The Arms Trade Treaty’s Interaction with Other Related Agreements
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The Arms Trade Treaty (ATT), in force since 24 December 2014, is the first international, legally binding instrument to establish the 'highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms' (Article 1).

The treaty was not created in a vacuum. It exists alongside a range of previously established international, regional and sub-regional instruments. These include measures to combat terrorism, organized crime and piracy, and to prevent the illicit trade in small arms and light weapons (SALW). The ATT's institutional context also encompasses frameworks to increase the transparency of weapons trading and possession, to increase transparency in military expenditure and to support development assistance.

As states parties start to implement the ATT, its links with and impact on other instruments will be of crucial importance. A range of instruments partly overlap with the ATT, but the treaty was not developed to replace or duplicate them. This raises numerous questions. Could implementation of the treaty bring cross-cutting benefits, efficiency gains or cost savings? How could the ATT advance wider policy objectives such as combating piracy or corruption? How could it support implementation of other instruments?

At the same time, there are concerns that the increasingly complex web of related instruments could produce confusion and contradiction. During the negotiation of the ATT, some felt it was unclear how the different instruments related to each other, and how the ATT would affect them. More work is needed to alleviate these concerns. None the less, the pre-existing framework for controlling the trade in conventional weapons is likely to be more of an asset than a hindrance to the ATT. Instruments developed at different times, for different purposes, and covering different types of weapons and equipment provide valuable context, information and examples of good practice that can be applied to the ATT.

Implementing the ATT effectively and comprehensively will be a significant challenge, even for countries with sophisticated export control systems. The treaty also presents some real opportunities. As the treaty matures, states parties will have to learn how to navigate between the different actors and processes and work to support each other and enhance their cooperation. At present, for example, the link between officials making the political decision to transfer arms and officials in charge of overseeing the actual transfers is often inadequate; the ATT will strengthen that link.

Effective implementation of the ATT will also impose demands on export authorization processes. To ensure the treaty supports anti-corruption, anti-crime and anti-bribery instruments, states parties will need systematically to screen arms transfers for corruption risk. They will need to check whether a recipient state has ratified and is effectively implementing the UN Convention against Corruption (or one of the regional conventions). If done effectively, however, this could improve controls over the

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1 At the international level, these instruments include: the UN Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA); the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime; the UN Register of Conventional Arms; the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons; the UNGA resolutions on the exchange of national legislation on the transfer of arms, military equipment and dual-use goods and technology; and the UN’s reporting on military expenditure.
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transfer of weapons to conflict regions and unstable societies, with potential benefits for peacekeeping and peace-building scenarios.

The treaty does not seek to regulate domestic gun ownership, nor does it seek to limit the number of legally owned civilian firearms. To alleviate concerns and correct misunderstandings or misrepresentations of the ATT’s purpose, scope and operation, all countries – especially those with large legal civilian gun ownership bases and strong pro-gun lobbies – should communicate widely the benefits of the treaty. They should seek to reassure sceptics that the ATT is also in their interest in so far as it can help counter the illicit trade in weapons and that its goal of a more responsible and transparent international arms trade would be of benefit to all.

Stressing the potential cross-cutting benefits of the treaty is all the more important because gun lobbies are not the only critics of the ATT. During negotiation of the treaty, for instance, some parties were concerned that its provisions could impact related instruments such as the UN Programme of Action (PoA) on Small Arms and Light Weapons, the Firearms Protocol and the International Tracing Instrument (ITI). Such problems are likely to be outweighed by the benefits, however. During the first years of implementation the ATT is likely to boost the transparency of conventional arms transfers covered by international and regional instruments. The amount of available data is likely to increase, especially with regard to the authorized trade in SALW. The ATT will also support assistance and capacity-building efforts under way around the world to help countries control their conventional weapons arsenals better.

States acceding to the treaty will require varying levels of assistance in drafting comprehensive laws on arms transfers and control systems. An important task for states parties in the early phases of treaty implementation will be to assess how effectively current policy assistance feeds into the ATT; to ensure efficient use of human, technical and financial resources; and to avoid duplication of effort. ATT-related assistance could include sharing good practices, for example through the drafting of a ‘user guide’ or checklist of ‘essential elements for ATT implementation’ to which aspiring treaty members could refer. Given that needs, policy frameworks and institutional environments vary from one region or country to another, bilateral and sub-regional exchanges of information should be further encouraged.

The ATT has the potential to: strengthen the overall effectiveness of arms control instruments; ensure arms transfers are more transparent and responsible; improve national and international weapons control capacities; and ultimately decrease illicit arms trade, insecurity and corruption. However, for this to happen, states and implementing bodies must work to minimize clashes or overlaps between the range of instruments and measures while maximizing the potential synergies.

The following ideas and recommendations are aimed at states considering acceding to the treaty or in the early phases of treaty implementation, and cover in particular the ATT’s relationship with other instruments and policies:

• Interaction with relevant instruments and implementing agencies should be ensured at the onset of ATT implementation. Dedicated sessions during the ATT Conferences of States Parties should discuss potential connections between the ATT and other instruments and draw lessons from implementation of such measures. States should fund research into the ATT’s cross-cutting effects, including detailed potential benefits and potential connections between the ATT and other instruments – and including lessons from implementing other measures. States should take steps to ensure that different levels of commitment between instruments will not serve to undermine the norms of the PoA and Firearms Protocol.
The ATT Secretariat could build on the states’ participation in other instruments and other organizations, such as the UNODC, World Customs Organization (WCO) and Interpol, and seek to establish regular, working-level interaction with the secretariats of these bodies to ensure timely and comprehensive information flow, and to maximize the complementarity and effectiveness of all related instruments. Practical synergies could be sought between the support structures underpinning related instruments, through organization of joint events – between, for example: the ATT and UNROCA on reporting; the ATT and the PoA on national arrangements and diversion of arms; and the ATT and regional organizations on regional aspects of the ATT.

- There should be further cooperation between the WCO, Interpol and national control agencies over implementation of the ATT. States should support and facilitate such cooperation.

- In discussions on transparency and reporting obligations under the ATT, states parties should examine the possibilities for harmonizing and linking the ATT categories with those commonly used by the WCO – for example, in UN Comtrade reporting. To increase synergies with other instruments and to avoid reporting fatigue and confusion, states should look into improving existing electronic tools and databases and developing new capabilities.

- States parties could take into account end users’ possible participation in the International Code of Conduct for Private Security Service Providers (ICoC). Future ATT deliberations should address the treaty’s interaction with instruments to combat terrorism and piracy and establish means to enhance the controls on the arms-related actions of private military companies.
Introduction

The need for the Arms Trade Treaty remains abundantly clear. Deadly weaponry continues to find its way into irresponsible hands. Unscrupulous arms brokers defy United Nations arms embargoes. Ruthless leaders turn their arsenals on their own citizens. Ammunition depots are poorly guarded. State-owned weapons go missing. Civilian airplanes end up in the crosshairs … Pirates wield grenade launchers and machine guns against merchant ships. Drug traffickers outgun police forces … In adopting the Arms Trade Treaty, Member States came together to support a robust, legally binding commitment to provide a measure of hope to millions of people around the world.

UN Secretary-General Ban Ki-moon, 25 September 2014

The Arms Trade Treaty (ATT), adopted by the UN General Assembly (UNGA) in April 2013 and in force since 24 December 2014, is the latest and most comprehensive addition to the range of measures controlling the trade in and proliferation of conventional arms. Preceded by instruments such as the UN Programme of Action (PoA) on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UNGA, 2001b) and the Firearms Protocol (UNGA, 2001a), the ATT is a central element in the arms control landscape.

The treaty complements a web of international and regional instruments, and its interaction and intersection with these will, in part, determine its effectiveness. This paper examines those interactions. It proposes ideas for making the ATT more effective by building on and harmonizing the treaty’s links with a wide range of related instruments.

The ATT aims to create a new global norm against which states’ arms transfer practices will be measured in the future (Control Arms, 2013, p. 1). Its importance resides in the fact that it is the first international, legally binding instrument to set common standards for the trade in conventional arms, especially with respect to criteria for export authorizations.

The treaty was not created in a political or legal vacuum. The complementarity of different instruments, and their potential joint synergies and benefits, has been discussed since the early days of the ATT’s development. The issue was first introduced in the Nobel Peace Laureates’ initiative, and subsequently again when initial proposals for a treaty were brought to the UN in 2006 (UNGA, 2006; Parker, 2008). During exchanges of views about a potential treaty, many states noted that existing regional and international instruments were limited in scope, purpose and implementation, and that this resulted in insufficient restraints on arms transfers in these regards (Parker, 2008, pp. 9–10).
Indeed, the concept of interconnectedness between the various instruments, and of the potential both for overlap and synergy, was recognized in Article 26, which states that the implementation of the treaty ‘shall not prejudice obligations undertaken by States Parties with regard to existing or future international agreements, to which they are parties, where those obligations are consistent with this Treaty’. It notes that the ATT ‘shall not be cited as grounds for voiding defence cooperation agreements concluded between States Parties to [the] Treaty’ (ATT, Article 26, paras 1, 2).

Given the range of instruments that address some of the same issues as the ATT, and given that the new treaty was not developed to replace or duplicate them, it is important to explore what impact the ATT might have on other agreements. It is also useful to explore the cross-cutting benefits and cost savings that could follow the ATT's implementation. For example, the ATT could advance wider policy objectives – such as combating piracy, terrorism or corruption – by supporting measures already in place to address those security challenges.

This paper looks at the ATT in the wider context of its relevance to instruments developed to improve the controls on conventional arms across various policy areas. It pays particular attention to measures addressing the illicit trade in small arms and light weapons (SALW) – and seeks to identify lessons that could enable states, corporations and civil society to take full advantage of the new treaty.

It is beyond the scope of this paper to address every policy area or instrument that might affect or be affected by the ATT. Instead, the paper provides a snapshot of selected policy areas, with the aim of eliciting ideas about the possible reciprocal impacts vis-à-vis the treaty. Experiences from the application of existing instruments could offer examples of good practice that could be applied to the ATT. These examples could contribute to the design, structure and functioning of the ATT Secretariat or other institutional support bodies; the timing and organization of follow-up meetings; and transparency and reporting practices. Such issues are being widely discussed, and a number of research papers have presented options for addressing them. See, for instance Atwood, 2014; Bauer, Beijer and Bromley, 2014; Holtom and Bromley, 2013. Rather than dwelling on the minutiae of such arrangements, this paper analyses the wider impacts that the treaty might have on other instruments and policy areas, including fighting terrorism, piracy and organized crime.
The ATT in the Landscape of Arms Control Instruments

The ATT is a unique instrument, informed by approximately 100 years of controls on conventional arms transfers (Kytömäki, 2010, p. 30. See also Box 1 for an example relating to arms embargoes). These ancestral instruments and regimes underpin the modern multilateral regulatory landscape, and therefore remain relevant to the ATT despite the very different politics and policy imperatives of the eras in which they were conceived. The historical corpus of conventional arms controls provides essential context to the ATT. The effectiveness of the new treaty will rely in part on principles and language enshrined in instruments dating back many years.

The most significant period of arms control development that would set the scene for the ATT began in the early 1990s, at the end of the Cold War. Decades of arms sales defined by East–West power struggles gave way to a more fluid period, with corresponding challenges and opportunities for the regulation of international arms transfers. Following the Iraqi invasion of Kuwait in 1990 and subsequent conflict, the UN General Assembly adopted a resolution on transparency in arms transfers (UNGA, 1991). The seven categories under which the register required reporting states to classify imports and exports of major conventional arms ultimately formed the basis for the ATT. According to some member states, the UN Register was designed not as an end in itself but as ‘the first, minimal step’ towards better regulation and restraint of arms transfers (Laurance, Wezeman and Wulf, 1993, p. 7). In this regard the ATT is but a new – albeit highly significant – element of an established framework.

In the same year as UNROCA was established, the five permanent members of the UN Security Council agreed the ‘P5 Guidelines’. These offered general guidance on conventional arms transfers, including principles on transfer criteria. Building on the work of the P5, the UN Disarmament Commission (UNDC) agreed and published a set of Guidelines for International Arms Transfers in 1996. To prevent illegal arms trafficking, the UNDC guidelines recommend: adequate national laws and regulations; implementation of an effective import and export licensing procedure; recruitment of sufficient numbers of customs officials; and a distinction between legally held weapons for the civilian population and weapons allowed solely for the military and police. In the 1990s new regional measures emerged. These were designed, in particular, to combat the illicit trade in arms but also to improve overall regulation. They included the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA) in 1995.

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7 For an overview of historical arms control treaties, see Cooper, 2014; Croft, 1996; Burns, 1993; and Anderson, 1992. The UN website also has a collection of agreed documents from within and outside the UN on the arms trade and related issues at http://www.un.org/disarmament/convarms/ATTPrepCom/Background.html.
8 The seven categories are: battle tanks; armoured combat vehicles; large-calibre artillery systems; combat aircraft; attack helicopters; warships (including submarines); and missiles and missile-launchers.
9 The guidelines were agreed in London on 17–18 October 1991 and are sometimes also referred to as the ‘London Principles’.
11 As the successor to the Coordinating Committee for Multilateral Export Controls (COCOM), the WA is a multilateral export control regime that comprises 41 states that exchange data on transfers and denials of transfer on dual-use technology and also conventional arms.
One of the main goals of the ATT is to ‘codify existing international law’ with respect to arms transfers and ‘confirm the circumstances in which the authorization of transfer of conventional arms would breach international law’ (Parker, 2008, p. 6). If effectively implemented, the ATT will support and complement states’ adherence to UN Security Council (UNSC) arms embargoes. It will create a more coherent and effective system for controlling international arms transfers, and will build a culture of responsibility and due diligence (Fruchart, Holtom and Wezeman, 2007, p. 51; Chalmers and Mariani, 2011, p. 5). Over time, as the ATT contributes to the development of national transfer control systems and increases the transparency of trade in conventional arms, states should find it easier to avoid violating arms embargoes or at least know if such violations occur.

The UNSC can establish arms embargoes limiting or prohibiting transfers of weapons to a specified country, province or named end-user. These restraints can be mandatory or voluntary. Mandatory embargoes legally oblige states to prohibit the transfer of weapons to specified entities. Article 41 of the UN Charter authorizes the Security Council to establish mandatory embargoes in order to maintain or restore international peace and security. Arms embargoes number among a range of sanctions that also include financial and diplomatic restrictions ‘intended to apply pressure on a State or entity to comply with the objectives set by the Security Council without resorting to the use of force’ (Fruchart, Holtom and Wezeman, 2007, p. x).

The Security Council determines arms embargoes on a case-by-case basis. For an embargo to be approved, at least nine of the council’s 15 members must agree, and none of the five permanent members must veto it. Since the end of the Cold War, arms embargoes have been a UNSC tool of choice. As of September 2014, 13 mandatory UN arms embargoes were in force (SIPRI, 2014). Sanctions are most commonly implemented through the Security Council sanctions committees, with assistance sometimes from sanctions monitors and expert groups. In addition, a number of regional organizations, including the European Union, African Union, ECOWAS, OSCE and League of Arab States, have imposed embargoes restricting their members from selling arms to specific targets.

The general consensus is that embargoes have had limited success in halting the flow of arms, let alone achieving the goals of the UNSC. Target actors persistently violate embargoes. There is dispute among scholars as to whether this failure lies with poor monitoring and enforcement by the UNSC or with the lack of genuine interest and determination among member states (Fruchart, Holtom and Wezeman, 2007, p. x).

The ATT does not add to the existing sanctions regime but reinforces it through Article 6, wherein states parties ‘shall not authorize any transfer of conventional arms … if the transfer would violate its obligations under measures adopted by the United Nations Security Council acting under Chapter VII of
At the end of the Cold War, the number of inter-state conflicts between major conventional armies decreased, and more attention was paid to smaller and civil wars and complex emergencies. It was recognized that the proliferation of and illegal trade in SALW were major factors in these conflicts, and that stricter international controls were required. Leakage from surplus stockpiles in ex-Warsaw Pact countries resulted in the sale of weapons to regions of armed conflict, non-state armed groups, terrorists and criminal organizations. The illegal arms trade thus served to destabilize regions, fuel and prolong conflicts, undermine peace initiatives, hamper development and foster cultures of violence.

Early attempts to control conventional weapons resulted in the UN General Assembly adopting an international SALW instrument in 1995 (UNGA, 1995). This was followed by the adoption in 2001 of the international, politically binding Programme of Action (the PoA) to Prevent, Combat, and Eradicate the Illicit trade in Small Arms and Light Weapons in All Its Aspects (UNGA, 2001b). The PoA, which has been acknowledged by the UNSC and UN General Assembly, seeks to curb the proliferation of illegal SALW and eradicate illicit trade in SALW at the national, regional and global levels. It remains the core international agreement for halting SALW trafficking and proliferation.

As with the UN Register, the PoA was never intended to be a stand-alone, single-purpose document. UN member states committed to a follow-up process of Biennial Meetings of States (BMS) to monitor progress in implementation (these were held in 2003 and 2005), and a Review Conference (held in 2006). The BMS and Review Conference have continued (see Table 2) to be central features of the PoA.

In a related action, the UN General Assembly adopted the UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition in 2001. The Firearms Protocol, which forms a part of the UN Convention on Transnational Organized Crime, requires states parties to establish and implement laws to: 1) eradicate the illegal manufacture of firearms; 2) trace existing illicit weapons; 3) prosecute offenders; 4) cooperate to prevent, combat and eradicate the illegal manufacture and trafficking of firearms; 5) tighten controls on the export and import of firearms; and 6) exchange information about illicit firearms.16 The most recent UN-negotiated instrument addressing SALW is the politically binding 2005 International Tracing Instrument (ITI), which stems from the PoA and is reviewed in sync with it.17

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17 The full title of the ITI is ‘International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons’. See http://www.poa-iss.org/InternationalTracing/ITI_English.pdf.
In the past ten years many more instruments, supporting documents, good-practice guidelines, and research and policy outputs have addressed SALW and the illicit trade in such weapons. One notable example is the International Small Arms Control Standards (ISACS). These voluntary international standards, developed within the framework of the UN Coordinating Action on Small Arms (UN CASA), offer guidance on developing and maintaining effective controls throughout the SALW life cycle, including trade-related controls covered by the ATT.18

States have also been active in their efforts to control other conventional weapons. The Anti-Personnel Mine Ban Convention (MBC) has been in force since 1999, the Protocol on Explosive Remnants of War (ERW, Protocol V to the 1980 CCW Convention) since 2003, and the Convention on Cluster Munitions (CCM) since 2010. The success of these negotiations and treaties – including the ATT – has depended on framing issues in terms of the humanitarian consequences of weapons use. This framework has gained increasing recognition, most recently through the Geneva Declaration process, a diplomatic initiative started in 2006 that addresses the connections between development and armed violence.19 Figure 1 presents a selection of related international and regional instruments. While the ATT was negotiated via the UN General Assembly, instruments such as the MBC20 and CCM21 were negotiated outside the UN. Despite such differences, all three have gained wide participation bases and are being implemented effectively. Moreover, all have embedded themselves in UN processes through the use of the UN as their depositary body.

Figure 1: Selected international arms control and disarmament instruments since 1990

Note: The instruments are listed in order of the date of adoption.

18 For more information, see http://www.smallarmstandards.org/. Similar guidelines have been developed for conventional ammunition. See ‘International Ammunition Technical Guidelines (IATG)’ at http://www.un.org/disarmament/un-safeguard/.
19 See http://www.genevadeclaration.org/.
20 The official title: ‘Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction’.
21 See http://www.clusterconvention.org/.
From the beginning of the ATT discussions at the UN in 2006, many countries expressed views as to how and why the new treaty should take into account, build on and interact with existing instruments and tools. An example of this was the debate on the inclusion or exclusion of a reference to defence cooperation agreements. This is discussed in Box 2.

**Box 2: Defence cooperation agreements**

In the past few decades countries have increasingly used international joint ventures to support defence firms and multinational companies. The motivation behind such ventures has also been to improve use of technical expertise and resources beyond what has generally been possible through nationally based enterprises. Since the 1990s, globalization has prompted a shift in the format of international cooperation from traditional joint ventures uniting multinationals with local partners to more equal strategic alliances (Dussauge and Garrette, 1995, p. 505).

In peacetime, armed forces and defence ministries increasingly engage in combined operations and joint ventures. NATO’s expansion and the Partnership for Peace programme have resulted in military exercises and war-gaming in which former enemies have cooperated. Long-standing NATO members advise new members on democratic control of armed forces and security sector reform. The United States, China and India are also collaborating in some military endeavours, and ASEAN (the Association of Southeast Asian Nations) has initiated a security dialogue. OAS defence ministers meet regularly and have established bilateral defence arrangements. The African Union and African sub-regional organisations such as ECOWAS and the SADC have created multilateral defence cooperation arrangements. These have received support from governments outside the continent in order to support, for example, local African peacekeeping capacity. In countries emerging from long-term conflict, such as Afghanistan, Sierra Leone and Mozambique, the international community has supported efforts to rebuild, repair and reform indigenous armed forces (Cottee and Forster, 2013, p. 5).

International defence and military cooperation in peacetime is seen as a part of wider ‘defence diplomacy’ or ‘defence engagement’. New cooperation arrangements are designed to build capacity and improve effectiveness, and to support ‘upstream’ defence cooperation – i.e. that emphasizes prevention of conflict rather than reactive intervention. Defence cooperation agreements aim to help countries in the pursuit of various goals: maintaining spheres of influence; counterbalancing or deterring enemies such as non-state armed groups; supporting friendly regimes; developing capacity to contribute to peace operations; and promoting legitimate commercial arms sales and other trade deals (Cottee and Forster, 2013, pp. 6–8).

The potential impact of the ATT on defence cooperation agreements was contentious during the treaty negotiations. India wanted to exclude such agreements from the text, saying that having ‘such a loophole in the Treaty would have the effect of strengthening the hands of a few exporting states at the expense of the legitimate defense and national security interests of a large number of importing states’ (Bagchi, 2013). Consequently the ATT includes a caveat that it ‘shall not be cited as grounds for voiding defense cooperation agreements concluded between States Parties to [the] Treaty’ (ATT, Article 26, para 2). Concerns were raised that the inclusion of a defence cooperation clause would leave many current and future legal arms transfers outside the scope of the treaty. The compromise states that the treaty should not be used to undo such agreements, but that any transfers must meet ATT criteria. The effectiveness of this compromise remains to be seen, as several countries most affected by it remain outside the treaty. This raises the question of how to treat transfers that occur after a country has joined the ATT but that are part of older cooperation agreements dating back to before the implementation of the treaty.
The ATT at the Intersection of Other Policy Areas

Unlike the Mine Ban Convention (MBC) or Convention on Cluster Munitions (CCM), the ATT does not prohibit or eliminate weapons systems per se. Nor does it promote the commercial trade in weapons other than by supporting responsible and transparent actions by states. In this context, the ATT is neither a disarmament treaty nor a trade treaty (Liang, 2011; ATT LegalBlog, 2013). At its heart is the growing concern of the inhumane consequences of an uncontrolled and poorly regulated and often illicit arms trade.

The first ATT resolution of 2006 recognized that ‘the absence of common international standards on the import, export and transfer of conventional arms is a contributory factor in conflicts, the displacement of people, crime and terrorism, thereby undermining peace, reconciliation, safety, security, stability and sustainable development’ (UNGA, 2006, Preamble). This approach linked the treaty’s development to a range of other policy areas, including terrorism- and organized crime-prevention and socio-economic development.22

Further, because the main responsibility for implementing the ATT lies with the national authorities of its states parties, domestically the treaty cuts across the whole spectrum of arms controls – affecting private defence industry actors, the police, customs and border operations, and government ministries for sectors that include the economy, health, defence and development. Implementing the ATT effectively and comprehensively will be a challenge, but it also presents an opportunity. As the treaty matures, its implementation will offer valuable lessons as to how the different actors and processes can support each other. The following sections discuss policy areas in which intersection with the ATT could support the treaty’s goals, or which could themselves benefit from it. The possibility of such mutual gains is an argument for countries to join the treaty early.

Fighting terrorism, piracy and organized crime

During the ATT negotiations, the need for stronger measures to fight terrorism was frequently cited as a justification for the treaty (Bromund, 2012). The ATT’s preamble underlines ‘the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end use and end users, including in the commission of terrorist acts’. The export licensing considerations of Article 7 oblige states parties to assess the risk that ‘the conventional arms or items … could be used to … commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party’ (ATT, 2013, Art. 7.1.b(iii)).23 Similarly, Article 7 requires states to assess the potential that the exported arms could be used to commit or facilitate transnational organized crime, and to consider measures to mitigate the risk of such potential violations (ATT, 2013, Art. 7.1.b(iv)).24 The wealth of instruments already in place to combat terrorism and organized crime means there is an established background against which the efforts of states parties to implement the ATT can be measured.

22 For a more detailed discussion of the ATT and development, see Kytömäki, 2014.
23 For a collection of UN conventions on terrorism, see https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml.
24 For more information on the UN Convention against Transnational Organized Crime and the Protocols Thereto, see http://www.unodc.org/unodc/treaties/CTOC/. 
Piracy, though not discussed at length during the ATT negotiations, also affects and is affected by the trade in arms. In the Horn of Africa in 2006–13, the proceeds of piracy financed some $400 million worth of transactions involving arms, slavery and drugs (Talley, 2013). The UN secretary-general also identified anti-piracy efforts as justification for the ATT on the grounds that ‘pirates wield grenade launchers and machine guns against merchant ships’, and that the absence of effective international regulation enables criminals to amass deadly weapons (UNSG, 2014).

Notwithstanding the myriad security concerns it raises, piracy has opened up market opportunities for companies offering security services and selling arms in affected regions. For example, the company ADS (British Aerospace, Defence, Security and Space Industries) has reportedly struck deals with private security companies in numerous countries, from Sri Lanka to Kenya. The emphasis seems to be paying off: by 2013, no ship with armed guards had been hijacked in the Indian Ocean, ‘a region that saw 189 pirate attacks in 2011 alone’ (Quinn, 2013). The example shows that conventional arms control makes it more difficult for pirates and other criminals to obtain weapons, while also helping people to defend themselves.

At the same time, controlling private security companies and their use of arms is challenging. In 2008, following a process initiated by Switzerland and the International Committee of the Red Cross (ICRC), 17 countries agreed the Montreux Doctrine, which established common rules of behaviour for private security companies. The Montreux Doctrine has since developed into the International Code of Conduct for Private Security Service Providers (ICoC), a partnership between governments, companies and civil society organizations. The ICoC establishes common principles and standards for the private security industry based on international human rights and humanitarian law. It also improves accountability in the industry by establishing an external independent oversight mechanism.25 Companies signing up to the ICoC undertake ‘not to contract with, support or service any government, person, or entity in a manner that would be contrary to United Nations Security Council sanctions’. They also pledge to ‘require that their personnel do not participate in, encourage, or seek to benefit from any national or international crimes including but not limited to war crimes, crimes against humanity, genocide, torture, enforced disappearance, forced or compulsory labour, hostage-taking, sexual or gender-based violence, human trafficking, the trafficking of weapons or drugs, child labour or extrajudicial, summary or arbitrary executions’ (Switzerland, 2010, Art. 22). The ICoC also establishes common practices regarding the management of weapons and weapons training, which will function as supporting actions for the ATT.

In looking at the export of weapons, ATT states should take into account the end user’s participation in the ICoC. Future ATT deliberations could focus on enhancing the treaty’s interaction with instruments currently in place to combat terrorism and piracy, and extant controls over the arms-related actions of private military companies.

25 For more information on the ICoC as well as its text, see http://www.icoc-psp.org/.
Working together with border control and customs services

Notwithstanding its main focus on export controls, the ATT also has implications for current import and transit practices, especially as they relate to the functioning of countries' border control and customs offices (often the main authorities in charge of controlling and recording the import, export and transit of arms). Effective border control and customs practices on the ground go hand in hand with effective implementation of the ATT. If states are to ensure that the treaty meets its goals of establishing common international standards for regulating the international trade in conventional arms and preventing and eradicating their illicit trade and diversion, they will need to work together to address the problems related to poorly regulated and illicit arms transfers. Yet the link between officials making political decisions to transfer arms and officials in charge of overseeing actual transfers often remains inadequate.

The World Customs Organization (WCO) has a stake in improving such coordination, particularly with regard to weapons import controls in the context of using the ‘Harmonized System’ (HS), a standardized coding of products in international trade. More than 200 countries, accounting for about 98 per cent of world trade, use the HS as a basis for customs tariffs and the compilation of international trade data and statistics (CTCS, 2014). Previously, the WCO has collaborated with the UN Office on Drugs and Crime (UNODC) and issued two sets of recommendations for states with respect to implementing the Firearms Protocol. These include references to the customs codes used by the WCO and introduce basic requirements for improving controls over the import, export and transit of firearms. The necessary and explicit link with the ATT is still, however, largely missing.

The WCO works to standardize customs procedures for assessing the risks related to transfers of certain commodities, such as weapons. The physical inspection of all shipments is impractical given the enormous volume of goods traded worldwide. Rather than going through every single container in port, customs authorities conduct physical inspections based on the potential likelihood that a given consignment may contain illicit goods. To help countries identify high-risk transfers, the WCO has developed indicators that can help to identify illicit SALW (SAS, 2012, pp. 154–156). The challenge for ATT implementation will be to strengthen connections between different branches of national authorities and international bodies, in order to enforce the link between political requirements set out by the ATT and practicalities on the ground.

The WCO Secretariat has announced that it is following relevant developments with regard to customs cooperation in the field of armaments and that it will ‘as needed, explore the ways to further enhance cooperative relationship with other international and regional organizations’ (UN PoA-ISS, n.d.). As the WCO is introducing an updated HS regime from the beginning of 2017 (WCO, 2014), the first years of ATT implementation represent an ideal time to examine the relationship with HS practices – and to explore how the new format could support implementation and monitoring of the treaty.

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26 In the ATT, activities of the international trade ‘comprise export, import, transit, trans-shipment and brokering’, referred to as ‘transfers’ (ATT, 2013, Art 2.2). Its main operative articles (Articles 6 and 7) concentrate on export prohibitions, exports and export assessments.


28 For an overview and list of relevant instruments especially as they relate to border controls and law enforcement cooperation in the field of SALW, see UN CASA, 2012.
Contributing to the fight against the trade in illicit drugs and human trafficking

The drugs trade – the world’s most flourishing and profitable business for organized crime – is closely connected to the illicit arms trade and human trafficking (UNRIC, 2014). The brokers, smugglers and middlemen involved in these activities are often the same people regardless of the line of their criminal activities. Trafficking tends to follow the same routes, irrespective of the commodity being transported. Trafficking in weapons provides supplementary income for organized criminal groups. Most groups become involved in weapons trafficking through other criminal activities, which allow them to draw on existing contacts, knowledge of routes and infrastructure. Illegal weapons are supplied by activities that include burglary; insider theft of legal arms; the repurposing or reactivating of older or damaged weapons; the sale of legal arms in the illegal market; the recycling of retired law-enforcement weapons; and the recycling of retired military weapons (Europol, 2013). While these activities are not at the core of the ATT, the treaty’s influence in reducing trafficking in other areas could be considerable. In addition, the treaty’s articles on international cooperation and assistance (Art. 15 and Art. 16) are intentionally broad. They could be understood to include these areas, particularly with respect to the imperative of preventing or stopping illicit transfers. This demonstrates the potential for further cooperation in this aspect.

Eradicating corruption

Corrupt practices when trading in arms were subject to some discussion during the ATT negotiations (Bock, 2011; Parker, 2008, pp. 34–35). The treaty recognizes the importance of tackling corruption in order to prevent the diversion of arms. Specifically, it encourages states parties to exchange information on corruption cases (ATT, 2013, Art. 11.5; Art. 15.6). The treaty’s export assessment criteria refer indirectly to the risk of corruption, stipulating that states shall not authorize an export if there is a risk that the arms in question could be used to ‘commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organised crime to which the exporting State is a Party’ (ATT, 2013, Art. 7.1b(iv)). In this context the UN Convention Against Transnational Organized Crime categorizes both corruption and money laundering as acts of ‘transnational organized crime’. According to Transparency International (TI), two-thirds of the world’s largest arms importers and half of the largest arms exporters have weak anti-corruption controls (TI, 2013). Internationally, the most recognized international regime to counter corruption is the UN Convention against Corruption, in place since 2005. In a regional context, the issue is being addressed, inter alia, by the OECD’s Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of 1997, as well as by the OAS’s Inter-American Convention Against Corruption agreed a year earlier.

However, full and effective implementation of the UN Convention against Corruption remains patchy, and experts doubt the ATT’s ability to tackle national-level corruption in the long-term (TEI, 2012). The ATT requests that states parties should ‘take national measures and to cooperate with each other to prevent the transfer of conventional arms … becoming subject to corrupt practices’ (Art. 15.6).

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29 For the text of the convention, see https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.
One way to reduce the risk of corruption in arms transfers is to insist that the recipient state has ratified and is effectively implementing the UN Convention against Corruption and any relevant regional conventions.

**Promoting safe and effective peacekeeping**

Since 1948 the UN has directed and supported 68 peacekeeping operations. Its current operations involve over 120,000 personnel (UNODA, 2013, p. 6). Based on mandates from the UN Security Council and the objectives of the UN Charter, UN peacekeeping operations are tailored to each situation, the nature of each conflict, and the specific challenges at hand. Peacekeeping missions' typical tasks include: preventing the renewed outbreak of conflict or the spillover of conflict across borders; stabilizing conflict situations after ceasefires, in order to create environments in which parties can reach lasting peace agreements; helping parties to implement comprehensive peace agreements; and leading states or territories through the transition to stable government, based on democratic principles, good governance and economic development (UN Peacekeeping, n.d.).

Unregulated and illicit flows of weapons present several challenges for peacekeeping operations. During conflicts, parties acquire weapons and ammunition illegally, and the presence of arms continues to endanger peacekeepers and impede their work even after the cessation of hostilities. Peacekeepers' increasing involvement in peace-building involves them in a wide range of activities, including: monitoring ceasefires; rebuilding state institutions; strengthening the rule of law; disarming, demobilizing and reintegrating former combatants (DDR); reforming the security sector; providing electoral assistance; establishing truth and reconciliation mechanisms; improving the physical security of weapons stockpiles, ammunition safety management and explosive mitigation; rebuilding education, health and economic infrastructure; assisting the return of refugees and internally displaced persons; building capacities for non-violent conflict resolution; improving respect for human rights; setting up adequate arms controls and regulations; and many other activities aimed at promoting social and economic development and mitigating the structural factors of conflict (UNODA, 2013, p. 6). Their work is valuable and one of the best-known activities of the UN.

Improved controls over the transfer of weapons to conflict regions and unstable societies, as provided for in the ATT, could make peacekeeping and peace-building operations much more effective.

This work is endangered by the presence of uncontrolled illicit weapons that continue to pour into conflict-prone societies after hostilities have ceased. For example, African Union peacekeepers in Sudan have been prevented from fulfilling their mission by heavily armed citizens, gangs and groups. These actors target peacekeepers and the civilians and resources to which they are assigned. In many cases, the insecurity and violence caused by the proliferation of small arms have reinforced a cycle of violence that has diverted vital resources from other areas of much-needed assistance, including development assistance (Stohl and Grillot, 2009), thus generating a requirement for even more peacekeeping aid.

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31 The latter tasks have developed mostly as part of the wider concepts of 'peace-building' and 'peace operations', even if currently considered by the UN as part of the peacekeeping mandate as a whole.
Improved controls over the transfer of weapons to conflict regions and unstable societies, as provided for in the ATT, could make peacekeeping and peace-building operations much more effective. The ATT addresses peacekeeping through references to the provision of weapons to peacekeeping operations. For example, its preamble notes the right of states to ‘acquire conventional arms to exercise their right to self-defense and for peacekeeping operations’ (ATT, 2013, Preamble). Article 2.3 excludes ‘the international movement of conventional arms by, or on behalf of, a State Party for its use provided that the conventional arms remain under that State Party’s ownership’. However, the treaty’s implementation has significant potential to limit the transfer of illicit arms that could hamper the work of peace operations. The net benefit of the ATT will be to make the work of peacekeepers safer and more efficient.

**Promoting responsible civilian gun ownership**

The ATT does not control civilian gun ownership or domestic transfers of weapons. Nor does it seek to impinge upon the regulation or registration of domestic gun ownership or limit the number of legally owned civilian firearms in any country. Yet the negotiations and the adoption of the treaty evoked much debate, especially in the US (ACA, 2012; DeYoung, 2013). Despite the US government’s repeated assurances, the gun lobby, spearheaded by the National Rifle Association (NRA), was concerned and argued strongly that the treaty might undermine the US Second Amendment rights of individuals to bear arms because it covers the trade in civilian-type weapons (Van Diepen, 2013; Nichols, 2013).

In its preamble, the ATT recognizes ‘the legitimate trade and lawful ownership, and use of certain conventional arms for recreational, cultural, historical, and sporting activities, where such trade, ownership and use are permitted or protected by law’ (ATT, 2013, Preamble). To alleviate concerns and correct any misunderstandings or misrepresentations about the purpose, objectives and scope of the ATT, all countries – especially those with large legal civilian weapons-ownership bases and strong pro-gun lobbies – should continue talking to and working with sceptics. It is important to reassure gun lobbies and other concerned parties that it is in everyone’s interest for the ATT to counter the global trade in illicit weapons and make the international arms trade more responsible and transparent.
The ATT’s Potential Contribution to Other Instruments

As the ATT matured, it became clear that its focus differs in significant respects from those of existing measures for small arms and other conventional arms control. It has also become clear that the ATT was developed to complement the existing control framework rather than to replace it. The ATT covers a wide range of conventional arms. Its focus is arms export controls, but aspects of the treaty also cover imports, transit and brokering. The PoA and the Firearms Protocol are more limited in scope (covering only small arms and light weapons), but wider in some areas of application (e.g. production, stockpile management, weapons-marking and -tracing, transfers, collection and destruction).32

In supplementing and enhancing PoA provisions on international transfer controls (export, import, transit) and brokering, the ATT will make a significant contribution to the existing framework governing international transfers of SALW. By providing clear international norms with respect to arms export licensing criteria, the ATT complements and supports the relevant commitments under the Firearms Protocol and PoA, which are less prescriptive in these aspects. Furthermore, in contrast to the PoA, the ATT establishes legally binding commitments and expressly covers the export of ammunition and parts and components.

The ATT’s provisions are arguably weaker, however, when it comes to regulating the import and transit of small arms. While the PoA and the Firearms Protocol (which covers ammunition, parts and components) require states to establish a system of import licensing or authorization, the ATT contains a qualified obligation for states parties to ‘take measures to regulate’ imports ‘where necessary’ (ATT, 2013, Art. 8(2)). Similarly, with respect to transit, while the PoA and the Firearms Protocol require states to establish measures on transit, the ATT commits states parties to take only ‘appropriate’ measures to regulate the transit and trans-shipment of arms ‘where necessary and feasible’. Additionally, the ATT’s provisions on import and transit do not apply to ammunition, parts and components (those in the Firearms Protocol cover the import and transit of these items, but the ATT only covers exports of them). There is a danger that, over time, the different levels of commitment in these instruments could undermine the norms set by the PoA and the Firearms Protocol, rather than supporting their implementation.

Differences between the ATT and other key instruments are also significant with respect to record-keeping. The ATT requires states parties to keep records of small arms export authorizations and actual exports, and encourages them to keep records of small arms imported or in transit, for only ten years (ATT, 2013, Art. 12). In contrast, the ITI stipulates that states should keep records indefinitely or, in the case of imports and exports, for a minimum of 20 years (UNGA, 2005b, para. 12).

In summary, while the ATT enhances several important existing national commitments and clarifies certain ambiguities in the existing arms trade control system, it also raises questions. In the worst case, the increasingly complex web of instruments can ‘become a source of confusion and contradiction, when their relationship and the different context in which these instruments operate

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32 The Firearms Protocol, for example, covers different SALW measures in detail, but only as they relate to transnational organized crime.
is not clear to national decision makers’ (UNODC, 2014). Much effort will be needed to translate the general and issue-specific commitments of the ATT into practical implementation guidelines, both at national and regional levels. The aim should be to establish the highest common international standards, tempered by the principle of avoiding lowest-common-denominator or a ‘one size fits all’ approach, which in the past has proven risky and dysfunctional in the area of arms transfer controls.

**Reporting and transparency**

The ATT covers the seven categories of conventional arms in UNROCA, plus SALW. The rationale for setting the treaty up in this way was to foster synergies between the two instruments, and to avoid increasing the record-keeping and reporting burden on countries that participate in both processes. When the ATT was being drafted, accepting a scope of arms coverage based on an existing instrument was also perceived as easier and more efficient than defining new categories.

The treaty reporting requirements cover international transfers – i.e. the export, import, transit, transshipment and brokering of items – as long as their ownership changes in the process. Many of the treaty’s obligations, as discussed earlier, embody de facto reference to the export of conventional arms.

Under Article 13 (‘Reporting’), states parties must provide two types of information via the secretariat. Within the first year of accession, a state must provide an initial report on its implementation measures, including ‘national laws, national control lists and other regulations and administrative measures’. In addition, states parties must provide an annual report (by 31 May) on authorized or actual exports and imports of conventional arms. In addition, states are encouraged to report measures they have taken to prevent the diversion of transferred conventional arms, although this reporting is not compulsory (ATT, 2013, Art. 11.6).

UNROCA is the primary international tool for increasing transparency in conventional arms transfers. The annual reports, which countries are encouraged to submit to the same annual deadline as that for the ATT, are supposed to include data on countries’ arms transfers, military holdings, domestic purchases and relevant policies. Since the register’s inception in 1991, some 170 states have submitted reports to UNROCA, with an average of about 100 states doing so each year (UNGA, 2013, p. 11). The register is said to capture ‘the vast majority of official transfers’ of these weapons (UNODA, 2014). However, it contains some gaps. For example, according to UNROCA data, 760 battle tanks were exported in 2012, but only 446 were imported (Jaeger, 2014). Data on exports are generally more comprehensive and transparent than on those on imports. Also, participation in UNROCA reporting seems to be in gradual decline, with a shift in focus to the ATT identified as one possible factor (UNGA, 2013, pp. 11–12).

Under the UN PoA and ITI, states are encouraged to submit voluntary national reports on their implementation efforts, including information on their activities, relevant legislation, and possible resources or needs with respect to assistance and capacity-building. There is no deadline for this reporting, but a schedule synchronized with the Biennial Meetings of States (BMS) and RevCons has

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33 The resulting eight categories are: battle tanks; armoured combat vehicles; large-calibre artillery systems; combat aircraft; attack helicopters; warships (including submarines); missiles and missile-launchers; and small arms and light weapons (SALW) (ATT, 2013, Art. 2). In addition, the treaty notes that national definitions of these categories ‘shall not cover less than the descriptions used in the United Nations Register of Conventional Arms’ at the time of entry into force of the treaty (ATT, 2013, Art. 5.3).

34 Other potential factors identified by the Group of Governmental Experts (GGE) include reduced follow-up efforts; the increased reporting burden on states; the perceived limited relevance of UNROCA in some countries due to the absence of SALW as a reporting category; and reporting fatigue – especially among countries that previously submitted ‘nil’ reports (UNGA, 2013, pp. 11–12).

35 The reporting follows a calendar-year schedule.
evolved as standard practice. Reporting under the UN PoA does not have to contain statistics on SALW transfers, but nothing prevents states from including that information in their national submissions.

Overall, around 150 states have reported on their PoA and/or ITI implementation at least once. Apart from some established practices and recommendations, there is no established template for reporting, and the submissions of states vary in length and coverage. States have called for standardization of PoA reporting and welcomed a joint template for this purpose in 2010. Based on this template, the UNODA developed an online reporting tool through which states can submit national reports electronically.36

The UN Legislation Exchange invites countries to submit to the UN their national laws and regulations on arms exports, to be made publicly available with the aim of promoting mutual understanding and confidence.37 Between 2004 and 2014, 64 states provided this information, some with updates.38 Table 1 presents an overview of states’ reporting requirements and possibilities, as relevant to the ATT.

Table 1: Selected international reporting mechanisms of relevance to the ATT

<table>
<thead>
<tr>
<th>Mechanism</th>
<th>Deadline</th>
<th>Common format</th>
<th>Depositary</th>
<th>Public/restricted</th>
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<tr>
<td>ATT</td>
<td>Initial report after one year of entry into</td>
<td>n/a</td>
<td>ATT Secretariat</td>
<td>To be decided</td>
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<td>(for statistics on the previous calendar year) and</td>
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<td></td>
<td>regulatory updates when necessary</td>
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<tr>
<td>PoA</td>
<td>31 May (for the previous calendar year)</td>
<td>Yes</td>
<td>UNODA</td>
<td>Public</td>
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<tr>
<td>PoA</td>
<td>Biannually, prior to the BMS meetings (incl. updates)</td>
<td>n/a Assistance package includes a voluntary template</td>
<td>UNODA</td>
<td>Public</td>
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<tr>
<td>ITI</td>
<td>Biannually, prior to the BMS meetings (incl. updates)</td>
<td>n/a</td>
<td>UNODA</td>
<td>Public</td>
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<td>Firearms Protocol</td>
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<td>n/a</td>
<td>UNODC</td>
<td>Public</td>
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<tr>
<td>Legislation Exchange</td>
<td>n/a</td>
<td>n/a</td>
<td>UNODA</td>
<td>Public</td>
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The PoA, ITI and Legislation Exchange reporting mechanisms have possible synergies with the ATT’s initial submission process, wherein a party to the treaty has to describe national laws, national control lists, and other regulations and administrative measures pertaining to the treaty. While these mechanisms and that of the ATT are not identical in coverage, there is likely to be some overlap in states’ submissions to them.

This has potentially mixed implications. On the one hand, the introduction of a mandatory annual reporting requirement via the ATT may discourage participation in other reporting instruments, reducing the transparency of the conventional arms trade as a whole. For example, there have been proposals to discontinue UNROCA reporting and combine it with that of the ATT, and to create an electronic (omnibus) reporting system consolidating data for several instruments (including the PoA, ITI, UNROCA and relevant regional instruments).

37 The submission of information is based on UNGA, 2002.
38 The reports can be found at http://www.un.org/disarmament/convarms/NLDU/.
On the other hand, the advent of the ATT could promote beneficial convergence. Data on implementation have yet to appear, but if the treaty lives up to the claim that it is ‘the biggest shake-up to conventional arms trade transparency since the end of the Cold War’, it could boost both the quantity and quality of transfer reporting (Jaeger, 2014). Indeed overlap with the ATT could have a positive effect on UNROCA given that the ATT’s annual report ‘may contain the same information submitted by the State Party to relevant United Nations frameworks, including the United Nations Register of Conventional Arms’. The similarity in scope between the ATT and UNROCA, and the fact that reporting under the ATT is compulsory, could thus revitalize UNROCA submissions.

In addition, because ATT reporting requirements include SALW, states parties might more easily send SALW data as voluntary background information to the UN Register. In fact, SALW could well be included as the eighth category of items in the register following the next meeting of the Group of Governmental Experts (GGE) in 2016; this would keep the two instruments in line with each other.

Previous experience suggests other synergies. Convergence has been sought in the regional context with the Organization for Security and Co-operation in Europe (OSCE), which usually updates the categories of its own information exchange to match those of the Register. Some states provide the same information to both the OSCE and the UN, thus preventing duplication of effort.

The situation may turn out to be more complicated for reporting of national laws, national control lists and other measures. Under current practices, it will be difficult to unify submissions made to different instruments. National authorities will have to keep compiling information separately for each of the different instruments, and in this sense the advent of the ATT will temporarily increase their reporting burden. However, considering that the descriptions are to be included only in the initial report, and thereafter updated only when necessary, the long-term impact will not be onerous. It can also be assumed that many countries have already compiled and analysed this information during the process of accession to the treaty. They should be able to convert this relatively easily into a format that can be submitted to the ATT Secretariat.

More sweeping unification of reporting regimes is not in prospect, however. During the drafting and negotiation of the ATT, there were discussions about the possibility of combining the main conventional arms instruments under the new treaty, thereby removing overlaps and reducing reporting burdens. This does not seem feasible in the near future. UNROCA, the UN PoA, ITI and other instruments were all developed for different purposes, and vary both in their goals and scope of application. For example, whereas the ATT is a legally binding instrument covering transfers of conventional arms, the UN PoA applies only to SALW but covers the whole life cycle of a gun – from production through marking, record-keeping, stockpiling and disposal.

Combining instruments that have largely the same scope as the ATT and UNROCA might also impair transparency in the conventional arms trade. Over the next few years, the participation base of the UN Register will remain wider than that of the ATT. Limiting reporting to ATT states parties, even if compulsory, would thus potentially eliminate the participation of many large traders and result in the loss of valuable information from countries not ready to start reporting to the ATT (Jaeger, 2014; Holtom and Bromley, 2013). Furthermore, as the ATT does not cover all aspects of the UN Register’s transparency regime, such as information on military holdings and procurement through national production, discontinuing UNROCA reporting would remove this aspect of openness, even if participation in disclosing this type of information has been limited (UNODA, 2009, p. 29). This

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39 Included in the UN Register as voluntary additional background information.
The Arms Trade Treaty’s Interaction with Other Related Agreements

was noted by the 2013 GGE, which considered the potential impact of the ATT on the UN Register, observing that the two instruments serve different functions and have different audiences. The GGE expressed the conviction that the two instruments needed to continue operating in parallel (UNGA, 2013, p. 16).

Since 2012 it has been possible to submit reports electronically to the UN Register. Take-up has been slow – by 2014 only 10 states had done so – but this method of information exchange is likely to gain prominence in the coming years. States are likewise encouraged to submit national reports electronically under the UN PoA, and at the time of writing pilot projects are examining ways to synchronize and combine reporting between regional and international instruments. It would be highly beneficial to develop the ATT’s information exchange and possible database(s) soon so that these are in line with existing and currently planned systems. In this way states could, where applicable, easily submit information to several instruments via the same portal.

A further (indirect) impact of the new ATT-based transparency regime on other instruments will be that civil society organizations are likely to use information from multiple sources, where available, including from the ATT, UNROCA, the Legislation Exchange and regional measures such as the OSCE information exchange mechanism, or that of the OAS. This greater variety of reporting would inform their analyses and recommendations.

In sum, during its first years of implementation, the ATT is likely to improve transparency in conventional arms transfers across international and regional instruments. The amount of available data will increase, especially with regard to the authorized SALW trade. The main risk is that it will – despite efforts to improve harmonization and efficiency – add to the workload of officials. This seems most likely for countries’ initial reports in 2015–16, preparations for which could reduce the number of national reports submitted to the PoA and ITI BMS ahead of the 2016 deadline. Compliance will be a particular challenge for developing countries, which tend to have few people to carry out reporting and policy work across the whole range of disarmament and arms control treaties. To increase synergies with other instruments and to avoid reporting fatigue and confusion, electronic tools and databases could be developed and extended to be compatible with the full set of instruments’ reporting requirements.

Table 2: Indicative schedule of activities under the ATT and other related international instruments in 2005–20

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(●) denotes uncertainty
Assistance and cooperation

Most international arms control instruments contain references to capacity-building, assistance and cooperation, which are seen as desired or necessary elements for ensuring effective and global implementation. Such efforts are generally funded by several countries and other stakeholders, and undertaken by a variety of actors that include national institutions, regional and international organizations, and NGOs. They have been instrumental in the implementation of the MBC and the UN PoA.40

The ATT is no different. It envisages the need for international, regional and bilateral assistance to ensure the treaty's effective and timely implementation. Actual assistance efforts are left as voluntary measures between states parties, and encompass a wide range of potential activities: ‘stockpile management, disarmament, demobilization and reintegration programmes, model legislation, and effective practices for implementation’. The treaty establishes a voluntary fund, to be supported by states parties (ATT, 2013, Art. 16). It is left to the countries themselves to decide actual provisions (ATT, 2013, Art. 15).

The issue of assistance and cooperation was consistently raised by a number of countries during the negotiations; it was the operational mechanism most frequently mentioned for inclusion.

As with many of its aspects, the ATT does not start from scratch in developing assistance and capacity-building programmes to help states improve their export control systems. A number of existing bilateral, regional and sub-regional programmes cover areas also central to the implementation of the ATT.41 The issue of assistance and cooperation was consistently raised by a number of countries during the negotiations; it was the operational mechanism most frequently mentioned for inclusion (Parker, 2008, p. 37). Indeed, international assistance has been promoted as one of the positive outcomes for states in the ATT that currently have insufficient transfer control mechanisms in place (Holtom and Bromley, 2012, p. 1).

States acceding to the treaty are likely to require differing levels of assistance in developing legislative frameworks for a comprehensive transfer control system; supporting the provision of and training for staff; establishing administrative procedures; overseeing the implementation of the legislative framework; and providing other support functions. For example, one ATT-related area in which assistance will prove vital and has for years been provided under different instruments is the task of improving countries’ stockpile safety and security. Even though securing caches of (excess) arms is not an explicit obligation of the ATT (as the treaty only deals with international transfers of

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40 Article 6 of the Mine Ban Convention entitles states to seek and receive assistance ‘where feasible, from other States Parties to the extent possible’. It commits states to facilitating, and gives them the right to participate in, the fullest possible exchange of equipment, material, and scientific and technological information concerning implementation of the convention. In addition, it states that ‘[e]ach State Party in a position to do so shall provide assistance for the care and rehabilitation, and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided, inter alia, through the United Nations system, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies and their International Federation, non-governmental organizations, or on a bilateral basis.’ It also states that ‘[e]ach State Party in a position to do so shall provide assistance for mine clearance and related activities.’ and that ‘[e]ach State Party in a position to do so shall provide assistance for the destruction of stockpiled anti-personnel mines’. And finally: ‘Each State Party giving and receiving assistance under the provisions of this Article shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programs.’ (MBC, 1997, Article 6). The PoA stresses ‘the urgent necessity for international cooperation and assistance, including financial and technical assistance, as appropriate, to support and facilitate efforts at the local, national, regional and global levels to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects (UNGA, 2001b, Section I, Art. 14). Section III of the PoA is devoted to “[i]mplementation, international cooperation and assistance”.

41 For an overview, see Holtom and Bromley, 2012.
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weapons), practice has shown that transferred arms often end up in illicit markets because end-users fail to follow proper stockpiling protocols. This opens the door for illicit actors to get hold of them (Van Diepen, 2013).

An important task for ATT states parties in the early phases of treaty implementation will be to explore how assistance efforts can best optimize human, technical and financial resources while avoiding duplication of effort. The ATT Secretariat, established by Article 18 of the treaty and tasked, *inter alia*, to ‘facilitate the matching offers of and requests for assistance for Treaty implementation and promote international cooperation as requested’ (Art. 18.2(b)), will play a central role (ATT, 2013, Art.18). It could, for example, collect and share information about activities in which different actors are engaged and thereby support mutual implementation of various instruments. In the past, joint internet-based platforms or online information-sharing databases have largely proven ineffective. Input has often been incomplete, and at worst has risked generating conflicting or confusing information that hinders rather than supports assistance. To ensure effectiveness and avoid information overlaps, the ATT Secretariat will need to establish effective working relations and regular (informal) information exchange channels with related implementation-assistance bodies.

Many other mechanisms and funds could come in handy. For instance, in 2013 the UN launched a Trust Facility to support cooperation on arms regulation (UNSCAR). This is designed to function as a multi-donor mechanism that supports, in particular, implementation of the UN PoA and ATT. Its aims include improving the effectiveness of assistance through coordination, monitoring and matching of resources. Studying the relationship between ATT-related assistance and assistance provided under similar instruments will undoubtedly be beneficial for the functioning and development of UNSCAR.

In the area of SALW, the UN, together with selected partner organizations, has developed a set of international standards to provide guidance to policy-makers and practitioners. The International Small Arms Control Standards (ISACS) are also used by the UN Coordinating Action on Small Arms (CASA) to ensure consistency of delivery in SALW-related UN projects. The standards fit within the global framework created by the PoA, ITI, Firearms Protocol and ATT, and build upon exemplary practices developed at regional and sub-regional levels. They are maintained and updated by a voluntary global network of experts drawn from the UN, governments, international and regional organizations, civil society and the private sector. Because of its composition and methods of functioning, the ATT has, since its outset, fed into the formulation of the relevant ISACS modules, especially those related to the export, import and transfer of weapons.

ATT assistance efforts could advance by considering good practices and sharing mechanisms. A ‘user’s guide’ or checklist of ‘essential elements for ATT implementation’ could usefully be drafted, and would be of particular value to countries at the beginning of their journey towards treaty implementation. Given regional and national differences in structures, capacity and policy needs, more bilateral and sub-regional exchanges of experiences and information should be encouraged.

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42 See, for example, the work of the UN Institute for Disarmament Research (UNIDIR) at http://unidir.org; and the Small Arms Survey, at http://smallarmssurvey.org.

43 For more information on ISACS and CASA, see http://www.smallarmstandards.org/ and http://www.pea-iss.org/CASA/CASA.aspx respectively.
Conclusions and Recommendations

The ATT has the potential to strengthen the effectiveness of a host of related arms control instruments and increase transparency and responsibility in arms transfers. It has the potential to improve national and international weapons control capacities, and ultimately to decrease illicit arms trade, insecurity and corruption. However, for the treaty to complement and strengthen the landscape of existing instruments effectively, states and implementing bodies need to take steps to reduce the impact of clashes or overlaps, and explore synergies with related instruments and measures.

The following is a collection of ideas and recommendations for states considering accession or in the early phases of treaty implementation. These ideas relate, in particular, to the ATT’s relationship with other instruments and policies.

• Interaction with relevant instruments and implementing agencies should be ensured at the onset of ATT implementation. Dedicated sessions during the ATT Conferences of States Parties should discuss potential connections between the ATT and other instruments and draw lessons from implementation of such measures. States should fund research into the ATT’s cross-cutting effects, including detailed potential benefits and potential connections between the ATT and other instruments – and including lessons from implementing other measures. States should take steps to ensure that different levels of commitment between instruments will not serve to undermine the norms of the PoA and Firearms Protocol.

• The ATT Secretariat could build on the states’ participation in other instruments and other organizations, such as the UNODC, World Customs Organization (WCO) and Interpol, and seek to establish regular, working-level interaction with the secretariats of these bodies to ensure timely and comprehensive information flow, and to maximize the complementarity and effectiveness of all related instruments. Practical synergies could be sought between the support structures underpinning related instruments, through organization of joint events – between for example: the ATT and UNROCA on reporting; the ATT and the PoA on national arrangements and diversion of arms; and the ATT and regional organizations on regional aspects of the ATT.

• There should be further cooperation between the WCO, Interpol and national control agencies over implementation of the ATT. States should support and facilitate such cooperation.

• In discussions on transparency and reporting obligations under the ATT, states parties should examine the possibilities for harmonizing and linking the ATT categories with those commonly used by the WCO – for example, in UN Comtrade reporting. To increase synergies with other instruments and to avoid reporting fatigue and confusion, states should look into improving existing electronic tools and databases and developing new capabilities.

• States parties could take into account end users’ possible participation in the International Code of Conduct for Private Security Service Providers (ICoC). Future ATT deliberations should address the treaty’s interaction with instruments to combat terrorism and piracy and establish means to enhance the controls on the arms-related actions of private military companies.
### Acronyms and Abbreviations

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<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ACA</td>
<td>Arms Control Association</td>
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<td>ATT</td>
<td>Arms Trade Treaty</td>
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<td>BMS</td>
<td>Biennial Meetings of States</td>
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<td>CCM</td>
<td>Convention on Cluster Munitions</td>
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<td>CCW</td>
<td>Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons</td>
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<td>COCOM</td>
<td>Coordinating Committee for Multilateral Export Controls</td>
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<td>CTCS</td>
<td>Canadian Trade Commissioner Service</td>
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<td>ECOWAS</td>
<td>Economic Community of West African States</td>
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<td>ERW</td>
<td>Protocol on Explosive Remnants of War</td>
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<td>EU</td>
<td>European Union</td>
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<tr>
<td>GGE</td>
<td>Group of Governmental Experts</td>
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<td>ICoC</td>
<td>International Code of Conduct for Private Security Service Providers</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>IPS</td>
<td>Institute for Policy Studies</td>
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<td>ISACS</td>
<td>International Small Arms Control Standards</td>
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<td>ITI</td>
<td>International Tracing Instrument</td>
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<td>LAS</td>
<td>League of Arab States</td>
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<td>MBC</td>
<td>Anti-Personnel Mine Ban Convention</td>
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<td>MGE</td>
<td>Open-ended meeting of Governmental Experts</td>
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<tr>
<td>n.d.</td>
<td>no date</td>
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<tr>
<td>NGF</td>
<td>non-governmental forces</td>
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<tr>
<td>NGOs</td>
<td>non-governmental organizations</td>
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<td>OAS</td>
<td>Organization of American States</td>
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<tr>
<td>OEWG</td>
<td>open-ended working group</td>
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<tr>
<td>OSCE</td>
<td>Organization for Security and Co-operation in Europe</td>
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<td>PoA</td>
<td>Programme of Action</td>
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<td>RevCon</td>
<td>Review Conference</td>
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<td>SADC</td>
<td>Southern African Development Community</td>
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<td>SALW</td>
<td>small arms and light weapons</td>
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<td>SAS</td>
<td>Small Arms Survey</td>
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<td>SIPRI</td>
<td>Stockholm International Peace Research Institute</td>
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<td>TEI</td>
<td>Treaty Effectiveness Initiative</td>
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<td>TI</td>
<td>Transparency International</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UN CASA</td>
<td>UN Coordinating Action on Small Arms</td>
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<td>UNDC</td>
<td>UN Disarmament Commission</td>
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<td>UNGA</td>
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<td>UNODC</td>
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<td>UNRRC</td>
<td>UN Regional Information Centre for Western Europe</td>
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<td>UNROCA</td>
<td>UN Register of Conventional Arms</td>
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<td>UNSC</td>
<td>UN Security Council</td>
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<td>UNSG</td>
<td>UN Secretary-General</td>
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<td>WA</td>
<td>Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies</td>
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<tr>
<td>WCO</td>
<td>World Customs Organization</td>
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References


League of Nations (1932). Supervision of the international trade in arms and ammunition and in implements of war, document D.58 IX. 7, Disarmament, 1932. The convention was preceded by an earlier version, entitled ‘Convention for the Control of Trade in Arms and Ammunition’.


UNGA (2005b). International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (‘International Tracing Instrument’). A/60/88 of 27 June (annex).


About the Author

Elli Kytömäki is an Associate Fellow at Chatham House and an independent policy analyst, currently working on issues related to the Arms Trade Treaty (ATT), export controls and nuclear non-proliferation. She was previously a project manager at the United Nations Institute for Disarmament Research (UNIDIR), where she was in charge of activities to support the ATT negotiations. Earlier in her career, she worked at the Organization for Security and Co-operation in Europe (OSCE), the Small Arms Survey, the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Permanent Mission of Finland to the UN Conference on Disarmament. She has written several articles and papers on arms trade and nuclear non-proliferation.

The Arms Trade Treaty project

This is the fourth paper in a series produced by the International Security Department at Chatham House and funded by the UN Trust Facility Supporting Co-operation on Arms Regulation (UNSCAR), exploring the impact and implications of the Arms Trade Treaty, with the aim of supporting its effective implementation and universalization.

Other titles in the series:

- How Joining the Arms Trade Treaty Can Help Advance Development Goals (December 2014)
- The Defence Industry, Investors and the Arms Trade Treaty (December 2014)
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