

## **Taking Stock of the Arms Trade Treaty (ATT)**

A synopsis prepared for CSP8 by Germany in co-operation with Control Arms, SIPRI, and The Stimson Center

In September 2021, at the Seventh Conference of States Parties (CSP7) of the Arms Trade Treaty (ATT), Germany announced three main priorities for its presidency during the ATT CSP8 cycle: a) post-shipment controls, b), universalization of the ATT and c) stock-taking of what has been achieved and, even more importantly, what remains to be done in the process of implementation of the ATT, notably regarding States Parties' reporting.

With regard to stock-taking, Germany sponsored projects of three renowned think tanks and civil society organizations respectively – Control Arms (New York, USA), SIPRI (Stockholm, Sweden), and The Stimson Center (Washington, D.C., USA). The key findings of the projects, their analyses and results, including recommendations for the States Parties of the ATT, are presented in this paper to CSP8. It might be considered as an impulse to start an exchange that may run in parallel to the following CSP cycle, in support of and contributing to reflections on the ATT, in the tenth year of its adoption.

We hope the projects' findings and recommendations will be useful for ATT States Parties as well as for think tanks and civil society organizations interested in the ATT. At the same time, Germany would like to highlight and acknowledge the valuable work done by think tanks and civil society in order to support the ATT's presidencies, the work of the CSPs, and overall treaty implementation.

### **Project: "The First Six Years – Taking Stock of the Arms Trade Treaty" by SIPRI**

SIPRI conducted a stocktaking exercise on the Arms Trade Treaty (ATT) to explore the content, functioning and implementation of the treaty, generate new ideas, and offer some policy options that could strengthen the treaty and its implementation. SIPRI's work focused on five aspects of the ATT: scope, prohibitions and risk-assessment criteria, processes and forums, universalization, and implementation assistance. Key findings from SIPRI's stocktaking exercise include:

1. *Scope.* A key challenge is the alignment of the minimum categories of conventional arms covered by the ATT with the categories used in the United Nations Register of Conventional Arms (UNROCA) at the time of the treaty's entry into force. UNROCA and other arms control instruments that are used as a basis for national control systems have mechanisms through which they can be updated to account for developments in the field of conventional arms. Article 17(4) of the ATT provides for the Conference of States Parties (CSP) to review the implementation of the treaty, including developments in the field of conventional arms. In order to address this issue:

- The CSP should explore options to review and adjust the scope of the ATT. This could include conducting a review of states parties' national control lists and holding a regular exchange of views on the scope of the treaty.

2. *Prohibitions and risk-assessment criteria.* Three key challenges are language ambiguities, difficulties in interpreting and applying key terms, and a lack of substantive discussions on sensitive issues related to export licensing decision making. In order to address these issues:

- The sub-working group on articles 6 and 7 should ensure that its interpretative work is grounded in already available guidance and research.
- The sub-working group on articles 6 and 7 could promote discussions on concrete case studies involving non-contentious issues to make exchanges more substantial but also relevant to all states.
- During relevant discussions at the sub-working group level, informal preparatory meetings or CSPs, states parties could address more substantial aspects related to the implementation of articles 6 and 7 that are generally perceived as sensitive but that are already being discussed in public settings (e.g. in statements, interventions at side events, national reports).

3. *Processes and forums.* The main challenges are to ensure that ATT meetings are efficient and inclusive, that the broader ATT process has sufficient financial resources, and that the focus of the CSPs can shift from procedural questions to issues of implementation. The Covid-19 pandemic resulted in challenges for the treaty's processes and forums, but also provided new opportunities to ensure more inclusivity among stakeholders. In order to address these challenges:

- States parties and ATT stakeholders can make processes and forums more effective and inclusive by increasing the participation of technical experts, by using hybrid and virtual meetings, and by finding ways in which new bodies like the Diversion Information Exchange Forum (DIEF) can enable discussions on sensitive topics.
- States, research institutions and non-governmental organizations should work jointly to promote continuous dialogue and reflection in order to ensure the implementation of recommendations made under thematic discussions, such as the work of the German presidency on post-shipment controls during CSP-8.

4. *Universalization.* In some cases, lack of political will and of relevant capacity to implement the ATT, as well as procedural and bureaucratic hurdles in processes leading to treaty accession, remain among the main obstacles to ATT universalization. To promote the universalization of the treaty:

- States parties should continue to financially contribute to programs and instruments which provide outreach and assistance to both states parties and non-states parties.
- Actors involved in the implementation of these programs (states, international and regional organizations, among others) should adopt the good outreach practices that have been developed so far (e.g. the inclusion of officials, industry representatives, parliamentarians and national NGOs; involving countries at different stages of ATT implementation; and making materials available in multiple languages).

- The Working Group on Treaty Universalization should adopt a work plan to set benchmarks, build on previous work and avoid duplications.

5. *Implementation assistance.* Key challenges concerning the provision of ATT-related implementation assistance include the coordination of efforts, identifying the right expertise and measuring the results achieved. To address these challenges:

- States should use all available and prospective tools (e.g. the future assistance database to be developed by the Secretariat) to coordinate assistance efforts.
- States should update their initial report using the new template adopted at CSP7 which allows them to provide some more disaggregated details on the assistance that they need or can offer.
- The CSP should resume sessions on international assistance, which were cut during the pandemic, and focus discussions on specific regional or thematic issues to make exchanges more engaging.

<https://www.sipri.org/publications/2021/other-publications/taking-stock-arms-trade-treaty-achievements-challenges-and-ways-forward>

**Project: “The Arms Trade Treaty - Looking back to Move Ahead” by ATT Monitor (Control Arms)**

Transparency in arms transfers is a central component of the Arms Trade Treaty (ATT) and fundamental to achieving its goals and objectives. The object and purpose of the ATT itself cannot be fulfilled in the absence of transparency among states trading in arms, and - transparency more broadly is central to the effective implementation of the ATT’s operative articles.

In the context of the above-mentioned project, the ATT Monitor assessed and analyzed reporting practices and arms transfers trends in annual reports submitted by States Parties to the ATT Secretariat. In this evaluation, the ATT Monitor sought to determine whether reporting to the ATT had lived up to the promise and requirements of the Treaty.

To achieve that objective, the ATT Monitor established specific criteria upon which these reports were assessed and it undertook distinct evaluation exercises to distinguish between Treaty obligations (Article 13.3 reporting requirements), the minimum amount of information the ATT Monitor determined is needed for reports to be meaningfully transparent and to fulfil the transparency aims and objectives of the Treaty and additional information that, when provided, can contribute to a higher standard of transparency.

The analysis presented a series of worrying trends. Declining rates of compliance with ATT reporting obligations and increasing rates of private reporting are undermining overall transparency in the global arms trade. Between 2015 and 2019, less than half of States Parties fulfilled all their ATT annual reporting requirements, set out in Art. 13.3, in any given year. Low on-time reporting rates explain lower percentage of compliance. Of particular concern is a group of 28 States Parties that were required to submit reports and have not done so in any year during that period.

Another concerning trend is the decline in the percentage of annual reports that contribute positively to the transparency aims and objectives of the ATT by going beyond what is required by the ATT. In the first five years of annual reports submissions, the percentage of States Parties that submitted meaningfully transparent reports fell from 46 per cent to 30 per cent. Overall, only 25 States Parties have submitted a meaningfully transparent report every year one was due and have consistently demonstrated commitments to transparency.

The number of States Parties that went above and beyond the minimum amount of information (by providing, for example, descriptions and/or comments on their transfers or indicating if any information has been withheld) is even lower. Only 8 States Parties have consistently complied with Article 13.3 reporting obligations, provided information in annual reports that goes beyond the minimum information needed in order to contribute to the aims and objectives of the ATT in Article 1, and provided information that supports a higher standard of transparency.

Building on the findings of that research, the ATT Monitor examined ATT annual reporting practices and gaps in reported arms transfers in the context of two humanitarian crises. It found that many ATT annual reports contain information that goes beyond what is required by the ATT (for example comments and descriptions), all of which contribute to improving transparency in the global arms trade. However, in the context of the humanitarian crises of Yemen and Myanmar, the research reveals that information on reported arms transfers to the Saudi-led Coalition and Myanmar's military had been less transparent.

Comparing the information reported by States Parties to the ATT, the UN Register of Conventional Arms (UNROCA) and public sources, such as the SIPRI Arms Transfers Database, 4 potential gaps were identified, all of which could explain this deficit in transparency: (1) different interpretations of the scope of weapons covered by the ATT; (2) the exclusion of arms transfers information based on national security or commercial sensitivity reasons; (3) the omission of arms transfers descriptions; and (4) the wholesale exclusion of certain arms transfers in publicly available ATT annual reports.

Based on these findings it seems evident that the Arms Trade Treaty has yet to live up to its full potential and to its objective of reducing human suffering and promoting transparency. Therefore, in making progress towards greater transparency in the global arms trade it is recommended that:

- States Parties should submit publicly available annual reports according to the obligations set out in Art. 13.3. States Parties should be encouraged to submit reports even if they are late beyond the regular annual reporting cycle as well as the submission of 'nil' reports, as they also contribute to improving transparency in the arms trade.
- States Parties should go beyond what is required by the Treaty and prioritize the aims and objectives of the ATT. By providing disaggregated information on their arms transfers, including comments and descriptions on end-use and end-user(s), States Parties may help to ease fears of destabilizing arms accumulations, prevent potential arms races, and demonstrate they are also fulfilling the risk assessment requirements in Articles 6 and 7.

- The Working Group on Transparency and Reporting (WGTR) supported by the ATT Secretariat should continue supporting national capacities to improve ATT reporting practices and promote the much-desired transparency goal in the arms trade.
- The work developed by the ATT Monitor, Stimson Center’s ATT-BAP project or SIPRI should continue providing opportune platforms to keep States Parties accountable to their obligations.

<https://attmonitor.org/en/looking-back-to-move-forward/>

### **Project: “Taking Stock of ATT Reporting” by The Stimson Center**

In taking stock of the first six years of ATT initial and annual reporting, three main transparency issues are apparent. The first is a lack of universal compliance with the treaty’s initial and annual reporting requirements. Of the 110 States Parties due to submit initial reports on treaty implementation, only 78 percent have done so, and most of those that have not yet reported are several years past their reporting deadline. All States Parties are required to provide updates on their implementation measures, but only six have provided the Secretariat with updated initial reports. Of the 105 States Parties that have been required to submit at least one annual report over the last six years, only 71 percent have done so, while nearly a third have yet to submit a single required annual report. The percentage of States Parties fulfilling their annual reporting obligations has declined over the past six years, dropping from 84 percent for 2015 annual reports to a record-low 60 percent for 2020 annual reports.

A second transparency challenge is the marked increase in the submission of private initial and annual reports, which are available only to other States Parties and the ATT Secretariat. While all of the first 25 initial reports submitted are publicly available, 64 percent of the 25 most recently submitted initial reports are private. In total, nearly a quarter of all initial reports are private. Similarly, while just 4 percent of 2015 annual reports are private, 32 percent of those submitted for 2020 are private. This trend is due not only to first-time reporters electing to submit private reports but also to States Parties that have shifted from public to private reporting. In total, 18 percent of all of the annual reports submitted to date are private.

A third transparency issue is that insights provided by initial and annual reports are limited by information that is outdated, withheld or otherwise omitted, or aggregated. Many initial reports contain outdated information, less detailed information than other publicly available reports, or aggregated, withheld, or omitted information, including the number or value of weapons imported or exported, the importing or exporting State, and whether the information contained within the report reflects actual or authorized transfers.

Despite efforts to minimize the challenges posed by ATT reporting, many States Parties continue to face obstacles to fulfilling their ATT reporting requirements. In a survey conducted by Stimson and the Stockholm International Peace Research Institute (SIPRI), nearly two-thirds of the 34 responding States Parties said they have faced challenges in preparing their ATT reports. The survey identified four types of challenges. First is a lack of awareness and understanding of ATT obligations, including uncertainties about what, how, and when to report, which poses obvious challenges to fulfilling the treaty’s reporting requirements.

Second, many States Parties face capacity and resource challenges and have described the negative impacts that limited time, personnel, and/or information management systems have had on their reporting efforts. Third are internal and bureaucratic challenges, including poor coordination across government offices or agencies as well as difficulties accessing, compiling, and assessing relevant information. Fourth, States Parties have described facing political and security challenges, including reporting efforts hampered by competing government priorities or by security concerns around what information is shared and with whom.

There are a number of steps that can be taken by governments, the ATT Secretariat, and the Working Group on Transparency and Reporting to help States Parties overcome barriers to reporting. It is recommended that States Parties:

- Ensure that systems are in place to facilitate effective intragovernmental coordination – including points of contact, interagency coordination mechanisms, and an interagency submission calendar.
- Employ robust record-keeping and database management systems and practices for streamlined information sharing.
- Identify and leverage synergies across reporting frameworks to ease ATT reporting burdens.
- Review submitted reports to ensure that they are accurate, up-to-date, and properly classified as public vs. private. If States Parties detect any discrepancies, outdated information, or private reports that they wish to make public, they should notify the Secretariat and submit an updated report.

Additionally, the Working Group on Transparency and Reporting, ATT Secretariat, and other stakeholders could:

- Undertake coordinated outreach with non-reporting States Parties as well as with those that have shifted from public to private reporting. This outreach should seek to investigate and identify obstacles to consistent, transparent reporting and implement targeted and tangible solutions.
- Monitor reporting patterns and experiences over the coming years to evaluate the use and impact of the revised recommended reporting templates.
- Develop and support a peer review processes for initial and annual reports.
- Develop a comprehensive, public, and searchable database of initial and annual report responses to enhance efforts to analyze arms flows and identify gaps and trends in treaty implementation.

<https://www.stimson.org/2022/taking-stock-of-the-arms-trade-treaty/>