



Parliamentarians *for Global Action*
Acción Mundial de Parlamentarios
Action Mondiale des Parlementaires

PGA PARLIAMENTARY HANDBOOK

PROMOTING SIGNATURE, RATIFICATION AND IMPLEMENTATION OF THE ARMS TRADE TREATY



in consultation with

control arms

Purpose

Parliamentarians have a unique and fundamental role to play in promoting signature, ratification and implementation of the Arms Trade Treaty (ATT).

As the Legislative Branch of Government, Parliament and Parliamentarians have made, and will continue to make, substantive contributions to creating a robust and widely-ratified and widely-implemented treaty.

As Parliamentarians, and given their close proximity to key decision makers in the Executive Branch of Government, Parliamentarians can wield considerable, constructive influence in achieving

signatures, ratifications and implementation of the ATT in their respective countries.

The purpose of this Parliamentary Handbook is to highlight – in a clear and straightforward manner – the many different, but equally important ways in which Parliamentarians can act and decisively place the ATT on a continued, positive future trajectory.

It is therefore hoped that Members of Parliament (MPs) around the world will find this Handbook to be a useful reference source in the many, distinct advocacy and law-making initiatives that they undertake to achieve universality of the ATT.

What is the Arms Trade Treaty?

On 2 April 2013, the United Nations (UN) General Assembly adopted the historic Arms Trade Treaty (ATT), regulating the international trade in conventional arms, as set out in the ATT.

The goal of the treaty is to foster peace and security by ending the transfer of conventional weapons to countries experiencing instability or conflict. Consequently it will make it significantly more difficult for human rights abusers and those who violate international humanitarian law and international human rights law from being supplied with such arms.

The ATT is part of a broader international initiative begun in 1997. The original intent was to establish a set of ethical standards for the arms trade that would ultimately be adopted at the international level. The ATT was first directly addressed in December 2006

when the UN General Assembly adopted resolution 61/89 “Towards an Arms Trade Treaty: establishing common international standards for the import, export and transfer of conventional arms”.

Resolution 61/89 requested the UN Secretary-General to seek the views of Member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, and to submit a report on the subject to the General Assembly at its 62nd session.

On 18 October 2006, a resolution was introduced requesting the UN Secretary-General to seek the views of Member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for

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the import, export and transfer of conventional arms.

In December 2006, 153 Member States voted in favor of the resolution, numbered 61/89. Twenty-four countries abstained. Resolution 61/89 also requested the Secretary-General to establish a group of governmental experts - on the basis of equitable geographical distribution - to examine the feasibility, scope and draft parameters for such a legal instrument, and to present a report to the Assembly for consideration at its 63rd session. On 28 September 2007, the Secretary General appointed a Group of Governmental Experts drawn from 28 countries. The group met three times in 2008 and published a final report.

In 2009, the General Assembly adopted resolution 64/48, which included a decision to convene a UN Conference on the Arms Trade Treaty. An Open-ended Working Group held two meetings on an Arms

Trade Treaty, also in 2009. Six sessions of this Group were planned. However, at the end of 2009 the General Assembly of the UN decided, by resolution A/RES/64/48[17], to convene a Conference on the Arms Trade Treaty in 2012 “to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms”. The decision was made that the ATT was to be agreed by consensus – that it could only be adopted if no UN Member State objected.

The ATT Conference was held from 2-27 July 2012 under the Chairmanship of Ambassador Roberto Garcia Moritan of Argentina. Although significant headway was made on a draft text, consensus was not forthcoming thereon on by the final day on July 27, 2012. In December 2012, the UN General Assembly decided to convene a Final ATT Conference from 18-28 March, 2013. Similar to the inconclusive

outcome of the July 2012 ATT Conference, and notwithstanding that, again, substantive headway was made on the existing text under the Chairmanship of Ambassador Peter Woolcott of Australia, consensus agreement again proved to be elusive.

The UN General Assembly on 2 April 2013 (71st Plenary Meeting) adopted the Arms Trade Treaty by a 154-to-3 vote with 23 abstentions. The ATT was opened for signature on June 3, 2013 and, as of 10 July, 79 UN Member States have signed and 2 UN Member States have ratified the ATT. This number is expected to increase significantly at the UN General Assembly meetings in New York in September 2013 and thereafter.

How can Parliamentarians promote the Arms Trade Treaty?

ADVOCACY

Parliamentarians have a uniquely important and central role in promoting the Arms Trade Treaty.

MPs, by virtue of their membership of the Legislative Branch of Government, possess an elevated capacity to reach out to key decision-makers in the Executive Branch of Government to encourage and urge support for the Arms Trade Treaty. The proximity of this relationship is one that many Legislators around the world have already taken advantage of to promote the ATT.

Government Ministers in many countries – including in Foreign Affairs ministries – are also often still MPs and, conversely, many MPs go on to become government ministers. This ‘revolving door’ between the Legislative and Executive Branches of Government is

In a broad sense, the functions of parliamentarians in this area fall into 3 distinct, but equally important categories:

- 1. Advocacy**
- 2. Lawmaking and Implementation**
- 3. Oversight/Accountability/Enforcement**

one that renders essential the part to be played by Legislators in promoting the ATT.

With Parliamentarians for Global Action (PGA) playing a leading role, the Control Arms Global Parliamentary Declaration on the Arms Trade Treaty was signed by over 2,100 Parliamentarians in 114 countries worldwide between November 2011 and July 2012. The Declaration contains an undertaking – by all who signed – to support the ATT, including advocating for its ratification and imple-

mentation, once established. PGA also brought International Delegations of PGA Member Parliamentarians to all four of the Arms Trade Treaty Preparatory Committee Meetings from 2010-2012 and both ATT Conferences in 2012 and 2013, as well as organizing a number of High Level Side Events during these occasions.

Upon agreement of the Arms Trade Treaty on April 2, 2013, PGA launched its Global Parliamentary Campaign for Signature, Ratification and Implementation of the Arms Trade Treaty.

Currently PGA MPs in over 50 countries worldwide are in active contact with their colleagues in parliament, the executive branch of government (foreign ministries) and other stakeholders, promoting early signature and ratification of the ATT.

Advocacy Steps that Parliamentarians can take to promote the ATT:

- Raise the issue of the ATT for discussion in relevant Parliamentary Committee Meetings
- Approach Speakers of Parliament and Presidents of Senates to include the issue of ATT signature and ratification on the plenary agendas/programmes of work of Lower and Upper Houses of Parliament
- Ask Parliamentary Questions and/or introduce Motions in Parliament in support of signature and ratification of the ATT
- Approach relevant Government officials to inquire about and encourage ATT signature and ratification and to urge them to submit to Parliament suitable legislation for Parliament to consider and approve to allow for the Government subsequently to ratify the ATT

- Reach out to multiple media sources – traditional and social – to broaden support for the ATT among the general population as a whole

LAWMAKING & IMPLEMENTATION

One of the most important prerogatives of parliamentarians is that of lawmakers. Laws must be introduced, laws must be drafted and laws must be debated before they are formally enacted. The same is also true for any laws which seek to introduce international treaties into national law.

The different direct responsibilities of legislators in this area are summarized here:

- MPs in many countries must agree in advance to ratification of an international treaty before the Government can formally deposit an Instrument of Ratification/Accession with the UN. Typically the Gov-

ernment will submit a Bill of Ratification to Parliament which the Parliament will then consider and act upon

- At time of ratification or thereafter, the Government will submit legislation to give effect to the ATT in domestic law. It is the responsibility of legislators to review and amend this legislation – prior to adoption – to ensure that it is fully in compliance with the obligations the State has already assumed by becoming party to the ATT
- In many countries, MPs can initiate legislation themselves, by themselves or through parliamentary committees – without action from government – to implement a treaty in domestic law. This is a key prerogative and one that all MPs should keep in mind regarding the ATT. Although ultimately government approval will be necessary, as a means of ‘getting things started’ –

this is key ‘tool’ for MPs to advance implementation of the ATT in their respective countries

- Drafting of legislation: MPs play a crucial role in the actual drafting of implementing/domesticating legislation. In terms of advising on international treaty implementation, international civil society organizations, such as PGA, offer considerable expertise.

OVERSIGHT/ ACCOUNTABILITY/ ENFORCEMENT

In most democratic countries, there exists an executive, legislative and judicial branch of government. This so-called ‘separation of powers’ hierarchy is intended to provide a system of ‘checks and balances’ among the three respective branches of government.

The legislative branch of government has a particularly important role in ensuring that the executive government

is complying at all times with its obligations under existing national, regional and international legal instruments. In the context of the Arms Trade Treaty, therefore, the crucial role of Parliamentarians in ensuring its effectiveness does not cease once domesticating legislation is in place to give it effect under national law.

In many countries, the Executive Branch of Government is required to report on a regular basis to Parliament and Parliamentary Committee on the actions it has taken to give effect to obligations it has acquired under national, regional and international law. Not only that, but in some instances, the Executive Branch of Government must also obtain the approval of Parliament for its proposed plans to implement/enforce national, regional or international laws.

In close connection with this, and in order to implement such laws, the Executive Branch of Government in

many countries must submit budgetary plans for approval to Parliament in order to do so. So Parliamentarians have a decisive role to play in this regard. They must be satisfied that the proposed plans/budgets draw up in connection with implementing a national, regional or international law will be effective in so doing.

Also, and in parallel, in many countries, the Executive Branch of Government is required to submit periodic reports on its actions to parliament for review and approval. In some instances they cannot proceed without parliamentary approval.

How are these different prerogatives of MPs relevant in the context of the ATT in countries which are party to the ATT?

- Governments/Defence Ministries importing conventional weapons may need to submit their plans and proposed budgets

to parliament at least for consultation and, in some instances, for approval.

In this instance, MPs must be confident, before giving their approval, that the importation of these weapons does not contravene any of the provisions of the Arms Trade Treaty. The ATT itself contains reporting requirements which are of particular importance in this regard.

- Governments/Defence Ministries proposing to export or transfer conventional weapons must frequently consult and seek approval of parliament in advance of any such export or transfer.

In this instance, MPs must be confident, before giving their approval, that such exports or transfers do not contravene any of the provisions of the Arms Trade Treaty. The ATT itself contains reporting requirements vis-à-vis exports which are of particular relevance in this regard

- In many countries, Parliaments must approve proposed Government/Defence Ministry budgets on an annual or ad hoc basis. In this instance, MPs must be confident that there is nothing in the proposed budgets which would – or could – run contrary to the obligations of the country under the provisions of the Arms Trade Treaty
- Where evidence comes to light, through reports in the media or civil society investigations, that the Executive Branch of Government may have taken action – or be contemplating action

– that might run contrary to the obligations of the State under the Arms Trade Treaty, in many countries Parliaments have the capacity to hold public hearings in such instances and/or demand that relevant government officials/ministers appear at a parliamentary hearing to provide clarification pertaining to any such allegations. So MPs have a most important investigative and verification power to ensure that the ATT is complied with by the Executive Branch of Governments in countries which are parties to the ATT.

ENDNOTES

1. View the Arms Trade Treaty, in all UN official working languages at: <http://www.un.org/disarmament/ATT/>
2. View the Control Arms Global Parliamentary Declaration on the ATT and the List of 2,100 MPs in 114 countries worldwide that signed the Declaration: <http://controlarms.org/en/parliamentarian-declaration/>
3. Find more information on PGA's Global Parliamentary Campaign for Signature, Ratification and Implementation of the ATT at: <http://www.pgaction.org/activity/2013/mps-actively-promoting-pga-att-signature-and-ratification.html>

“The Arms Trade Treaty will provide an effective deterrent against excessive and destabilizing arms flows, particularly in conflict-prone regions. It will make it harder for weapons to... reach warlords, pirates, terrorists and criminals, or to be used to commit grave human rights abuses or violations of international humanitarian law. The adoption of the ATT is further testament to what can be accomplished when Governments and civil society work together through the United Nations.”

**- UN Secretary-General Ban Ki-moon
3rd June, 2013**

