



photo: Wissam Nassar/Al Jazeera

SAVE LIVES

The decisions that will help ensure the Arms Trade Treaty is robustly implemented

Arms and bullets continue to destroy lives. Every continent in the world is marred by devastation caused by armed violence. But now the world has a chance to change this. States are about to come together for the first annual meeting of the Arms Trade Treaty (ATT), where they must make important decisions about how it will be implemented. The ATT entered into force in December 2014, and for the first time, creates globally binding regulation of the international trade in conventional weapons. Negotiators at this first Conference of States Parties in Cancun 24 -27 August must make decisions that hold countries to the highest standards, and ensure that the ATT is implemented robustly to save lives.

Arms and bullets continue to destroy lives. Every continent in the world is marred by the human devastation caused by armed violence –with more than one person continuing to die every minute as a direct result of armed violence. Millions more suffer as a result of injury, bereavement, destruction of homes, infrastructure and livelihoods. The Arms Trade Treaty gives the world the opportunity to change this.

The ongoing violence in South Sudan is just one example. The UN has said that nearly 50,000 people have been killed, and thousands more injured and 3.2 million internally displaced since December 2013. Much of this has been fueled by arms transfers, that continue both to the South Sudanese Government and opposition forces.

The poorly controlled flow of weapons and ammunition around the world fuels the terrible death toll. Gun runners continue to operate with impunity on the shady fringes of this deadly trade. And, lax or non-existent reporting obligations make it almost impossible to tell in whose hands a gun, shell, or bullet will ultimately end up, or how it will get there.

The need for robust implementation of the Arms Trade Treaty (ATT), which has created globally binding regulation of the international trade in conventional weapons for the first time, is as great as ever.

The Treaty's entry into force on 24 December 2014 – a little over 18 months after it opened for signature – was speedy in UN terms. Many treaties take significantly longer, or even do not enter into force at all. 72 States have so far ratified the Treaty, and there are a further 59 who signed but have not yet ratified. Now the ATT has entered into force, States can accede to the Treaty to join it.

History shows that the most effective treaties are born from strong, comprehensive standards, established from the very outset. Treaties that are weakly implemented – no matter how broad their support – rarely have impact over time. A robustly implemented treaty will provide the security benefit to states that makes it worthwhile, a weakly implemented one will not. Even where some countries do not join, strong treaties have a positive influence on the actions of non-signatories. But a small minority of vocal countries are prioritizing universality of the ATT at the expense of effective implementation. If the ATT is really to make a difference in transforming the global arms trade, this first important Conference of States Parties (CSP) must make decisions that hold countries to the highest standards.



High level dignitaries join together to celebrate the 50th ratification of the Arms Trade Treaty on 25 September 2014.
photo: Shant Alexander/Control Arms

KEY RECOMMENDATIONS:**1. Effective Rules of Procedure**

- Ensure there is an effective majority-based decision making process established for all procedural and substantive issues, and with no deferral mechanisms. This includes for financial decisions, and changes to the rules of procedure themselves. There should be no power of veto.
- Guarantee that international coalitions of NGOs who have been working to support ATT implementation are able to fully participate in the Conferences as Observers, including in subsidiary and extraordinary sessions.
- Maintain transparency with open, not closed, plenary and subsidiary meetings. There should be no hierarchy of speaking rights, to enable interactive debate.

2. Fair Financial Rules

- Agree on a financial mechanism that is fair and sustainable, and will allow for effective implementation by everyone, especially less resourced States Parties.

3. Independent and Effective ATT Secretariat

- Establish an independent ATT Secretariat, adequately resourced and empowered to enable support for ATT implementation, and with staff appointments based on merit.
- Ensure transparency with reports provided to the ATT Secretariat by States Parties made publicly available.
- Prioritize supporting implementation to States, with less capacity.
- Recognize civil society as a key stakeholder group to work with.

4. Comprehensive and Transparent Reporting

- Ensure comprehensive, public reporting.
- Ensure that the reporting template enables States to demonstrate that they are implementing the Treaty and highlight areas where assistance is required.
- Agree reporting templates as soon as possible to assist States Parties in completing their initial, and then first annual report on arms exports and imports.

**5. Strong Standard and Momentum**

- Apply the ATT consistently and robustly to prevent human suffering caused by irresponsible arms transfers.
- Ensure time at CSPs for substantive discussions on how the Treaty is to be applied and implemented at the highest level.
- Maintain the momentum that has carried through since the ATT was adopted, and ensure effective Treaty implementation is a political priority.

RULES OF THE GAME

Ensuring Effective Operation of the Conference of States Parties

The discussion on Rules of Procedure (RoP) for the Conference of States Parties is the most pressing issue being discussed. The RoP will be adopted at the first CSP by consensus (as mandated by the Treaty) and will then be used for all future meetings of States Parties. Control Arms has commented extensively on many aspects of the draft rules as they have evolved over the last several months, with specific focus on advocating for openness of meetings, majority-based decision, speaking rights and access to all sessions for NGOs that support the object and purpose of the ATT, and ensuring distinctions between signatories and States Parties as an incentive to ratify.

Ensure Open Participation

Current draft **Rule 5** recognizes international coalitions of NGOs, which is positive, but still requires such coalitions to request to attend, rather than being automatically invited, as is the case for civil society in some other conventional arms treaties. Other Observers such as the ICRC and UN agencies “may attend the conference” without the need to make such a request.

Recommendation: Ensure an automatic “may attend the conference” for international NGO coalitions.

Don't Shut the Door

It is unclear in current draft **Rule 14** whether entities other than States Parties can attend Extraordinary Sessions. Control Arms believes **all meetings** of the CSP must be open and transparent, and should allow participation of Signatories and Observers – including international NGO coalitions. The Control Arms Coalition, encompassing hundreds of national, regional and international civil society organizations across the fields of human rights, poverty alleviation, conflict reduction, weapons expertise, health, youth, gender, survivor networks, parliamentary networks, legal expertise and arms control, has campaigned for a strong Arms Trade Treaty for more than a decade, and members and partners now work to support and encourage States in its effective implementation. NGOs provide technical expertise, research, education and awareness raising and advocacy, and our role in contributing to the achievement of the ATT has been frequently referenced by States.

Recommendation: Extraordinary Sessions should be open to Signatories and Observers.

Ditch the Hierarchy

Draft **Rule 20** lists a hierarchy for speaking during conferences beginning with States Parties, then signatories, then Observer States and other Observers. Such hierarchies of speaking tend toward set-piece interventions, not dynamic interactive debate. For the ATT to be a living instrument, with real humanitarian impact, we need interactive challenging debate, not repetitive speeches.

Recommendation: There should not be any hierarchy of speaking rights.

Don't Delay Decisions

Draft **Rule 33** is welcome in enabling majority decision-making via voting, but still has the potential for delays by requiring the President to “consider deferring action”. This means that

rather than discussing important issues of substance, the CSP could waste time needlessly discussing process. In a one week meeting, once a year, there is no time for delays.

Recommendation: There be no deferral mechanism and no postponement of decisions.

SHOW ME THE MONEY

Financing the Arms Trade Treaty

The financial rules are closely bound up in discussions about the ATT Secretariat and Rules of Procedure. In recent meetings, Control Arms has argued that the funding mechanism must be sustainable and fair to all States. The current draft rules would benefit from greater clarity in several areas.

Make Sure CSPs Happen

Draft Financial **Rule 5** proposes that 80 per cent of the CSP budget needs to have been received 60 days in advance of the CSP or the President may advise States Parties to not convene the meeting. The rules and budgetary processes must be designed to ensure the success of the entire ATT system, including Conferences of States Parties, its subsidiary bodies, and the work of the ATT Secretariat.

Recommendation: Clarify the process whereby the CSP budget will be agreed so as to enable regular and timely meetings.

SUPPORTING STATES TO MAKE IT WORK

The ATT Secretariat will be the only official ATT body dedicated to supporting the Treaty's implementation and universality; it must be adequately equipped and empowered to carry out this role. The location of the ATT Secretariat, its structure and staffing should be based on what will provide the most support for effective Treaty implementation; it should not fall victim to political horse-trading. There is a real risk that the heavily politicised debate about location and staffing will detract from the important focus on effective Treaty implementation and leave no time for agreement on the Secretariat work-plan for the first year.

Keep it Independent

The ATT Secretariat should be an independent entity that is established by, guided by, and answerable to States Parties only. It should be focussed on discharging the functions set out in Article 18.3 of the ATT and any others agreed by the States Parties. It should be adequately resourced in order to fulfil its designated functions and have a permanent dedicated staff.



Do What is Needed

The ATT Secretariat should be fit for purpose. The number of staff required will therefore depend on the size of the Secretariat workload, particularly the functions it will undertake. Setting out the number of staff positions before there is agreement on key tasks and responsibilities, would be counter-productive.

The most recent working paper presented a fairly restricted role for the ATT Secretariat, with only administrative tasks delineated. Some are proposing a wider role that would encompass more comprehensive assistance to States Parties, facilitating exchange between them and communicating with the general public.

Recommendation: Ensure an empowered ATT Secretariat that plays an active role in facilitating ATT implementation.

The Right People for the Right Job

While acknowledging the value of geographical diversity within the ATT Secretariat, the key determining factor governing the selection of staff must be their technical expertise and abilities.

Recommendation: States Parties should take decisions swiftly at the CSP on the location and initial staffing of the ATT Secretariat.

Work with Civil Society

Civil society working to support ATT implementation and universalization is a key stakeholder group that the ATT Secretariat should also work with given its extensive experience in supporting implementation of arms control agreements.

Recommendation: Civil society is referenced as an important stakeholder group for the ATT Secretariat.

BRINGING THE ARMS TRADE OUT OF THE SHADOWS

Reporting really matters. It will be the main mechanism for monitoring implementation of the ATT on an ongoing basis. If reporting is done well it will build confidence in the Treaty, therefore the process of reporting and the reports themselves must be transparent. This means reports must be publicly available and must include enough information to allow meaningful assessment of Treaty implementation.

Comprehensive reporting templates should be adopted as soon as possible – so that they become established as guidelines and practice at an early stage and damaging precedents are avoided. Standardized templates will allow the measurement of effective implementation, trends, and identify good implementation practice.

The reporting templates should not be restricted only to the minimum legal obligations contained in the Treaty but should specifically encourage reporting on all measures that support Treaty implementation. Effective and detailed reporting is essential for an impactful ATT, therefore any capacity limitations of developing countries should be addressed through expert support rather than by unduly limiting the information requested in reporting templates and guidelines.

Reports must be comprehensive and public for States to derive the maximum security benefit from the ATT. This entails providing enough information to understand how the Treaty is being implemented, whether key issues like diversion risks are being addressed, and a clear understanding of arms flows to, through and within regions. Public reporting allows governments to be held to account in meeting their ATT obligations and to identify gaps and needs to ensure that those requiring assistance in implementing the ATT can receive it.

Three types of reporting templates are being considered. The template which was introduced at the first formal Prep Com is for the “initial report” that States will make in December 2015. The template presented at the Vienna meeting, is the template for an “annual report” (on imports and exports of arms) to be provided every year beginning in May 2016. A third template for reporting on diversion has also been circulated.

Make the First Reports Useful

The most recent draft of the initial reporting template is much more limited than the first version that was circulated at the first formal PrepCom. Rather than posing a set of clear questions addressing individual provisions for ATT implementation, this latest template leaves it up to States to decide how much information to provide under a number of broad headings. This will diminish the potential for substantive comparison among States Parties’ reports and will reduce the potential for reporting to help identify gaps and inconsistencies in national controls.

In addition, the latest template also implies that the provision of certain information is voluntary, i.e. where States Parties are merely “encouraged” by the Treaty to take certain action rather than obliged. **However, in these cases it is the requirement to take action that is voluntary, not the obligation to report on where action is taken.** States should therefore be required to report on their adoption or otherwise of all Treaty provisions, regardless of whether they are binding or optional. The initial template should disaggregate complex issues and pose simple questions that clarify the full scope of the information that States should present. This will enhance the specificity of the reports that are produced and will facilitate comparability and identification of assistance needs. The benefits of such an approach has already been clearly demonstrated by the Baseline Assessment Project with 50 States Parties and 20 States Signatories, and 2 Treaty observers already submitting detailed responses to this detailed questionnaire.

Recommendation: Additional guidance should be provided to accompany the current draft templates and help States in submitting detailed and consistent reports; references to voluntary information should be removed.

Keep Annual Reports Public and Comprehensive

The annual report draft template is intended to contribute to discussions on how States Parties can fulfil the obligation contained in article 13.3 to report ‘for the preceding calendar year concerning authorized or actual export and imports of conventional arms covered under Article 2 (1). The current template is based on the reporting template for the UN Register of Conventional Arms (UNROCA); it allows States to provide transfer information as either volume or value to address potential confidentiality concerns (the UNROCA includes only volume). States can chose between providing data on actual transfers or authorizations and may also provide “nil” reports as well. This represents a bare-minimum approach to reporting on international transfers of conventional arms and does little to enhance transparency or accountability beyond the base level that was established by the UNROCA more than 20 years ago. In addition, the first question posed in the annual reporting template concerns

whether or the report has been made publicly available. This needlessly raises to the fore the potential for reports to be kept confidential, contrary to the spirit and letter of the Treaty. *Recommendation: States Parties must provide information on all international transfers of conventional arms to which it applies the provisions of the Treaty, and that all reporting is public.*

The opportunity to provide reports that will enable monitoring of the application of Articles 6 and 7 is slipping away. This is especially true if the reports are only circulated among States Parties. The ATT is in danger of working against one of its fundamental purposes - 'promoting transparency' - and instead towards reversing the norm of transparency in international arms transfers. If reports are not made publicly available, the ATT runs the risk

We sold ████████ worth of ████████ and ████████, but our commercial interest make this sensitive...so we don't have to report ████████.

of setting a standard for transparency below the UNROCA – which at least makes reports submitted by States publicly available on the UNODA website.

Some States Parties seem keen to characterize reporting as a bureaucratic burden. However views toward reporting obligations can be transformed when such obligations (in particular the initial report on measures taken to implement the Treaty) are understood as a key

implementation and co-operation and assistance tool. It remains to be decided by States Parties if they wish to see this function or not.

Recommendation: The CSP clearly acknowledges the contribution that public reporting makes by ensuring all reporting is public.

SHOW THE WORLD THE ATT MATTERS

Most important of all is that the momentum that has carried through since the ATT was adopted is maintained, and that governments ensure effective Treaty implementation is a political priority. Applying the ATT consistently and robustly will prevent human suffering caused by irresponsible arms transfers, and create new international norms that all States will ultimately be affected by.

This is how the ATT can save lives.

