



Arms Trade Treaty Implementation Toolkit

Module 1

Why Join the Arms Trade Treaty?

Available on: www.un.org/disarmament/ATT

I. Introduction

The landmark Arms Trade Treaty (ATT) – adopted in 2013 by an overwhelming majority in the General Assembly – delivers on the call to establish international norms for the conventional arms trade.

Unregulated and irresponsible arms transfers intensify and prolong conflict, lead to regional instability, facilitate human rights abuses on a massive scale, and hinder social and economic development.

The ATT is designed to stop such transfers and to promote responsibility, transparency and accountability in the global arms trade. It will therefore contribute to reducing the suffering of millions of civilians who are affected by armed conflict and violence.

Moreover, the ATT will create a safer environment for the United Nations and other organizations to carry out humanitarian assistance, peacekeeping, post-conflict peacebuilding, and to attain globally agreed development goals. This is to the benefit of all countries and all people, providing pressing reasons for all States to join this Treaty.

The ATT is largely a normative Treaty that seeks to promote appropriate governmental regulation of the cross-border trade of conventional arms. States Parties to the ATT will need to ensure that they have the necessary administrative, financial and technical resources for the implementation of the Treaty. ATT implementation actions may include adopting adequate legislation, setting up arms export control systems, establishing oversight processes, and improving the management of stockpiles. To this effect, it is envisaged that there will be considerable assistance available, including through the UN, to help States Parties build such capacity.

National conditions vary from country to country. The specifics of how the ATT will be implemented in a country will depend on the country's national institution and legal framework. The ATT does not establish a system of international enforcement, monitoring or verification. So States Parties are themselves in charge of their national implementation efforts.

This toolkit can assist States Parties as well as other States that want to abide by the ATT. The toolkit is a set of modules based on good practices and UN standards and guidelines, from which authorities can choose what applies best to their context.

This first module explains the value of joining the ATT.

II. Ten compelling reasons for any country to join the ATT

1. *Strengthening international law*

An effective international law regime is dependent on as many States as possible joining key legally binding commitments.

- States have founded the UN “to save succeeding generations from the scourge of war”, “to reaffirm faith in fundamental human rights”, “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”, and “to promote social progress and better standards of life in larger freedom”.
- The ATT was adopted by the UN General Assembly, in which all the UN Member States have an equal voice – illustrating that each one of them also has an equal responsibility to contribute to the strengthening of international law.

2. *Understanding that in all regions weapons cross borders and instability can spread*

Some government officials maintain that their States do not export weapons, and/or that crisis and conflict are not on their doorstep – thus the ATT is “not really meant” for their country. Although point 1. (above) should already be seen as enough of a rebuttal to that argument, there is more to be said to this: the global arms trade does affect all people of the world.

- Many countries export, at some point, some weaponry – for instance to-be-replaced police rifles, or surplus ammunition. These occasional exports can have a serious negative impact when not based on an export approval decision in conformity with internationally agreed standards.
- Sustained, decade-on-decade peace and stability are rare commodities in the world. In 2015, only 41 countries received either the label ‘stable’, ‘more stable’, ‘sustainable’, or ‘very sustainable’.¹ An area which at present seems calm and safe, may see a sudden outpouring of instability in the future, underlining the necessity of adequate regulation of arms flows closer to home for all its neighbours.
- In short: joining the landmark ATT – which enables a comprehensive regulation of the arms trade benefitting regional stability – should be in the interest of each State on every continent.

¹ Fragile States Index 2015, see: fsi.fundforpeace.org.

3. Contributing to international security

Abiding by the ATT contributes to international and regional peace, security and stability.

- The ATT acknowledges that weapons transfers can destabilise a country or region. States Parties are prohibited from exporting conventional arms, ammunition or key parts and components when there is such a risk.² For instance, governments shall not authorize a transfer of items if this would:
 - Violate a UN Security Council arms embargo;
 - Violate relevant international obligations under international agreements to which they are a party;
 - Be used in genocide, grave breaches of the law of war (the Geneva Conventions of 1949), attacks against civilians, or war crimes.

- A rigorous application of the ATT provisions (including export prohibitions,³ export assessment,⁴ regulation of imports,⁵ brokering⁶ and transit / trans-shipment⁷ as well as prevention of diversion of weapons⁸) would contribute to reducing flows of items to:
 - Areas under Security Council arms embargoes;
 - Conflict zones and areas of high tension or volatility;
 - Governments engaging in systematic human rights abuses;
 - Terrorists and transnational crime organizations.

- Reduced conflict and enhanced stability imply fewer humanitarian crises. Such crises often translate in massive displacement of people and refugee flows, with serious consequences for many countries in a region.

- Political stability provides a better environment for social and economic development. It also implies a diminished need for governments to divert scarce resources towards military spending.

- All countries in a region – and beyond – will benefit from increased stability.

² Article 4 requires States Parties to regulate the exports of parts and components where the exports are in a form that provide the capability to assemble the arms covered by the Treaty. For purposes of these guidelines, conventional arms, ammunition and parts and components (as defined in the Article 4) will be henceforth referred to as “items” or “covered items”.

³ Article 6.

⁴ Article 7.

⁵ Article 8.

⁶ Article 10.

⁷ Article 9.

⁸ Article 11.

4. *Enhanced domestic security*

Improved arms regulation reduces the risk that weapons and ammunition will reach the hands of criminal gangs and armed groups. This translates into an improved domestic security situation, less opportunity for armed violence, and more safety for civilians.

- Article 8 (2) stipulates that measures to regulate imports of items should be taken “where necessary”. Depending on the specific circumstances of the importing country, regulation of imports may be needed to ensure better control and accounting of weapons coming into any territory under the importing country’s jurisdiction.
- In addition, the importing State Party will have to ensure that it has in place mechanisms to prevent imported items from being diverted to uses that would contravene the stipulations of the Treaty’s Article 6 (prohibitions) and/or Article 7 (export and export assessment). A State Party must ensure that imported items do not end up in the hands of individuals or entities engaging in organized crime, terrorism, serious violations of international humanitarian or human rights law, and gender-based violence.
- Although Article 11 on “diversion” makes explicit reference only to the conventional arms covered under Article 2 (scope), this does not prevent States Parties from adopting measures aimed at preventing diversion of ammunition and key parts and components.

5. *Stronger institutions*

Investment in capacity-building for the effective regulation and control of conventional arms should be a priority for national legislative bodies – even in countries facing severe human and financial constraints and seized with pressing social and economic development challenges.

- A State’s participation in the ATT would give government officials a compelling argument in efforts to mobilise national support for investing in arms regulation and control, as required for compliance with the legal obligations imposed by the ATT.
- Such capacity-building may entail:
 - Establishing effective national controls for the import and export of items, including keeping up-to-date records and national control lists, and developing or improving relevant laws, policies and procedures;
 - Establishing a system for controlling transit and trans-shipment. This could be part of the national control system mentioned above;
 - Regulating arms brokering;
 - Adopting measures to ensure the authenticity of documents (e.g., end-use/user certificates, licences and other documentation) and to prevent their forgery;
 - Setting up or improving systems for data collection and information gathering so as to enable the State Party to respond to queries from other States Parties in a timely manner;
 - Developing weapons marking and record-keeping capacity;
 - Improving the management of stockpiles of conventional arms and ammunition;
 - Developing adequate monitoring and enforcement capacity.

6. Access to international assistance

The ATT envisages different forms of assistance to help States Parties that lack sufficient resources and capacity to effectively implement the provisions of the Treaty.

- The Treaty stipulates that States Parties may seek the following:⁹
 - Legal or legislative assistance;
 - Institutional capacity-building;
 - Technical, material or financial assistance.

- Assistance can be sought or requested via:
 - The voluntary trust fund to be set up pursuant to Article 16 (3) of the Treaty;
 - The United Nations Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR);¹⁰
 - Other mechanisms within the UN;
 - International, regional, subregional or national organizations;
 - Non-governmental organizations;
 - Bilateral cooperation.

- Article 16 stipulates that States Parties in a position to do so shall provide assistance, upon request. Joining the ATT opens thus an opportunity for States Parties to set up an effective system for conventional arms regulation and control.

- To this end, a State Party requiring assistance should undertake an in-depth analysis of its needs and develop a well-crafted plan that make efficient use of the various assistance mechanisms to support the implementation of the ATT.¹¹

7. Opportunities for international cooperation

International cooperation, including sharing and exchange of information, is essential to prevent illicit or irresponsible transfers of covered items.

- The ATT encourages States Parties to cooperate with one another including through:
 - Exchange of information and consultation on matters of mutual interest;

⁹ Article 16.

¹⁰ UNSCAR was established in June 2013 as a multi-donor mechanism to fund projects aimed at supporting the implementation of the ATT and the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA). See: www.un.org/disarmament/UNSCAR

¹¹ In this regard, use can be made of available tools such as the ATT baseline assessment project (ATT-BAP), or the ATT model law. See: www.armstrade.info/; www.smallarmssurvey.org/fileadmin/docs/E-Co-Publications/SAS-NZ-Gov-Arms-Trade-Treaty-Model-Law.pdf

- Sharing of information regarding illicit activities and actors to prevent and eradicate diversion of arms;
 - Provision of the widest measure of assistance in investigations, prosecutions and judicial proceedings in relation to violations of national measures established pursuant to the ATT;
 - Cooperation to prevent arms transfers from becoming subject to corrupt practices;
 - Exchange of experience and information on lessons learnt.
- States Parties to the ATT can, therefore, make use of the international cooperation provisions set forth in the Treaty to:
- Strengthen national laws and systems for the regulation and control of conventional arms and ammunition;
 - Strengthen national capacity to prevent diversion of arms;
 - Carry out investigations, prosecutions and judicial proceeding;
 - Prevent and combat corruption;
 - Gather intelligence and access information and lessons learned obtained by other States.

8. Enhanced transparency and confidence among States

The ATT requires its States Parties to submit to the ATT Secretariat information aimed at enhancing transparency as well as ensuring that States Parties are taking the measures necessary for the implementation of the Treaty.

- Enhancing transparency in the global arms trade is a significant contribution to international and regional peace and security, as it would:
- Reduce misunderstanding, miscalculation and scepticism regarding other countries' intent and capability;
 - Help build trust and confidence among States;
 - Allow States to get accurate, up-to-date information on weapons coming in and out of their jurisdictions;
 - Enhance accountability regarding international arms transfers.
- Required transparency measures:
- Initial report on measures undertaken to implement the ATT, including national laws, national control lists and other regulations and administrative measures;¹²
 - Annual report submitted by States Parties on authorized or actual exports and imports of conventional arms;¹³

¹² Article 13 (1) and Article 5 (4).

- Information on measures taken to address the diversion of arms.¹⁴

9. Better environment for social and economic development

Countries facing armed conflict or high levels of armed violence often have to invest significant resources in defence and security, in detriment to social and economic development endeavours.

- Prevent some of the consequences engendered by conflict and widespread armed violence, such as:
 - Reduced levels of foreign investment;
 - Poor implementation of projects;
 - Destruction of infrastructure, market disruption, capital flight and brain drain;
 - Over-burdened health services;
 - Dysfunctional education systems;
 - Illegal exploitation of natural resources;
 - Impunity and disregard for the rule of law.
- Even in the absence of violence, unregulated arms transfers can negatively impact normal economic and social developments by:
 - Sowing seeds of corruption due to the lure of lucrative arms deal;
 - Over-spending in the defence and security sector.
- The high common standards provided in the ATT are expected to contribute significantly to the prevention of conflicts and armed violence, leading thus to more conducive environments for the pursuit of sustainable development goals.

10. Enhanced credibility in the international community

Participation in the ATT could in itself become a standard against which the credibility and responsibility of both importing and exporting countries would be measured.

¹³ Article 13 (3).

¹⁴ Article 13 (2).

- Although the ATT aims neither to facilitate nor to impede international transfers of arms, the fact that a State is a party to the Treaty may be seen as an indicator of the degree of that country's commitment to conduct its affairs in a transparent, responsible and accountable manner.
- Participation in the ATT of a State that is not a regular arms exporter would likely be seen as an indication that the country has taken adequate measures to ensure control over weapons within the territories under its jurisdiction – or to prevent their diversion.
- The export assessment criteria of the ATT are to be applied by the exporting State Party regardless of whether the export is destined for another State Party or any other State. In practice, an importing State being a party to the ATT may in itself become a positive factor in the view of exporting States' authorities conducting export assessments.