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**ATT UNIVERSALIZATION TOOLKIT**

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## 1. Who is this toolkit designed for?

The Universalization Toolkit was developed by the Working Group on Treaty Universalization. The Toolkit is a living document designed to assist those wishing to promote universalization of the ATT – States, ATT office holders, civil society etc. The Toolkit is based on the decisions and recommendation of CSP4 as well as on information and experiences shared by States Parties during discussions and exchanges between States Parties that took place during meetings of the ATT Working Groups.

## 2. What is the ATT?

The Arms Trade Treaty (ATT) is an international treaty that regulates the international trade in conventional arms by establishing the highest international standards governing arms transfers and seeks to prevent and eradicate illicit trade and diversion of conventional arms.

The object of the Treaty as outlined in Article 1 is to:

- Establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms;
- Prevent and eradicate the illicit trade in conventional arms and prevent their diversion;

for the purpose of:

- Contributing to international and regional peace, security and stability;
- Reducing human suffering;
- Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.

“This marks the opening of a new chapter in our collective efforts to bring responsibility, accountability and transparency to the global arms trade.” —Ban Ki Moon<sup>1</sup>

The ATT contributes to international and regional peace, security and stability, reducing human suffering, and promoting cooperation, transparency and responsible action.

### 2.1 Why was the Treaty adopted?

The ATT was adopted because UN member States recognized that

‘the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor to conflict, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development’ (paragraph 9 of resolution 61/89 *Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*).<sup>2</sup>

### 2.2 Adoption and entry into force

The Treaty was adopted by a UN General Assembly Resolution on 02 April 2013 and entered into force on 24 December 2014, becoming the first global, legally binding treaty governing conventional arms transfers.

<sup>1</sup> Statement by the Secretary-General on the entry into force of the Arms Trade Treaty on 23 December 2014.

<<https://www.un.org/sg/en/content/sg/statement/2014-12-23/statement-secretary-general-entry-force-arms-trade-treaty>>

<sup>2</sup> UN resolution adopted by the General Assembly on 18 December 2006, A/RES/61/89, Sixty-first session, Agenda item 90

<[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/61/89&Lang=E](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/61/89&Lang=E)>

## 2.3 How many States have joined the ATT?

At this stage, more than 100 States have become States Parties to the Treaty and others have signed the Treaty but not yet ratified it.

Up to date information on the status of participation in the ATT, including a regional overview, is available on the ATT website at: <https://www.thearmstradetreaty.org/treaty-status.html?templateId=209883>

## 3. Why is universalization of the ATT important?

Article 17 (4) of the Treaty outlines what Conferences of State Parties must consider at its formal sessions. Article 17(4) (b) specifically provides that the Conference of States Parties shall “consider and adopt recommendations regarding the implementation and operation of this Treaty, in particular the promotion of its universality”. The Treaty, through its text, as quoted, identifies the promotion of Treaty universality as a critical element deserving of consideration by the Conference of States Parties. In fact, universalization of the Treaty is such a priority that CSP3 established a Working Group on Treaty Universalization (WGTU), mandated to promote universalization of the Treaty and to ‘develop specific activities and targets to realise the Treaty universalization objectives’.

‘Universalization’ of the Treaty involves expanding the membership of the Treaty to ensure there are as many States Parties as possible. Although the notion of universalization is not defined in the text of the Treaty, it can be operationalized to mean expanding the Treaty’s jurisdiction. It is important to have as many States join the ATT as possible because an international regulatory system only works if enough States subscribe to it. There is little point having a few conscientious exporters assess the risks involved in arms transfers; illicit arms could still be sourced where controls are not in place.

In practice, there are only a handful of treaties or conventions that *all* States are party to. So how many or what type of States do we need to achieve ‘universalization’ in the ATT context? In June 2018, the ATT Secretariat analysed how many of the top 50 arms exporters and importers are part of the Treaty. The findings were that most of the top exporters have joined the Treaty - 73% of the world’s top exporters, covering 71% of arms exports are either States Parties or Signatories. Only 53% of the top importers, covering 36% of arms imports, are States Parties or Signatories. There is still work to be done on universalization.

The tipping point may be when there are enough States that are part of the Treaty and are implementing the Treaty that a norm of adherence to Treaty principles – even by non-States Parties – emerges. Universalization is perhaps not a question of absolute numbers but rather a question of State behavior.

## 4. What are the benefits of joining the Treaty?

The object of the ATT, as set out in Article 1 (and section 1 of this document) entails positive consequences, which are laid out in the purpose of the Treaty. Joining the Treaty means becoming part of a global community implementing the provisions of the ATT; a community of States operating a well-regulated international trade in conventional arms, for the purposes set out in Article 1.

### 4.1 Transparency

The ATT promotes transparency through initial reports on implementation and annual reports on transfers, as well as voluntary information exchange.

The ATT offers States Parties the opportunity to open transparent channels of communication at the bilateral and multilateral levels. This helps to:

- identify issues of mutual interest;
- build confidence;
- collaborate in strengthening trade standards;
- facilitate assessments of treaty compliance;
- identify trends in arms transfers;
- offer insight into how States Parties implement the Treaty and identify best practices;
- facilitate international cooperation; and

- help pair resourced states with those in need of assistance.

At the same time, all nations have national security concerns. The ATT takes this into account by allowing States to exclude commercially sensitive or national security information from the annual reports and/or making their reports available to other States Parties only, not the public generally.

## 4.2 Peace and Security

### 4.2.1 HUMAN SECURITY

As recognized in the Preamble to the ATT, the illicit and unregulated trade in conventional arms has security, social, economic and humanitarian consequences.

Arms availability and misuse have direct and indirect impacts on human security in both conflict and non-conflict settings. Not only do they cause loss of life and injury, but they may lead to the displacement of civilians; restricted access to health services, education and food security; and psychological and economic consequences for victims and their families.

The accumulation and circulation of illicit arms and ammunition can prolong armed conflict and can continue to threaten civilians long into the post-conflict period.

The ATT can contribute to human security. Article 6(3) prevents States Parties from authorizing any transfer of conventional arms,

“if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party.”

### 4.2.2 NATIONAL SECURITY

The Treaty has a part to play in ensuring that available arms remain in the possession of responsible end-users and to diminish the supply of arms to criminal organisations.

The presence of illicit arms can pose a challenge to a state’s security sector and the ability of the armed forces and law-enforcement personnel to provide effective domestic security.

Treaty compliance can help identify gaps in existing national systems – allowing States to conduct a gap analysis and seek financial and technical assistance, if needed, to help close any gaps and ensure their national arms control system is robust and comprehensive.

The Treaty also clearly states that it does not apply to the international movement of arms by or on behalf of a State Party for its use provided the arms remain under the State Party’s ownership. So transferring equipment to deployed troops does not constitute a ‘transfer’ under the Treaty and does not require a risk assessment, provided the arms are not retransferred (or left behind) after the mission in question.

### 4.2.3 REGIONAL SECURITY

The ATT can contribute to the prevention of cross-border illicit arms and ammunition flows, which in turn reduces the destabilizing effect conventional arms can have on regional security.

The Treaty also promotes cooperation, transparency and responsible joint action, and provides a framework for strengthening existing regional frameworks to combat diversion and the illicit trade.

## 4.3 Human Rights

With the inclusion of Articles 6 and 7, States Parties to the ATT are required to place international human rights law and international humanitarian law at the centre of their arms transfer decisions. Under Article 7, States Parties must apply the risk assessment criteria before authorizing any transfer of, at a minimum, conventional arms, ammunition, or parts and components covered under Articles 2(1), 3, and 4 of the Treaty, and deny the

proposed export where there is an “overriding risk” that the exported weapons could be used to commit or facilitate a serious violation of international human rights law or international humanitarian law.

The ATT reinforces international human rights law and enhances it by bringing it into the risk-assessment process, helping ensure that international human rights standards are respected, implemented and enforced in the conventional arms trade.

The Treaty also places an emphasis on the negative impact of conflict and armed violence women and children, by explicitly highlighting the issue of gender-based violence in the risk-assessment criteria (See Article 7(4)).

#### 4.4 Sustainable development

The ATT can have a role to play in the achievement of Sustainable Development Goal (SDG) 16.4 (to ‘significantly reduce illicit financial and arms flows’ by 2030); SDG 5.2 (to eliminate all forms of violence against women and girls); and SDG 11 (aims to make cities safe, inclusive, resilient and sustainable). Consideration of *how* implementation of the ATT can help support and enhance implementation of the SDGs is a cross-cutting issue that all the ATT Working Groups are tasked to incorporate in their deliberations.

The Treaty’s provisions on transparency, record-keeping and reporting, information sharing, and international assistance will also contribute to Target 16.a of the SDGs, which seeks to “strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime”.

#### 4.5 Regulating Trade and Enhancing Trade Standards

The ATT seeks to create a global standard and to ensure all transfers are subject to the same risk-assessment criteria. In establishing an international trade standard and compliance framework, the ATT helps create a level playing field in the arms trade.

Industry members have expressed support for the ATT for this very reason. They see it as a potential means of ensuring that new, emerging manufacturers and exporters will be subject to the same regulatory standards that many existing and long-standing exporting States are subject to.

Companies are increasingly conscious of their public image and are taking an increasingly human security-centred approach to their dealings; the ATT offers an opportunity to enhance this.

#### 4.6 Synergies with other instruments

The ATT supports and complements other regional and international arms control instruments, such as the UN Programme of Action on Small Arms and the Firearms Protocol.

### 5. What are the challenges States face in joining the Treaty?

The following is a non-exhaustive list of challenges to Treaty universalization identified by the Co-Chairs of the Working Group on Treaty Universalization (WGTU) and annexed to the [Work Plan for the CSP4 Preparatory Meetings](#) (see Annex A, ATT/CSP4.WGTU/2018/CHAIR/249/M1.WorkPlan):

1. Raising political awareness toward ratification.
2. Prioritizing the ATT among the priority list of the Government or Parliament.
3. Gaining understanding of the ATT, or alleviating skepticism toward it.
  - 3.1 Misconceptions about the object and purpose of the Treaty.
  - 3.2 Skepticism, in particular, by relevant Ministries.
4. Domestic situations, be it political or security.
  - 4.1 General elections.
  - 4.2 Gun lobby.

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- 4.3 Conflicts, etc.
  - 5. Regional security situations.
  - 6. Accelerating the pace of domestic procedures for ratification.
    - 6.1 It takes time for the Government to evaluate the implications of the Treaty obligations on the existing domestic systems/laws.
    - 6.2 Preparing necessary domestic laws also takes time.
    - 6.3 Good coordination among Ministries or between the Government and the Parliament is necessary.
    - 6.4 Rotation of government officials is not conducive.
  - 7. Building capacity.
    - 7.1 Human resources or expertise (to implement the Treaty).
    - 7.2 Financial resources (to fulfil financial obligations).
  - 8. Reporting obligations.
    - 8.1 Hesitation in transparency measures in general. Reporting is too detailed.
    - 8.2 Items to be reported are sensitive for national security.
    - 8.3 Reporting fatigue.
  - 9. Awaiting others to ratify (neighboring states, major exporters and importers, etc.).
  - 10. Overcoming different views on the result of the ATT negotiation, including the text.
    - 10.1 Adoption of the Treaty by a vote.
    - 10.2 Existence or non-existence of particular obligations in the Treaty.

## 6. Frequently asked questions

### 6.1 What difference is the Treaty making in the global arms trade?

'States Parties are increasingly referencing the ATT in their public communication regarding arms transfer decisions. Similarly, civil society and the media are increasingly calling on States Parties to account for transfer decisions in light of the ATT provisions. The ATT is becoming part of the rhetoric – and indeed the benchmark – during deliberations on whether certain arms transfers are 'responsible' or not. While it may be too soon to judge the full, practical impact of the ATT, there is clear evidence to suggest some States Parties are restricting exports on the basis of ATT criteria, and others are facing serious political pressure to do so.

### 6.2 What about countries that have not yet joined the Treaty?

The ATT is a relatively young Treaty. Nevertheless, in just over four (4) years since it entered into force, the ATT already has over 100 States Parties, and has one of the fastest rates of ratification/participation of any disarmament Treaty.

There are a number of States that have signed the Treaty, demonstrating their commitment to join the Treaty and obliging them to refrain, in good faith, from acts that would defeat the object and the purpose of the Treaty (Arts.10 and 18, Vienna Convention on the Law of Treaties 1969).

A number of other States that have not yet joined the Treaty have expressed their desire to become States Parties and are in the process of acceding to the Treaty. Signing the Treaty is no longer an option following entry into force of the Treaty in December 2014.

As the Treaty gathers momentum and a sufficient number of States become States Parties and implement the Treaty's provisions, even States that are not part of the Treaty may feel pressure to adhere to the principles of the Treaty as it establishes a global standard for 'responsible' arms transfers.

## 6.3 What is the scope of the Treaty?

The ATT regulates certain types of transfers of certain categories of arms.

### 6.3.1 What types of arms are covered by the ATT?

The ATT regulates the international trade in the following categories of conventional arms (see Article 2(1)):

- 1) Battle tanks;
- 2) Armoured combat vehicles;
- 3) Large-calibre artillery systems;
- 4) Combat aircraft;
- 5) Attack helicopters;
- 6) Warships;
- 7) Missiles and missile launchers; and
- 8) Small arms and light weapons.

The ATT also applies to the export of ammunition/munitions fired, launched or delivered by the conventional arms listed above, as well as parts and components where the export is in a form that provides the capability to assemble the conventional arms listed above (see Articles 3 and 4).

### 6.3.2 What types of transfers are covered by the ATT?

The ATT regulates the following types of transactions (see Article 2(2)):

- export ;
- import;
- transit and trans-shipment; and
- brokering.

The Treaty does not apply to the international movement of conventional arms by, or on behalf of, a State Party for its use provided that the conventional arms remain under that State Party's ownership (see Article 2(3)).

In addition, the ATT recognizes the 'legitimate interests of States to acquire conventional arms to exercise their right to self-defence and for peacekeeping operations' (paragraph 7, Principles of the ATT).

## 6.4 How can we be sure that States Parties respect their commitments?

The reporting requirements under the ATT help to track States' implementation of their commitments under the Treaty. Each State Party is required to submit an Initial Report on its implementation efforts within the first year of becoming a State Party, and to update its Initial Report on an *ad hoc* basis when new implementation measures are taken.

In addition, the ATT Secretariat keeps a record of States Parties' compliance with certain Treaty commitments, including: payment of financial contributions; submission of information on national control lists (Article 5); national competent authorities (Article 5); national points of contact (Article 5); and the submission of Initial and Annual Reports (Article 13). This information is made available on the ATT website, though some is only available to States Parties.

Civil society also plays a role in monitoring States Parties' implementation of their Treaty commitments. The media is also increasingly calling into question States Parties' transfer decisions in light of their ATT commitments.

The ATT does not include a formal review mechanism to monitor each State's performance and promote compliance (such peer review, expert review or an oversight body).

## 6.5 Does the Treaty prevent States from importing weapons?

Article 6 of the ATT prohibits transfers (including imports) of conventional arms, ammunition/munitions and parts and components if the transfer would violate specified international obligations, or if the State Party has knowledge that the transferred weapons would be used to commit genocide, crimes against humanity or war



crimes. So the Treaty does prevent (or prohibit) States Parties from importing weapons in certain circumstances (and it prevents or prohibits a State Party from *exporting* to a State in certain circumstances).

If a proposed import/transfer of conventional arms, ammunition or parts and components is not prohibited under Article 6, then if the exporting State is a State Party to the ATT, it is required to carry out a further assessment under Article 7 of the risk that the arms or items “could be used to commit or facilitate” serious violations of IHL or of international human rights law; an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party; or an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party. If the exporting State determines that there is an ‘overriding risk’ of any of the negative consequences in Article 7(1), then it must not authorize the export and the importing State will not be able to import the arms or items sought. It does not make a difference whether or not the importing State is a State Party to the ATT. The exporting State, as a State Party to the ATT, is required to deny the export if the export assessment identifies an ‘overriding risk’, *regardless* of who the importer or end-user is.

In summary, the ATT may impact a State’s ability to import conventional arms if it is determined that the weapons will or may be used in a particular way by the importing State or end-user. But this has more to do with whether the exporting State is a State Party to the ATT and is required to apply the provisions of Articles 6 and 7 than whether the *importing* State is a State Party to the Treaty.

## 6.6 What role do Civil Society Organizations play in treaty implementation?

Civil society is actively engaged on universalization and implementation of the ATT. Civil society organisations continue to sustain targeted activities at national and regional levels in support of universalization, with the objective of providing targeted advocacy and information sharing as well as public pressure to maintain political prioritization of the Treaty. Civil society activities include:

- Providing 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.
- Developing policy resources on specific arms-control areas, such as reducing diversion to terrorism, and linkages with other instruments.
- Supporting and organising regional seminars or conferences for relevant officials, experts and NGOs focused on technical assistance and support for effective Treaty implementation.
- Building the network of researchers and academics who provide support to the Treaty’s legislative and implementation processes.
- Supporting awareness-raising activities to encourage the public to get more actively involved in calling for national accession and effective implementation.
- Monitoring States’ Parties implementation of and compliance with their obligations under the Treaty.

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