorsed the reporting templates drawn up for both the initial report on treaty implementation and the Annual Report on Arms Transfers—something it had been unable to do at either CSP1 or CSP1.5—and recommended their use by states parties. CSP2 set up ad hoc open-ended working groups on Effective Implementation of the Arms Trade Treaty and Treaty Universalization.⁷ CSP3 will decide whether their work will continue on a permanent basis, based on recommendations by their respective Chairs. In addition, a Working Group on Transparency and Reporting was established to build on the work of the informal working group on reporting templates, which was established in the run-up to CSP1.⁸ CSP2 also welcomed proposals made by Italy and France for an ‘informal Troika arrangement’ whereby the Chairs of the previous, current and forthcoming CSPs will coordinate their treaty universalization efforts.⁹ Finally, it was agreed that CSP3 will be held on 11–15 September 2017 with Ambassador Klaus Korhonen of Finland as president.

Perhaps the most important aspect of CSP1.5 and CSP2 was that they placed the ATT Secretariat on a firm and stable footing for the foreseeable future by providing it with a Headquarters, a Head and two additional permanent staff. However, by providing only three full-time staff, the decisions taken also mean that, for the time being at least, the tasks of the ATT Secretariat are likely to be limited to the tasks listed in Article 18 of the ATT: organizing future CSPs; receiving and circulating states parties’ reports on treaty implementation and arms transfers; and administering the VTF.

⁵ ATT Secretariat (note 3).

⁶ ATT Secretariat, Arms Trade Treaty, Second Conference of States Parties, 22–26 Aug. 2016, ‘Final Report’, ATT/CSP2/2016/5.

⁷ ATT Secretariat (note 6).

⁸ ATT Secretariat (note 6).

⁹ ATT Secretariat, Arms Trade Treaty Second Conference of States Parties, Food for Thought Paper, ‘Increasing Predictability for ATT CSP Chairs: Proposal for a “Troika” System’, ATT/CSP2/2016/OP.4, 17 Aug. 2016.

Discussion of specific transfers and transparency

One key hope for the ATT was that its requirements on reporting would serve to boost the level of transparency on both arms transfer controls and arms transfers.¹⁰ States parties have invested time and effort on the reporting issue, agreeing to adopt templates for submissions and creating a Working Group to address the issue of reporting between CSPs (see above). However, CSP1.5 and CSP2 failed to endorse a push from NGOs to oblige states parties to make their reports public. In addition, although reporting levels have been high in comparison with other equivalent instruments, reporting is far from universal. As of 31 January 2017, 72 per cent of states parties that were due to submit an initial report had done so and 77 per cent of states parties that were due to submit an annual report in 2016 had done so.¹¹ In addition, three states (Burkina Faso, Nigeria and Senegal) chose to not make their initial reports public and one state (Slovakia) chose to not make its annual report public.¹²

During the negotiations on the ATT, hopes were raised—including by the then Head of the UN Office for Disarmament Affairs—that that CSPs would become a forum in which states that engaged in questionable arms transfers could be made the focus of attention and, potentially, peer pressure.¹³ At both CSP1.5 and CSP2 NGOs sought to use the speaking rights afforded them under the rules and procedures to initiate discussions about the extent to which ongoing arms transfers by states parties to Saudi Arabia were in line with the object and purpose of the treaty. At CSP1.5 NGOs from the Control Arms coalition sought to table a report on arms transfers to Saudi Arabia but were told by the Chair that the agenda was too full.¹⁴ At CSP2 several NGOs raised the issue of ongoing transfers to Saudi Arabia but failed to entice any states parties into engaging in a substantive debate on the issue.¹⁵ The United Kingdom delegation did refer to the criticism it has been exposed to over specific arms exports and said it welcomed the opportunity to discuss

¹⁰ Under article 13(1) of the ATT, each state party is obliged to provide the ATT Secretariat with a report detailing the ‘measures undertaken in order to implement this Treaty, including national laws, national control lists and other regulations and administrative measures’. States parties must also provide the Secretariat with an annual report ‘for the preceding calendar year concerning authorized or actual exports and imports of conventional arms’. The ATT does not explicitly state that either of these reports will be made public, noting only that they ‘shall be made available, and distributed to States Parties by the Secretariat’.

¹¹ ATT Secretariat, ‘Reporting’, accessed 31 Jan. 2017.

¹² Arms Trade Treaty Baseline Assessment Project, *Reviewing Initial Reports on ATT Implementation: Analysis and Lessons Learned* (Geneva: Media Frontier, 2016), p. 8. For a more detailed discussion of reporting on arms transfers under the ATT see chapter 10, section III, in this volume.

¹³ United Nations, Office for Disarmament Affairs, Kane, A. ‘Remarks on the Arms Trade Treaty by Angela Kane, High Representative for Disarmament Affairs’, New York, 24 Oct. 2013.

¹⁴ Gandenberger, M., ‘RCW’s report on the extraordinary meeting of the Arms Trade Treaty’, *Reaching Critical Will*, 1 Mar. 2016.

¹⁵ Acheson, R., ‘Editorial: The elephant—or the massive explosive violence—in the room’, *ATT Monitor*, 25 Aug. 2016.

Table 15.1. Arms Trade Treaty ratifications, accessions and signatories by region

	No. of states	States parties	Signatory states
Europe	48	42	2
Latin America and the Caribbean	33	21	7
North Africa and sub-Saharan Africa	53	21	17
Central Asia, East Asia and South Asia	28	2	7
Middle East	16	0	5

Source: United Nations, *Treaty Collection*, 31 Jan. 2017.

these issues, but did not engage in a substantive debate about the merits of particular decisions.¹⁶

The Voluntary Trust Fund

Another goal of the ATT is that it will act as a conduit for assistance efforts aimed at boosting states parties' arms transfer control systems. In this regard, the creation of the VTF may well turn out to be a significant step forward. The VTF will be funded by donations from states parties and other entities and be administered by the ATT Secretariat. Project proposals can be submitted and carried out by states parties to the ATT as well as 'Signatory States and other States having shown clear and unambiguous political commitment to accede to the ATT'.¹⁷

The terms of reference for the VTF note that 'overlap/duplication with projects funded by UNSCAR [the UN Trust Facility Supporting Cooperation on Arms Regulation], by states parties on a bilateral basis or through other channels, shall be avoided'.¹⁸ However, ensuring that this is the case may prove challenging. There are a number of projects aimed at boosting the ability of states parties to implement the ATT, such as the EU's ATT Outreach Project and the various NGO-led initiatives funded by UNSCAR.¹⁹ There are also projects that are not ATT-focused but nonetheless aim to build state capacity in areas relevant to small arms and light weapons (SALW) or arms transfer controls, such as the US Export Control and Related Border Security (EXBS) programme.²⁰ The VTF clearly fills a necessary gap but to maximize its impact it will need to ensure that the projects it funds build on the important work that has already been carried out.

¹⁶ Noted by the SIPRI representative at CSP2.

¹⁷ ATT Secretariat, 'Terms of Reference for the ATT Voluntary Trust Fund', ATT/CSP2/2016/WP.3/Rev.1, 24 Aug. 2016.

¹⁸ ATT Secretariat (note 17).

¹⁹ UNSCAR was established to support conventional arms control regulations. To date, it has received funding from Australia, Denmark, Finland, Germany, Ireland, the Netherlands, Spain, Switzerland, Sweden and the UK. For more information see <https://s3.amazonaws.com/uno-da-web/wp-content/uploads/2013/06/Information-for-Donors_UNSCAR.pdf>.

²⁰ For an overview of these activities see 'Mapping ATT-relevant cooperation and assistance activities', <http://www.att-assistance.org/?page_id=10>.

Universalization

A key challenge for the ATT is universalization. The Working Group on Universalization and the proposal made by Italy and France for a Troika system should help to coordinate efforts to expand the number of signatories and states parties. The ATT gained 10 new states parties in 2016.²¹ However, the geographic imbalance in states' engagement with the ATT seems likely to persist for the foreseeable future. The ATT has a higher proportion of states parties from Europe, Latin America and the Caribbean and Africa than from Asia and the Middle East. Most poorly represented is the Middle East, where none of the 16 states in the region has ratified or acceded to the ATT and only 5 are signatories (see table 15.1). Canada, the world's 15th-largest arms exporter in 2012–16, looks set to accede to the ATT in 2017.²² However, several important arms exporters, particularly China and Russia, and arms importers, such as India and Saudi Arabia, have not signed the ATT and gave no indication in 2016 that they planned to do so.

The United States signed the ATT in 2013 but has yet to accede. Although the prospects of the USA ratifying the ATT were always slim, the outgoing Administration of President Barack Obama played a full part in CSP1.5 and CSP2, and sent a letter of transmittal to the US Congress in December 2016 urging it to move ahead with ratification.²³ However, the incoming Administration of President Donald J. Trump is likely to be openly hostile to both UN treaty processes in general and SALW control measures in particular, and the process is unlikely to move forward during his term in office.

²¹ These states are Cabo Verde, Cyprus, Georgia, Greece, Guatemala, Lesotho, Madagascar, Monaco, Peru and Zambia.

²² Chase, S., 'Canada to join arms trade treaty, but will not raise export controls', *Globe and Mail*, 30 June 2016.

²³ US Congress, 'Message from the President of the United States transmitting The Arms Trade Treaty', 9 Dec. 2016.