

I. The Arms Trade Treaty

GIOVANNA MALETTA AND LAURIANE HÉAU

Introduction

The 2013 Arms Trade Treaty (ATT) is the first legally binding international agreement to establish standards for regulating the international trade in conventional arms and preventing their illicit transfers.¹ As of 31 December 2022, 113 states were party to the ATT and 28 had signed but not yet ratified it. Three states—Andorra, Gabon and the Philippines—became parties to the treaty in 2022.²

Following the disruptions created by the Covid-19 pandemic in 2020 and 2021, the regular ATT meetings cycle, including the conference of states parties (CSP), resumed in 2022. The Working Group on Effective Treaty Implementation (WGETI), the Working Group on Transparency and Reporting (WGTR) and the Working Group on Treaty Universalization (WGTU) held two sets of preparatory meetings in a hybrid format.

The eighth CSP (CSP8) took place from 22 to 26 August 2022 under the presidency of Germany, whose main thematic focus was post-shipment controls. Germany previously indicated that universalization and ‘stocktaking with regard to achievements and shortcomings in implementation of the ATT’ would also be part of the presidency’s themes.³ CSP8 was conducted in-person although its proceedings were live-streamed from Geneva, enabling virtual attendance but not active participation—unlike the hybrid format adopted for the preparatory meetings. At CSP8 the Diversion Information Exchange Forum (DIEF) was convened for the first time. In attendance at CSP8 were 108 states and representatives from 49 non-state organizations (regional and international organizations, non-governmental organizations (NGOs), research institutes, industry associations and national implementing agencies).⁴

¹ For a summary and other details of the Arms Trade Treaty see annex A, section I, in this volume. The 2001 UN Firearms Protocol is also legally binding but only covers controls on the trade in firearms. UN 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 Arms Trade Treaty, ‘Treaty status’, accessed on 9 Jan. 2023; and Arms Trade Treaty, ‘States parties to the ATT (in order of deposit of instrument of ratification, approval, acceptance, or accession)’, 2 Dec. 2022.

³ Arms Trade Treaty, CSP8, ‘Final report’, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2, 26 Aug. 2022, para. 21; and Maletta, G. and Varisco, A. E., ‘The Arms Trade Treaty’, *SIPRI Yearbook 2022*, p. 584.

⁴ CSP8 was attended by 87 states parties, 20 signatory states and 1 observer state. Non-state actors included 10 observer organizations (including the European Union) and 40 civil society organizations. Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), paras 3, 7 and 10–15.

The Russian invasion of Ukraine in February 2022 impacted ATT discussions during both the second preparatory meetings and at CSP8, with some states stressing that arms transfers to Russia would violate the provisions of the ATT and calling for such transfers to be halted (see below). The conference determined that South Korea will preside over the ninth CSP (CSP9) in August 2023 in Geneva, with a thematic focus on the role of industry in responsible international transfers of conventional arms.⁵

This section provides an overview of key ATT-related developments during 2022 and at CSP8. First, it focuses on issues related to treaty implementation, particularly the thematic discussion on post-shipment controls. It then looks at the status of ATT transparency and reporting, followed by the status of universalization and developments regarding the provision of international assistance. Finally, it analyses issues related to the financial health and functioning of the treaty and concludes with a summary of the main achievements and shortcomings of CSP8.

Treaty implementation

Addressing diversion through ‘post-shipment controls and coordination’

The German presidency’s approach towards the theme of post-shipment controls evolved throughout the CSP8 cycle. Initially seen as a tool for exporting states, such controls were eventually presented as one of the collaborative measures that exporting and importing states could use to prevent arms diversion, which is one of the stated objectives of the ATT.⁶

The ATT has addressed post-shipment controls regularly since the fourth CSP, including at side-events organized by Germany and Switzerland and through exchanges in the framework of the WGETI sub-working group on Article 11.⁷ In 2021, Canada also sent a questionnaire to ATT states parties to collect information on best practices in post-shipment controls, although the results were not made public.⁸ In the run-up to CSP8, Germany organized two side events to facilitate discussions on the topic. The first took place in

⁵ Arms Trade Treaty, ‘President’; Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), para. 39; and Control Arms, ‘8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—26 August 2022’, 26 Aug. 2022, p. 5.

⁶ Arms Trade Treaty, CSP8 president, ‘Post-shipment controls and coordination: Effective export verification and good-faith cooperation between exporters and importers—status quo and guidance (“Toolbox”)’, Working paper, ATT/CSP8/2022/PRES/732/Conf.PostShip, 22 July 2022.

⁷ See e.g. Arms Trade Treaty, ‘CSP4 schedule of side events’; ATT Working Group on Effective Treaty Implementation (WGETI), ‘Possible measures to prevent and address diversion’, July 2018; ‘Post-shipment verifications: A new instrument of arms export controls’, Side-event hosted by the governments of Germany and Switzerland at the fifth CSP, 28 Aug. 2019; and Control Arms, ‘ATT working group and information preparatory meetings for the seventh conference of states parties to the Arms Trade Treaty’, Summary Analysis Report, 26 Apr. 2021.

⁸ Gallagher, K., ‘The ATT in 2022: Focus on post-shipment controls’, *Ploughshares Monitor*, vol. 43, no. 2 (6 June 2022).

February 2022 during the first CSP8 working group and informal preparatory meetings and was open only to ATT states parties.⁹ The second event, open to all ATT stakeholders, including civil society and industry, was organized in April 2022 during the second round of CSP8 preparatory meetings.¹⁰ These discussions informed the drafting of a working paper on post-shipment controls and coordination that Germany presented at CSP8, which explains that, in line with German practice, the term ‘post-shipment controls’ would be ‘primarily used’ in the document to refer to the ‘physical on-site inspection of items by the exporting state after they have been delivered to the final end-user’.¹¹ The paper outlines the legal and operational challenges which can arise in adopting and carrying out these inspections and serves as a ‘toolbox’ to address such difficulties. At the same time, the paper also acknowledges the existence of different forms of ‘post-shipment control’ measures and refers to the opportunity to frame this activity as a way to promote post-delivery coordination between importing and exporting states.¹²

While CSP8 welcomed the discussion on post-shipment controls, the language agreed by states parties in the final report was more limited than the set of draft recommendations put forward by Germany. States parties agreed ‘to continue discussing approaches and understandings’ of post-shipment controls, and to ‘share their experiences’ regarding the implementation of this policy tool, but dropped references to defining a ‘common understanding’ and a ‘common approach’ to post-shipment controls, while adding a reference to avoiding ‘setting additional burdens beyond the obligations of the Treaty’.¹³ Several states parties expressed an interest in pursuing discussions on post-shipment controls beyond CSP8, and ‘post-delivery cooperation’ will continue to be explored by the WGETI sub-working group on Article 11 during CSP9.¹⁴

Developments in the Working Group on Effective Treaty Implementation

The WGETI is currently divided into three sub-working groups covering specific areas of ATT implementation, namely Article 6 (‘Prohibitions’) and Article 7 (‘Export and Export Assessment’), Article 9 (‘Transit or Trans-shipment’), and Article 11 (‘Diversion’).

The sub-working group on articles 6 and 7 continued to focus on the development of a voluntary guide to assist states parties in implementing

⁹ German Federal Foreign Office, ‘Thematic debate on “postshipment control” (to start at Prep Meet 1)’, Concept Paper, 2022.

¹⁰ Arms Trade Treaty, ‘Working group meetings and 2nd CSP8 informal preparatory meeting’.

¹¹ Arms Trade Treaty, ATT/CSP8/2022/PRES/732/Conf.PostShip (note 6), p. 4.

¹² Arms Trade Treaty, ATT/CSP8/2022/PRES/732/Conf.PostShip (note 6), p. 4.

¹³ Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), para. 21; and Arms Trade Treaty, CSP8, ‘Draft final report’, ATT/CSP8/2022/SEC/739/Conf.FinRep, 26 Aug. 2022, para. 21.

¹⁴ Control Arms, ‘8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—26 August 2022’ (note 5), pp. 2–5.

these articles, and discussing and completing the draft of chapter 1 ('Key concepts') during the CSP8 preparatory process.¹⁵ In response to concerns raised by some states and NGOs, the facilitator of the sub-working group stressed that the aim of this exercise was not to reinterpret concepts of international law, but to ensure that definitions agreed under international law are made available in the voluntary guide.¹⁶ CSP8 noted the completion of chapter 1, 'as a living document of a voluntary nature' that the WGETI would update 'as appropriate'.¹⁷ The facilitator of the sub-working group will begin work on chapter 2 ('Prohibitions') of the voluntary guide, to be presented during the first meeting of the CSP9 cycle in 2023.¹⁸ Once all chapters of the guide are final, the group will submit the document to the CSP for endorsement.¹⁹

The sub-working group on Article 9 focused on measures to regulate the transit and trans-shipment of arms by land, air and sea, as well as the role of the private sector. The facilitator will begin work on draft elements for a possible voluntary guide on the implementation of Article 9 to be presented in the first meeting of the sub-working group in the CSP9 cycle in 2023.²⁰

The sub-working group on Article 11 held discussions on diversion prevention both during and after arms deliveries, and submitted a draft background paper on the role of transit and trans-shipment states in preventing diversion.²¹ The sub-working group also addressed post-delivery cooperation, holding exchanges on the role of importing states in preventing diversion, and the role of the private sector and civil society in mitigating it.²² The sub-working group on Article 11 reached the end of its multi-year workplan, but CSP8 agreed to extend its mandate for one more year to focus on post-delivery cooperation, notably to continue the work undertaken by the CSP8 presidency.²³

More substantial exchanges on treaty implementation emerged during the general debate in connection with concerns raised regarding the Russian invasion of Ukraine. Some statements called for states parties to refrain from exporting weapons to Russia, arguing that such actions would constitute a

¹⁵ Arms Trade Treaty, CSP8, WGETI, 'Chair's draft report to CSP8', ATT/CSP8.WGETI/2022/CHAIR/733/Conf.Rep, 22 July 2022, para. 37(a).

¹⁶ ATT Secretariat, 'ATT working groups' and 1st CSP8 informal preparatory meetings, Day 1, English', YouTube, 15 Feb. 2022.

¹⁷ Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), para. 23.

¹⁸ Arms Trade Treaty, ATT/CSP8.WGETI/2022/CHAIR/733/Conf.Rep (note 15), para. 24.

¹⁹ Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), para. 23.

²⁰ Arms Trade Treaty, ATT/CSP8.WGETI/2022/CHAIR/733/Conf.Rep (note 15), p. 5; and Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), para. 25.

²¹ Arms Trade Treaty, ATT/CSP8.WGETI/2022/CHAIR/733/Conf.Rep (note 15), para. 13.

²² Arms Trade Treaty, ATT/CSP8.WGETI/2022/CHAIR/733/Conf.Rep (note 15), p. 6.

²³ Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), para. 26.

violation of the principles and provisions of the treaty.²⁴ This was only the second time that such calls had been made during an official ATT meeting, the other time being at the third CSP in relation to arms transfers to Venezuela.²⁵ Conversely, some states recognized the legitimacy of arms transfers towards Ukraine under the ATT. This was justified as being both in line with the right of Ukraine to acquire weapons in the exercise of its right to self-defence, as also recognized by the ATT, and in compliance with articles 6 and 7.²⁶ China, in contrast, stressed the ‘irresponsible and escalatory nature of arms transfers to conflict zones’.²⁷

The Diversion Information Exchange Forum

The DIEF is a subsidiary body established by the sixth CSP (CSP6) in 2020 to enable ‘informal voluntary exchanges’ concerning cases of detected or suspected diversion.²⁸ However, the ongoing Covid-19 pandemic prevented the DIEF from convening until 2022, when it held its first meeting during CSP8, chaired by Alejandro Alba Fernández of Mexico. To enable discussions on a particularly sensitive topic, DIEF meetings are convened in a closed format—that is, they are only open to states parties and signatory states.²⁹ The oral report from the DIEF chair to CSP8 indicated that at the inaugural DIEF meeting, four states parties gave presentations, which covered suspected and detected cases of diversion, and bilateral cooperation to address illicit arms trafficking.³⁰ Two DIEF meetings are scheduled to take place during the CSP9 meetings cycle in May and August 2023.³¹ A review regarding the usefulness

²⁴ See e.g. Arms Trade Treaty, CSP8, European Union, ‘EU general statement’, Aug. 2022, pp. 2–3; Italy, ‘General statement’, 22 Aug. 2022, p. 2; United Kingdom, ‘General debate statement: Agenda item 5’, Aug. 2022, p. 1; Netherlands, ‘Statement of the Netherlands’, 23 Aug. 2022, p. 3; and Control Arms, ‘General statement’, 23 Aug. 2022, p. 2. See also Control Arms, ‘8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—22 August 2022’, 22 Aug. 2022, p. 4; and Control Arms, ‘8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—23 August 2022’, 23 Aug. 2022, p. 5.

²⁵ See Varisco, A. E., Maletta, G. and Robin, L., *Taking Stock of the Arms Trade Treaty: Achievements, Challenges and Ways Forward* (SIPRI: Stockholm, Dec. 2021), pp. 18–19.

²⁶ Control Arms, ‘8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—23 August 2022’ (note 24), p. 1; and Arms Trade Treaty, CSP8, Austria, ‘Statement by Austria/General debate’, 22 Aug. 2022.

²⁷ Control Arms, ‘8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—23 August 2022’ (note 24), p. 1.

²⁸ Arms Trade Treaty, Diversion Information Exchange Forum, ‘Terms of reference’, Aug. 2020, p. 2, para. 1.

²⁹ States can propose to invite non-state experts with specific expertise in investigating, establishing, identifying or addressing cases of diversion to take part in a presentation on a concrete diversion case and the subsequent debate on that case.

³⁰ Control Arms, ‘8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—25 August 2022’, 25 Aug. 2022, p. 1.

³¹ Control Arms, ‘ATT Working Group Meetings and 1st CSP9 Informal Preparatory Meeting: Summary analysis report’, 14–17 Feb. 2023, p. 19.

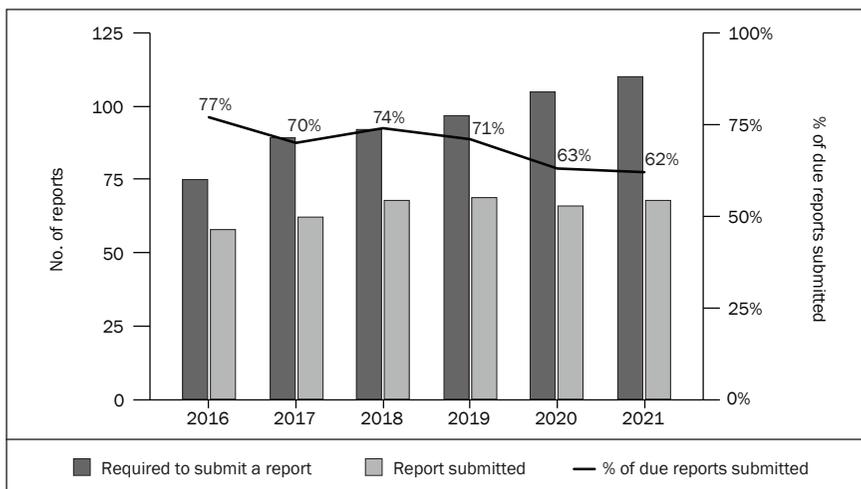


Figure 12.1. Number of Arms Trade Treaty states parties submitting annual reports, 2016–21

Source: ATT Secretariat, 'Annual reports', Status at 10 Jan. 2023.

of the DIEF is scheduled to take place 'at the first CSP following two cycles of DIEF meetings'.³²

Transparency and reporting

Article 13(1) of the ATT requires states parties to provide an initial report to the ATT Secretariat of 'measures undertaken in order to implement' the treaty within one year after entry into force at the national level. According to the same provision, states are also required to report when appropriate 'on any new measures undertaken in order to implement' the treaty. No new state party was due to submit an initial report to the secretariat in 2022 and no new reports were submitted. One state, Romania, provided an updated initial report, making use of the template endorsed in 2021 at the seventh CSP (CSP7).³³ As a result, as of 31 December 2022, the number of states parties that have failed to submit their initial report when due remained unchanged (24 out of 110, 22 per cent).³⁴ States can choose to make their initial reports available only to other states parties. The total number of restricted access

³² Arms Trade Treaty, CSP7, 'Final report', ATT/CSP7/2021/SEC/681/Conf.Fin.Rep.Rev1, 2 Sep. 2021, para. 27; see Maletta and Varisco (note 3), p. 587.

³³ Romanian government, 'Initial report on measures undertaken to implement the Arms Trade Treaty, in accordance with its article 13(1)', Update, 7 Feb. 2022.

³⁴ ATT Secretariat, 'Initial reports', Status at 28 Apr. 2022.

initial reports stands at 21 (24 per cent of the 86 initial reports submitted).³⁵ The recent trend has been to increasingly restrict access to initial reports, with 9 of the 13 initial reports submitted since 2018 not made public.³⁶

Under Article 13(3) of the ATT, states parties are also required to submit an annual report to the secretariat on ‘authorized or actual exports and imports of conventional arms’. Out of the 110 states required to submit an annual report covering 2021, 68 (62 per cent) had done so by 31 December 2022.³⁷ While the overall number of reports is consistent with previous years, the percentage of states parties making submissions is falling (figure 12.1). Moreover, the rate of annual reports submitted on time (i.e. by 31 May 2022) fell from 75 per cent in 2021 to 71 per cent in 2022. Several states also chose to aggregate data or leave certain sections blank, which limited the comprehensiveness of their reports.³⁸ About half (33) of the states that submitted a report have done so by using the reporting template endorsed by CSP7 in 2021.³⁹ China submitted its first annual report in 2022, in accordance with its treaty obligations, but did not make the report publicly available. Six other states—Botswana, Côte d’Ivoire, Guatemala, Iceland, Niger, and the Seychelles—started submitting annual reports for the first time after one or more years of non-compliance.⁴⁰ In 2022, Côte d’Ivoire also submitted all of its required reports from previous years, going back to 2016.⁴¹ However, with the exception of Iceland, all of these states chose to make their reports available only to other states parties.

Of the 110 annual reports due for 2021, 64 reports were either not submitted (42) or not made public (22).⁴² However, four states parties (Albania, Burkina Faso, Maldives and Malta) made their annual report publicly available after sending restricted-access reports in the past. As in previous years, the list of states parties that submitted a restricted-access annual report for 2021 includes countries (e.g. China, Greece, Latvia and Lithuania) that made their submission public in the context of other reporting instruments that have a similar scope, such as the United Nations Register of Conventional Arms (UNROCA).⁴³ On a positive note, for the first time in 2022, ATT states parties

³⁵ ATT Secretariat, ‘Initial reports’ (note 34). In 2022, Grenada decided to change the access to its initial report from public to restricted. Countries that had already restricted access to their initial reports include Benin, Botswana, Burkina Faso, Cameroon, Chile, China, Cyprus, Greece, Guatemala, Honduras, Kazakhstan, Madagascar, Maldives, Malta, Mauritius, Nigeria, Saint Vincent and the Grenadines, Senegal, Palestine and Tuvalu.

³⁶ Maletta and Varisco (note 3), p. 589.

³⁷ ATT Secretariat, ‘Annual reports’, Status at 10 Jan. 2023.

³⁸ Stohl, R. and Fletcher, R., ‘Mixed reviews: Positive developments and negative trends in 2021 ATT annual reports’, Stimson Center, Oct. 2022, p. 20.

³⁹ ‘1st meeting, Working Group on Transparency and Reporting (WGTR)—Arms Trade Treaty’, UN Web TV, 14 Feb. 2023, c. 00:22:12 to 00:41:10.

⁴⁰ ATT Secretariat, ‘Annual reports’ (note 37).

⁴¹ Stohl and Fletcher (note 38), p. 5.

⁴² ATT Secretariat, ‘Annual reports’ (note 37).

⁴³ United Nations Register of Conventional Arms (UNROCA), ‘National reports’, 2022. On reporting within UNROCA see chapter 10, section IV, in this volume.

Table 12.1. Arms Trade Treaty numbers of ratifications, accessions and signatories, by region, December 2022

Region	States	States parties	Signatories	Other non-parties
Africa	53	29	11	13
Americas	35	27	3 ^a	5
Asia	29	7	6	16
Europe	48 ^b	42	1	5 ^b
Middle East	16 ^c	2 ^c	4	10
Oceania	16 ^d	6 ^e	3	7 ^f
Total	197	113	28	56

Notes: The treaty was open for signature until it entered into force in Dec. 2014. Existing signatories may accept, approve or ratify the treaty in order to become a state party. A non-signatory state must now directly accede to the treaty in order to become a state party.

^a This figure includes the United States. On 18 July 2019, the USA announced its intention not to become a state party to the treaty.

^b This figure includes the Holy See.

^c This figure includes Palestine.

^d This figure includes Niue and the Cook Islands.

^e This figure includes Niue.

^f This figure includes the Cook Islands.

Source: United Nations, UN Treaty Collection, Status of Treaties, Status at 31 Dec. 2022.

could check a box in their ATT annual report to allow its use as the basis for their UNROCA submission, and at least 23 states parties did so.⁴⁴

The CSP8 final report highlighted ‘concern for the low rate of compliance with the reporting obligations’.⁴⁵ During the CSP8 meetings cycle, the WGTR examined the status of and challenges to effective reporting, including the quality of the data reported, and revised the ‘FAQ’-type guidance document on the annual reporting obligation.⁴⁶ The CSP8 endorsed the revised document and mandated the WGTR co-chairs to ‘continue to focus on enhancing compliance with the reporting requirements’ as well as to discuss ‘mechanisms, processes or formats that facilitate information exchange and topics related to the IT platform’ during the CSP9 cycle.⁴⁷ The IT platform—developed and managed by the ATT Secretariat—enables states parties to exchange information and submit their reports online, but it remains under-used (e.g. only 10 states used the online reporting tool for their 2021 reports).⁴⁸ The CSP8 reporting mandate contained fewer specific tasks

⁴⁴ ATT Secretariat, ‘Annual reports’ (note 37). See also Holtom, P. and Mensah, A. E. E., ‘The end of transparency in international arms?’, UNIDIR Comment, 14 Sep. 2022.

⁴⁵ Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), pp. 6–7.

⁴⁶ Arms Trade Treaty, CSP8, Working Group on Transparency and Reporting (WGTR), ‘Co-chairs’ draft report to CSP8’, ATT/CSP8.WGTR/2022/CHAIR/734/Conf.Rep, 22 July 2022, pp. 2–4.

⁴⁷ Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), para. 27; and WGTR (note 46), p. 5.

⁴⁸ Arms Trade Treaty, CSP8, WGTR (note 46), p. 4; and ‘1st meeting, Working Group on Transparency and Reporting—Arms Trade Treaty’ (note 39), c. 00:22:12 to 00:41:10.

compared to the previous mandate, with a view to increasing the flexibility and responsiveness of the WGTR in addressing upcoming challenges and developments.

Treaty universalization and international assistance

Status of treaty universalization

In 2022, three new states (Andorra, Gabon and the Philippines) joined or ratified the ATT, bringing the overall number of states parties to 113 (table 12.1).⁴⁹ The level of participation in the ATT by states in the Asia-Pacific and Middle East regions continues to be comparatively low.⁵⁰

During the CSP8 cycle the co-chairs of the WGTU pursued efforts to promote the treaty's universalization. These included activities targeting the Asia-Pacific region, diplomatic initiatives ('demarches') to specific countries supported by the European Union (EU), and bilateral engagements with states that were considered to be close to joining the treaty.⁵¹ The WGTU co-chairs also reflected on the role of the working group and prepared a draft paper containing elements on how to improve its functioning.⁵² The paper seeks to promote a longer-term approach in the work of the WGTU—in line with the extended timelines of ratification and accession processes—as well as to improve coordination among different efforts in support of ATT universalization. The CSP8 adopted the paper and mandated the WGTU to develop the recommended measures into a proposal to be presented at CSP9.⁵³

International assistance

In 2022, of 16 applications received, 6 assistance projects were selected for funding under the ATT Voluntary Trust Fund (VTF), bringing the total number of VTF projects funded to 69.⁵⁴ This was the lowest number of projects selected in a VTF cycle since the fund was established in 2016.⁵⁵ To date, the VTF has received over US\$11 million in voluntary contributions from 28 states, of which \$6.2 million were either spent or committed up to August

⁴⁹ Arms Trade Treaty, 'Treaty status' (note 2).

⁵⁰ Dladla, D., 'Arms Trade Treaty: Status of participation', Presentation at the Arms Trade Treaty, CSP8, Geneva, 23 Aug. 2022; and Control Arms, '8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—23 August 2022' (note 24), p. 4.

⁵¹ Arms Trade Treaty, CSP8, Working Group on Universalization (WGTU), 'Co-Chairs draft report to CSP8', ATT/CSP8.WGTU/2022/CHAIR/735/Conf.Rep, 22 July 2022.

⁵² Arms Trade Treaty, ATT/CSP8.WGTU/2022/CHAIR/735/Conf.Rep (note 51), pp. 5–6.

⁵³ Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev 2 (note 3), para. 22(a).

⁵⁴ Since the first VTF funding cycle was launched a total of 74 project applications were initially approved for funding, including 5 later withdrawn and 1 discontinued. ATT Secretariat, 'Report on the work of the ATT Voluntary Trust Fund (VTF) for the period August 2021 to August 2022', ATT/VTF/2022/CHAIR/736/Conf.Rep, 2022.

⁵⁵ ATT Secretariat, ATT/VTF/2022/CHAIR/736/Conf.Rep (note 54).

2022.⁵⁶ During 2022, the ATT Secretariat also started the Covid-19 delayed evaluation of VTF projects concluded in 2017, and will report on the outcome of this exercise at CSP9.⁵⁷

EU support for ATT implementation included activities undertaken by the ATT Secretariat as part of an EU-funded project launched in 2021.⁵⁸ In 2022, these activities included two briefings, a train-the-trainer workshop, the development of a guidance document for the ATT national points of contact and an ATT training manual.⁵⁹

The EU also launched the third phase of the EU ATT Outreach Project.⁶⁰

The contentious issue of whether compliance with financial obligations under the ATT should be a criterion for selection of VTF projects took centre stage during CSP8, highlighting traditional UN regional divisions. Past conferences (particularly the fifth and sixth CSPs) had discussed the proposed financial obligations–assistance linkage, which primarily Western states support as an incentive for states in arrears to pay their financial contributions. However, the states—particularly from Africa and Latin America and the Caribbean—that are most in need of international assistance and those struggling with financial obligations have always strongly opposed this position.⁶¹ At CSP8, states' divergent views on the issue resurfaced and required additional discussions to find consensus on relevant language in the final report. Some states (e.g. Canada, the Netherlands and the United Kingdom) advanced proposals to make compliance with financial obligations part of the VTF selection criteria, while the German presidency proposed deferring discussions to CSP9. All these proposals were rejected.⁶² As a result, the CSP8 final report confirmed that the work of the VTF Selection Committee 'will continue to be guided by the VTF Terms of Reference' and did not exclude states in arrears with their financial contributions from being beneficiaries of VTF projects.⁶³

⁵⁶ ATT Secretariat, ATT/VTF/2022/CHAIR/736/Conf.Rep (note 54), p. 9; and Dladla, D., 'Arms Trade Treaty: Status of VTF finances', Presentation at the Arms Trade Treaty, CSP8, Geneva, 25 Aug. 2022.

⁵⁷ ATT Secretariat, ATT/VTF/2022/CHAIR/736/Conf.Rep (note 54), para. 27.

⁵⁸ Maletta and Varisco (note 3), p. 592.

⁵⁹ ATT Secretariat, 'Report on the ATT Secretariat's work for the period 2021/2022', ATT/CSP8/2022/SEC/729/Conf.Sec.Rep, 22 July 2022, pp. 6–7. For the workshop see 'Key activities', UNIDIR Update, Jan. 2023.

⁶⁰ Control Arms, '8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—24 August 2022', 24 Aug. 2022, p. 4; and Council of the European Union, Council Decision (CFSP) 2021/2309 of 22 December 2021 on Union outreach activities in support of the implementation of the Arms Trade Treaty, *Official Journal of the European Union*, L461, 22 Dec. 2022.

⁶¹ See Varisco, A. E., Maletta, G. and Robin, L., 'The Arms Trade Treaty', *SIPRI Yearbook 2021*, pp. 562–63; and Maletta, G. and Bromley, M., 'The Arms Trade Treaty', *SIPRI Yearbook 2020*, pp. 529–31.

⁶² Control Arms, '8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—25 August 2022' (note 30).

⁶³ Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev.2 (note 3), para. 31.

The financial situation of the ATT

In 2022, the financial situation of the ATT continued to deteriorate. The financial rules of the ATT require all states parties and signatories, as well as states attending conferences as observers, to make financial contributions to cover the costs of organizing relevant meetings and the work of the ATT Secretariat. However, as at 31 October 2022, 58 out of the 155 states that have been obliged to make contributions since 2015 had failed to do so, creating an accumulated deficit of \$512 559.⁶⁴ The head of the ATT Secretariat outlined the detrimental impact this budget deficit is likely to have and also noted that no state had made use of the procedures agreed at CSP7 to assist states in arrears. Finally, he reminded states that they can also voluntarily contribute to an ATT reserve fund to which Germany had already pledged €50 000.⁶⁵ One proposal was to cut costs by reducing the number of preparatory meetings, and CSP8 mandated the Management Committee to explore this possibility and submit a proposal to CSP9.⁶⁶

Conclusions

Key developments within the ATT in 2022 and at CSP8 highlight long-standing challenges of improving transparency through reporting on arms transfers, expanding ATT membership and ensuring the financial stability of the treaty. Discussions at CSP8 also highlighted the presence of different views among states parties regarding some aspects of ATT implementation. The main topic of contention proved to be whether to make compliance with financial obligations one of the selection criteria for VTF projects. Financial-related issues continued to absorb a large amount of time and to generate the most heated discussions, while, in comparison, limited attention was given to addressing cases where states parties' arms transfers appeared to violate core provisions of the ATT, particularly its prohibition and risk assessment criteria.⁶⁷

However, some substantial discussions at CSP8 did take place in relation to arms transfers in the war in Ukraine. A series of statements called on states parties to refrain from exporting weapons to Russia, in response to its invasion of Ukraine, and stressed that such transfers would violate the prin-

⁶⁴ ATT Secretariat, 'Status of contributions to ATT budgets', Status at 31 Oct. 2022.

⁶⁵ Dladla, D., 'Arms Trade Treaty: Status of ATT finances', Presentation at the Arms Trade Treaty, CSP8, Geneva, 25 Aug. 2022.

⁶⁶ Control Arms, '8th conference of states parties to the Arms Trade Treaty: Daily summary analysis report—26 August 2022' (note 5); and Arms Trade Treaty, ATT/CSP8/2022/SEC/739/Conf.FinRep. Rev 2 (note 3), para. 36.

⁶⁷ See e.g. Republic of Panama, Permanent Mission to the United Nations, 'Punto de la agenda 10—Asistencia internacional' [Agenda item 10—International assistance], Statement by G. Rodríguez to the Arms Trade Treaty, CSP8, 25 Aug. 2022. See also Maletta and Bromley (note 61), p. 562.

ciples and provisions of the treaty. NGO representatives noted these calls positively, and also called for states parties to provide details on their arms transfer decisions concerning other conflict-affected recipients.⁶⁸

Further exchanges between states parties took place during CSP8 on post-shipment controls, and again, there were significantly differing views on the topic. This led to weaker language in the final report and no concrete recommendations beyond calling for more discussions on the issue. Future meetings of the DIEF, which became fully operational during CSP8, offer the opportunity for more substantial exchanges among states on how different types of post-shipment control measures can be used to prevent or mitigate the risk of diversion.

⁶⁸ See e.g. Arms Trade Treaty, CSP8, Control Arms, 'General statement' (note 24), p. 2.