

# Breaking New Ground?

## THE ARMS TRADE TREATY

'[T]he world has decided to finally put an end to the free-for-all nature of international weapons transfers', UN Secretary-General Ban Ki-moon asserted when the Arms Trade Treaty (ATT) opened for signature on 3 June 2013. The central aim of the treaty is to establish the highest possible common international standards to regulate the international trade in conventional arms.

To date, UN member states have demonstrated broad support for the ATT, suggesting that they see it as a game changer. But as the excitement following the adoption subsides, the question becomes: what does the ATT do and what will it change?

The negotiation of the ATT was a complex and ambitious undertaking. The process aimed to reconcile humanitarian objectives with commercial and security considerations in a disarmament forum, while balancing the interests of arms suppliers and recipients alike. The ATT is, inevitably, an imperfect document that reflects the compromises necessary to achieve agreement.

### ATT impact will depend on more than words on a page.

The question of what difference the ATT will make in practice depends on the extent to which states apply the treaty's obligations and recommendations. A willingness to implement the treaty is apparent from the number of states that have already started the process of reviewing their existing national frameworks to determine what needs to be done to comply with the ATT; in some instances, states are already translating the ATT into national legislation. Furthermore, many states have expressed an intention to take a progressive approach to their interpretation of the treaty, noting that it creates a 'floor, not a ceiling'.

The ATT has raised awareness of the importance of transfer controls and opened up discussions on and scrutiny of the arms trade. The participation of non-exporting states in a global regulatory system—which the ATT offers—means that those that have traditionally not been in the exporters 'club' but that more frequently experience the adverse effects of irresponsible arms transfers will have a legitimate forum in which to raise their concerns and work to improve ATT standards.

That said, the ATT also has the potential to detract attention from ongoing processes, such as the UN Programme of Action and the Firearms Protocol, as states turn their focus—and donors turn their wallets—to ATT implementation and compliance. There are many overlaps and opportunities for synergies between the ATT and these existing processes, but there is also a danger that UN member states will perceive the ATT as replacing, or at least taking priority over, implementation of other commitments.

This chapter evaluates the standards established by the treaty and considers what its provisions mean for arms transfer practices. It reviews the provisions of the ATT, situates the treaty within the current arms transfer control framework, and assesses its potential impact on state practice.

Its main conclusions include:

- The compromises necessary for agreement on the treaty text have left the ATT with few unqualified legal obligations.
- The ATT covers a broad range of transfer-related activities, as well as items, but an absence of definitions and a lack of prescriptive detail may result in uneven and inconsistent implementation.
- The ATT makes a significant contribution to existing legal frameworks by introducing new standards for the international transfer of conventional arms. These gains are, however, more modest in comparison with existing small arms control measures.



Anna Macdonald, head of the Control Arms campaign, addresses a press conference at the opening for signatures of the ATT, New York, 3 June 2012. © Evan Schneider/UN Photo



John Kerry, US Secretary of State, signs the ATT, New York, 25 September 2013. © Spencer Platt/Getty Images

- Given the universal scope of the treaty, non-exporting states have been and will continue to be involved in ATT-related arms transfer discussions as well as in the development of global norms to curb irresponsible arms transfers.
- The ATT process has raised the level of attention and scrutiny given to this issue at the global level and will undoubtedly continue to do so. This trend, in turn, has the potential to change state behaviour.

The process towards an ATT has demonstrated impressive political momentum among states and civil society alike. The perceived success of that process can be expected to have positive political effects. The ATT has already had an impact on the level of awareness of, and attention to, arms transfer decisions. Whether it translates into more responsible decision-making in the longer term, and fewer arms deliveries into the wrong hands, depends on several factors, including states' long-term commitment to converting words on paper into concrete action.

The ATT cannot be expected to stop all arms exports that breach treaty norms. But it does promise greater scrutiny of arms transfer decisions by the international community. It has provided a universal benchmark against which all transfer decisions will be assessed and a framework within which all states can engage on the issue of responsible arms transfers. The ATT negotiations and the implementation process that is just beginning have shone a light on an issue routinely considered a matter of 'national security'. Until now. ■