"Illegal wildlife trade undermines the rule of law and threatens national security; it degrades ecosystems and is a major obstacle to the efforts of rural communities and indigenous peoples striving to sustainably manage their natural resources. Combatting this crime is not only essential for conservation efforts and sustainable development, it will contribute to achieving peace and security in troubled regions where conflicts are fueled by these illegal activities."

– United Nations Secretary General Ban Ki-moon, 2015 World Wildlife Day.¹
a. Executive Summary

This policy brief explores the potential for the Arms Trade Treaty (ATT) to be applied to curb the supply of weapons to wildlife poaching and trafficking networks in East Africa. There is a disturbing trend of militarization in anti-poaching efforts that threatens to exacerbate conflict by increasing arms flows to already destabilized contexts, marginalizing local capacities for peacebuilding and sustainable development. This paper advocates for a human security and sustainable development-centered approach to wildlife crime, while taking care not to formulate generalizations of the many complex contexts of wildlife poaching in East Africa. While there are no “one-size-fits-all” solutions, it argues that the ATT can be used by East African (and arms exporting) States as one of many tools to strengthen rule of law, encourage respect for human rights in countering wildlife crime, curb the proliferation of weapons to poachers, monitor trafficking networks and empower local civil society advocacy for peace and environmental sustainability.

It ends with recommendations that East African States\(^1\) accede to the ATT, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and and establish

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\(^1\) It is possible that the recommendations of this paper may also be relevant to other wildlife-rich States, in Sub-Saharan Africa and beyond, that face major threats from poaching.
systems for its effective implementation, in coordination with other relevant international instruments (such as the Programme of Action on Small Arms and Light Weapons (PoA) and the Conventions on Transnational Organized Crime and Corruption). In particular, States should enact measures to safeguard against the risk of certain kinds of shipments of arms, ammunition and relevant parts and components – such as high-calibre hunting rifles (and associated ammunition) and silencers – being used by or diverted to wildlife poaching and trafficking networks. Regional civil society civil society and media should consider ways to encourage governments to use the ATT to engage in monitoring and advocacy on wildlife crime, calling the attention of civil society in arms exporting States to the use of weapons in poaching. Finally, it calls on the UN General Assembly and ECOSOC to make reference to the ATT in any future resolutions regarding the poaching and/or the illicit trade in wildlife and references to poaching in ATT resolutions. States should also consider potential linkages to the UN Environment Assembly and ongoing debates on conflict and the environment in the International Law Commission.\(^2\)

**b. The Arms Trade Treaty and East Africa**

The 2013 United Nations Arms Trade Treaty (ATT),\(^2\) which entered into force in December 2014, established global standards for the trade, transfer and trans-shipment of conventional weapons. Articles 6 prohibits arms transfers to States and organizations where the exporting State has knowledge weapons will be used for war crimes. Article 7 requires exporting States to assess the risk that the arms could be used to abuse human rights and humanitarian law, or in organized crime or terrorism. Where the risk is overriding, the transfer must be denied. It also requires States to “take into account the risk” of whether weapons will be used to commit gender-based violence. While covered by less stringent clauses, transfers of ammunition, as well as parts and components of weapons are also regulated by the ATT. Exporting, importing and trans-shipment States all have obligations to mitigate risks of problematic transfers (Articles 7, 8 and 9). While the ATT is criticized for its potential weaknesses (such as the resistance of arm exporting States to implement it rigorously and worries that it may legitimize some of the arms trade), many commentators argue that it offers a useful tool for those working to build human security and sustainable development.\(^3\) As a report by Chatham House argues:

> The ATT has the potential to advance human security through improving accountability, responsibility and transparency in international arms transfer controls. In doing so, the treaty aims to create a safer and more secure environment for all those living under the threat of violence.\(^4\)

During the negotiations, African States and civil society through the Control Arms Coalition were at the forefront of pushing for a strong ATT, successfully demanding the inclusion of small arms and light weapons (SALW) in the ATT’s Scope (Article 2).\(^5\) This was driven by a

\(^2\) Available from: http://www.un.org/disarmament/ATT/
humanitarian imperative – the African continent disproportionately bears the human costs of the arms trade, particularly of SALW. A 2007 investigation found that the cost of armed conflict in Africa – in military expenditures, health costs, reconstruction, lost tax revenue and depressed productivity – was approximately $18 billion a year, on average reducing a state’s economic output by 15%.\(^6\) Kenya was a co-author of the 2006 UN General Assembly Resolution A/RES/61/89, which initiated the negotiation process, and remained a lead State in the negotiation process up until 2012.\(^7\) Almost all African States voted in favor of Resolution A/RES/67/234B adopting the treaty in 2013 and none opposed it (Egypt and Sudan abstained). Most African States have signed the ATT (as of November 2015 there are 16 African States Parties and a further 23 signatories) but the level of accession in the East African and Horn region has been low. Burundi, Djibouti, Rwanda and Tanzania are signatories (though have not yet ratified). Democratic Republic of the Congo (DRC), Ethiopia, Eritrea, Kenya, Somalia, South Sudan, Sudan and Uganda have not yet joined. The Institute for Security Studies (ISS) has published a useful guide for African States seeking to accede to and implement the ATT.\(^8\)

The following section explores the potential usefulness of the ATT for East African States and civil society organizations seeking to address and mitigate the human and wildlife impact of armed violence in the region, focusing on wildlife poaching. This is by no means the only form of organized violence in the region, nor is its coverage here exhaustive. Rather, I aim to offer a possible application of the ATT that others in the region can critique and build upon.

Orphaned elephants receive care at the David Sheldrick Wildlife Trust in Kenya.
Popular depictions of wildlife poaching in East Africa use pathologizing discourses that simplify complex and interrelated problems of human/wildlife conflict, environmental degradation and entrenched political-criminal networks. However, poaching is linked to global flows of rare and illicit wildlife trafficking that have intensified in recent years, with surging demand for ivory and rhino horn. According to Global Financial Integrity, trafficking in illicit wildlife is worth some $10 billion a year, making it the fifth largest global black market. Rhino horn has surpassed the value of gold or cocaine, but penalties for wildlife trafficking are typically low. While often depicted as an "African problem", poaching and wildlife trafficking is driven by demand from China, the US and EU, which are the three largest markets for illicit specimens. In its 2014 report, The Environmental Crime Crisis, the UN Environment Programme (UNEP) raised alarm at the "pace, level of sophistication, and globalized nature" of the illegal trade in wildlife.

Trade in wildlife is regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which entered into force in 1975 and controls the import, export and trans-shipment of specimens of controlled species. All African States are parties to CITES with the exception of South Sudan. In 2013, the UN Commission on Crime Prevention and Criminal Justice designated wildlife trafficking as a "serious crime", increasing pressure on States to step up enforcement. Nevertheless, wildlife crimes remain under-enforced and penalties in many States are surprisingly low when compared to trafficking in people, weapons or drugs. In 2014, the UN Security Council identified wildlife poaching in Africa as a regional security threat (S/RES/2134 and S/RES/2136) and the CITES Secretariat recommended a number of East African States – DRC, Kenya, Tanzania and Uganda – establish national action plans to address ivory poaching. The African Ministerial Conference on the Environment (AMCEN) 2014 meeting in London resulted in made a “political commitment” to end the “detrimental economic, social and environmental consequences of the illegal wildlife trade.” Later that year, the first UN Environment Assembly called for “cross-agency cooperation at all levels to tackle the environmental, economic, social and security dimensions of the illegal trade in wildlife” (UNEP/EA.1/L.16). In 2015, the UN General Assembly urged States to “take decisive steps” to “prevent, combat and eradicate the illegal trade in wildlife” (A/RES/69/314) and African leaders committed in Brazzaville to develop “a unifying strategy to help Africa combat illegal trade in wild flora and fauna.”

While popular news media often frames poaching as the predation of “evil” people on “innocent” animals, widespread poaching also has a human cost. Press investigations in eastern DRC have found links between wildlife poaching and armed groups with patterns of documented human rights and humanitarian law violations. The embedded criminality of poaching networks has contributed to political corruption in the region as well as allegedly the funding of armed groups engaged in terrorism and violations of human rights and humanitarian law, such as the Janjaweed in Sudan, Mai Mai in DRC and the Lord’s Resistance
Army (LRA) in the central African region. In his 2014 remarks to the UN General Assembly, Tanzanian President Jakaya Mrisho Kikwete stated that “poaching” and “illicit exploitation of natural resources” are “making the world less secure.” According to UNEP, the illegal wildlife trade is “a rapidly rising threat to the environment, to revenues from natural resources, to state security, and to sustainable development.” As such it threatens East African States’ ability to meet their obligations under the Sustainable Development Goals (SDGs), by degrading the environment (SDG 15); drawing resources out of the legitimate economic sector and threatening sustainable tourism (SDGs 8 & 12); and undermining the promotion of peaceful and inclusive societies (SDG16). It also poses a threat to public health, given the potential for animal diseases to migrate to human populations (SDG3).

As Valerie Hickey, an environment scientist at the World Bank, has put it:

> [W]ildlife crime is leading to the proliferation of guns in exactly those areas that need less conflict, not more; it is providing money for corruption, in exactly those countries in which corruption has already stalled all pro-poor decision-making and doing business legitimately is already hard enough; and it is oiling the engine of crime and polluting efforts at good governance, democracy and transparency in exactly those communities that need more voice, not more silence. It is anti-worker, anti-women and anti-poor.

In 2012, then US Secretary of State Hillary Clinton called the illegal trade in wildlife a “national security issue” and the following year, President Barack Obama signed Executive Order 13648 on Combating Wildlife Trafficking committing the US to “assist” governments “in anti-trafficking activities.” Growing international attention to wildlife crime has led some thinktanks and civil society organizations to call for a securitization of wildlife protection, including supplying East African countries’ rangers and security forces with better weaponry, surveillance equipment (including unarmed drones), training and assistance from private military companies. At the time of writing, a Global Anti-Poaching Bill was moving through US Congress; the House of Representatives text called for the US government to “provide defense articles (not including significant military equipment, defense services, and related training” to African security forces “for the purposes of countering wildlife trafficking and poaching.” Given the problematic record of US military deployment and arms transfers in East Africa and elsewhere, it important to consider the potential that forces ostensibly engaged in anti-poaching efforts may use this as a cover for other activities. Indeed, the trend of militarizing wildlife protection – described as a “war against poaching” – has had some disturbing effects, including an escalating aggressiveness in clashes between poachers and anti-poaching units. It has spurred an arms race, with increasingly sophisticated weaponry used on both sides.

Calls to arm state security forces rest on an assumption that poaching and wildlife crime is only a non-state actor problem. Several experts have shown how claims of a poaching-terrorism nexus are often exaggerated, driven by those interests that benefit from militarization and increased fundraising. Meanwhile, there are many cases of state military involvement in the poaching and the illicit trade in wildlife. For example, Congolese, Ugandan, Kenyan and South Sudanese security forces have been implicated in wildlife profiteering. In one notorious incident in 2012, members of the Ugandan armed forces – ostensibly searching for LRA commander Joseph Kony – allegedly killed 22 elephants in DRC.
from a Mi-17MD military helicopter. According to the International Fund for Animal Welfare (IFAW), authorities are increasingly facing poachers armed with military-grade weapons (such as M-16 and G3 automatic rifles and rocket-propelled grenades) that could only have been “acquired from military sources.” A significant amount of illicitly trafficked weaponry starts in the “legitimate” and legal sector. Similarly, it would be a mistake to simply pathologize the illicit trade in wildlife without acknowledging its interlinkages with the supposedly legal trade.

Given the “remote” locations of many wildlife reserves and conservancies in East Africa, efforts to address wildlife poaching intersect with broader conflicts in the region’s “peripheries,” such as pastoralist conflicts. Such areas were long neglected by colonial and post-colonial development efforts. Pastoralist conflict is often misrepresented as a localized, outmoded and “primitive” practice of “cattle rustling.” However, it is embedded in sophisticated organized criminal complexes and neo-patrimonial patronage systems that are connected by trafficking networks of arms, patronage and stolen cattle that extend throughout the region and even the world. Some countries in the East African region have addressed the problem of armed pastoralist conflict better than others.

Numerous researchers have found that militarized state interventions to address cattle rustling or poaching often exacerbate the situation, introducing new weapons (that enter the non-state sector through theft or illicit sale) and extrajudicial violence. It is also expensive, diverting important resources away from sustainable development. As Small Arms Survey put it, “militarization strategies can have unintended consequences… [and it] is not clear…that poaching has a military solution.” For example, in 2013 a Tanzanian shoot-to-kill anti-poaching operation resulted in major abuses of human rights. In 2014, the Associated Press reported allegations that Kenyan wildlife rangers had killed 18 poachers in an effort to cover up official complicity in elephant poaching. State and civil society interventions that have sought to reduce conflict and engage local capacities for peace, alternative livelihoods and sustainable environmental protection have been more effective than military/police repression. As stated by UN ECOSOC Resolution 2014/21, “when developing crime prevention programmes” Member States should look beyond policing measures to “consider…such issues as social inclusion, the strengthening of the social fabric, access to justice, social reintegration of offenders and access to health and education services, to consider the needs of victims of crime … and to promote a culture of lawfulness and the well-being of individuals.” The 2014 AMCEN London Declaration called for “supporting community efforts to advance their rights and capacity to manage and benefit from wildlife and their habitats.” The UN Environment Assembly raised similar concerns. The community addressing wildlife crime should draw on lessons learned in the humanitarian and development sectors on “Doing No Harm” when intervening in conflicted contexts.

The “human security” framework offers a useful alternative to the militarized, “national security” framing of poaching and wildlife trafficking. A human security paradigm recognizes that the object of protection, and of analysis, should be human beings and their communities, not the state. This approach is centered in a respect for human rights, a bottom-up approach, multilateralism and building legitimate civilian-led governance.
Conservation Initiative on Human Rights, an NGO consortium that seeks “to improve the practice of conservation by promoting integration of human rights in conservation policy and practice.” Instead of increasing the supply of weapons to an already deadly conflict (which too often leak to organized crime networks or are misused by state actors), States, international organizations and NGOs should seek to slow this supply and empower local social structures that already work for peace, rule of law and sustainability. For example, a 2013 IFAW report, Criminal Nature, recommended addressing wildlife crime through the strengthening of “policies and legal frameworks … at the local, national, and international levels.” The ATT could be play a useful role in the development of such a framework in East Africa.

d. Using the Arms Trade Treaty to Stem the Flow of Arms to Wildlife Trafficking Networks in East Africa

The ATT offers a useful building block for a human security approach to wildlife crime in East Africa. In his 2013 comments to the UN General Assembly, Prime Minister Nicolas Tiangaye of the Central African Republic, identified “the circulation of a large flow of weapons” as a major
factor in the “the degradation of natural resources and wildlife.” Similarly, the 2015 Small Arms Survey identified SALW proliferation as an enabling factor in wildlife poaching and trafficking in the East African region. Stemming this flow could offer a potentially less militarized intervention to disrupt and decrease the deadliness of poaching networks. For example, several specific kinds of weapons have often been associated with wildlife poaching in Africa, including large calibre hunting rifles (such as the Czech CZ550 and .458 Winchester Magnum) and Kalashnikov-pattern automatic rifles. There are also numerous reports of poachers using silencers to evade detection (both by anti-poaching units and other animals) when killing targeted animals. One could imagine national ATT enforcement mechanisms establishing efforts to pay particular attention to shipments of such items, demanding evidence of measures to reduce the risk of their use by or diversion to poaching networks.

However, care will need to be taken to ensure that national control mechanisms established by the ATT (whether in exporting, trans-shipment or importing States) do not simply rubber stamp weapons flows to security forces engaged in wildlife protection. As noted above, elements of East African security and wildlife protection forces have themselves been involved in poaching and wildlife profiteering. ATT enforcement will not only be the responsibility of exporting States. Rather ATT enforcement can be used as leverage by national civilian and civil society actors to tighten controls over security forces, reducing the potential for abuse or “leakage” of weapons. This approach – rather than arbitrary martial repression – could aid in strengthening rule of law while undermining poaching. For example, Article 7 of the ATT calls for risk mitigation measures to prevent the misuse of weapons. This could create opportunities for cooperation between arms exporting and importing States on training for wildlife protection forces in human rights, forensic analysis of weapons and ammunition and/or data collection.

Given the overlapping networks involved in illegal weapons trafficking and wildlife crime, there is clear potential for synergies between CITES and ATT monitoring and enforcement. However, the potential intersections between CITES and the ATT (as well as other relevant instruments like the Programme of Action on SALW (PoA)) remains under-examined in the policy and scholarly literature. For example, when States report elephant deaths to the CITES-mandated Monitoring the Illegal Killing of Elephants (MIKE) program, the form allows for recording the weapons used. Poor marking of weapons stocks in the region and anti-poaching units’ low forensic capacity have limited the quality of this data. Linking MIKES firearms and ammunition data with ATT implementation could enable national control systems to red flag weapons commonly used in poaching in their transfer risk assessments. For example, according to Article 12 of the ATT, importing States must keep records of the weapons transferred into its territory. This would enable tracing of leakages of legitimately transferred weapons that end up in the hands of poachers. Linkages with other instruments such as the PoA, could aid in coordinating stockpile management and destruction to reduce the supplies of SALW typically used in poaching and prevent its leakage and recirculation. On 30 November 2015, Lithuania and Angola plan to host a Security Council Arria Formula meeting – open to all States and civil society – on the impact of illicit arms transfers of SALW on poaching in Africa. This could lead to further exploration of potential linkages between the ATT, PoA and CITES.
Besides import and export control mechanisms, the ATT offers a framework to establish new layers of accountability and oversight. The Stimson Center report *Killing Animals, Buying Arms* found a key challenge in illicit wildlife trade interdiction was effectively mapping the supply chain, “moving beyond anecdotal glimpses” to “comprehensively map the illicit trade.”\(^6\) Under the ATT, States must report to annual Conferences of States Parties and Control Arms has established *ATT Monitor* as a global civil society monitoring mechanism to consolidate information from researchers around the world on compliance and noncompliance with the ATT.\(^6\) This has the potential to spur further research on the routes and conduits of arms that end up being used in poaching and wildlife trafficking networks.

There are, of course, limitations to the ATT as a tool in addressing wildlife crime. A significant proportion of the trade in SALW in East Africa operates at a micro-level often undetected by state customs and import/export control systems. Much of this “ant trade”, as some call it, operates across the largely unsecured borderlands of many East African “peripheries” such as the arid region spanning northeastern Uganda, southern South Sudan, northern Kenya and southern Somalia. Weapons flood into “hot zones” of conflict; when the conflict dissipates, the weapons diffuse throughout the region, re-concentrating in newly violent areas. This is a much more complex market to regulate than traditional state-to-state arms transfers.\(^6\) *Small Arms Survey* also found that poachers used a variety of artisan-crafted weapons – including firearms, bows and arrows and spears – that are locally-made, necessarily not covered by the ATT Scope and difficult to detect.\(^6\) There is a risk that calls for ATT implementation will translate into militarizing border security operations that would be ineffective at actually stemming the micro-level production and movement of arms while introducing new weapons and aggressive tactics into border regions. This could have the counterintuitive impact of creating incentives for poachers to adopt more sophisticated weaponry.

However, the ATT is not just about state enforcement. It also establishes a framework within which civil society can draw attention to critical human security issues and their regional and global connections. Paul Todd of IFAW has argued that “if American or Chinese or Russian or European weapons are being used to slaughter elephants and the rangers who protect them, the citizens of those countries deserve to know about it and demand change.”\(^6\) In directing civil society attention to linkages between poaching in East Africa and the global arms trade, it offers a new opportunity for transnational advocacy, development of norms and “naming and shaming” of problematic actors.
e. Building Local Capacity for Monitoring, Advocacy and Programming

The East African region has vigorous civil society and faith networks engaged in monitoring, advocacy and programming in the environmental sustainability, development and human security sectors. African religious leaders and civil society activists played a key role in pushing for the ATT and pushing African States to adopt strong, progressive positions. In East Africa, Africa Peace Forum (APFO), Burundi Armed Violence Observatory (BrAVO), East African Sub-Regional Support Initiative for the Advancement of Women (EASSI), Kenya Pastoralist Journalist Network, East Africa Action Network on Small Arms (EAANSA), Kikandwa Rural Communities Development Organization and the All-Africa Council of Churches were particularly active in ATT advocacy. Control Arms’ member the International Action Network on Small Arms (IANSA) has numerous member organizations throughout the region. Similarly, local civil society has been very effective in raising awareness of the impact of wildlife crime, as well as engaging in grassroots peacebuilding and community-based conservation efforts. Examples of such organizations include: Northern Rangelands Trust, Wildlife Direct, Space for Giants, David Sheldrick Wildlife Trust, East African Wild Life Society and Green Belt Movement.

The ATT offers new opportunities for these organizations to link with global civil society and media networks to trace damaging flows of arms and wildlife specimens, hold States and corporations accountable for their complicity and publicize abuses. The new civil society-run ATT Monitor will facilitate representation of local concerns to global policymaking forums,
including the ATT Conferences of States Parties and UN General Assembly First Committee. However, in establishing links to local civil society and media, international NGOs engaged in ATT monitoring should be careful to establish methods of investigation and research that avoid exposing local activists and journalists to retribution. There are significant – and violent – vested interests in wildlife crime and external actors should remind themselves to “do no harm” in their work.

**f. Recommendations**

1. International, regional and local actors should rethink militarized approaches to addressing wildlife crime, instead seeking to “do no harm” and elaborate strategies rooted in human security and sustainable development frameworks.
2. East African States should accede to the ATT and explore potential synergies between ATT and CITES implementation, along with other relevant international instruments, such as the PoA and the Conventions on Transnational Organized Crime and Corruption.
3. East African States, as well as arms exporting and trans-shipment States should enact measures to safeguard against the risk of certain kinds of shipments of arms, ammunition and parts and components – such as high-calibre hunting rifles (and associated ammunition) and silencers – being used by or diverted to wildlife poaching and trafficking networks. Such measures could include marking and tracing of weapons, improved stockpile control and extra scrutiny of arms shipments.
4. East African States, civil society and academia researchers should seek innovative ways to link MIKE data on firearms and ammunition used in elephant poaching to ATT and PoA implementation, such as targeting for control weapons commonly used in wildlife crime.
5. Local civil society and media should consider ways to use the ATT to engage in advocacy on the impacts of wildlife crime, calling the attention of civil society in arms exporting States to the use of weapons in poaching.
6. International civil society organizations and aid donors should explore opportunities to build the capacity of local actors in ATT implementation and monitoring, taking care not to expose them to retribution.
7. ATT States Parties authorizing arms transfers to East African States should engage in dialogue, and if appropriate, cooperate on mitigation measures that include human rights training for wildlife services, as well as forensic analysis and data collection.
8. Local and international civil society organizations should seek linkages and partnerships between those working on environmental sustainability and human security sectors.
9. The UN General Assembly and ECOSOC should make reference to the ATT in any future resolutions regarding the poaching and/or the illicit trade in wildlife and references to poaching in ATT resolutions. Linkages should be made to parallel
processes in the UN Environment Assembly and ongoing debates on conflict and the environment in the International Law Commission.

10. All actors involved in efforts to reduce poaching and the illegal wildlife trade should avoid advocating simplistic "silver bullet" solutions, instead seeking a complex and multi-faceted understanding of the problem and potential measures for increasing human security and sustainable development.

g. Note on Methodology

This paper relies on references to secondary policy and scholarly literature on the ATT and wildlife crime in East Africa. However, it is rooted in observations and reflections from two trips by the author to East Africa (covering Kenya, Uganda and Rwanda) in 2014 and 2015; this paper draws on his consultations with local civil society as well as a review of local media. He has conducted research in the region (including DRC, Sudan and South Sudan) since 2000. He was an advisor to Control Arms during the ATT negotiations in New York and has published widely in academic and news media on issues of disarmament and arms control. As the paper is written by a British-American, with some experience in East Africa but certainly little claim to its future (recognizing colonial legacies), it is intended as a contribution to the conversation, rather than a “last word.” It seeks merely to highlight possibilities and issues for further study and research by civil society, diplomats and journalists in the region.

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Endnotes


<http://www.npr.org/sections/parallels/2013/05/14/183914773/The-Enemy-Inside-Rhinos-Protection-Sometimes-Aid-Poachers>.


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