

The Arms Trade Treaty and the OSCE

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DOI: [10.1163/18750230-02504005](https://doi.org/10.1163/18750230-02504005)

Abstract

Adopted in 2013 by the United Nations and entered into force one year later, the Arms Trade Treaty (ATT) offers a useful – although imperfect – regulatory framework for international transfers of conventional arms, thus promoting human security and contributing to international and regional peace, security and stability. As the largest regional organization with a strong expertise in assisting States and in capacity-building, also contributing to politico-military aspects of security by developing its own set of norms regulating transfers of conventional arms – some of them already going beyond the Treaty, some others complemented by the ATT's provisions –, the OSCE can do a lot to support and promote the new Treaty and its implementation, through the diversity of the positions expressed by its participating States.

Keywords

conventional arms – OSCE – arms transfers – arms export – small arms and light weapons – international humanitarian law – diversion – capacity-building

The Arms Trade Treaty (ATT)¹ was adopted by the United Nations General Assembly on 2 April 2013, after seven years of negotiations and almost a quarter of a century after the initiative of the Nobel Peace Prize aiming at providing the legal means to regulate this wealthy but bloody market. The ATT was opened for signature on 3 June 2013 and was immediately signed by 67 States.

On 25 September 2014, the number of ratifications reached 53, which opened the way to the entry into force of the Treaty on 24 December.²

For the first time in history, a legally binding instrument establishes a common regulatory framework for international transfers of conventional arms, and therefore sets up an universal legal standard in one of the few areas which has escaped any control until now: the arms trade.

The ATT contributes to improving global governance, in a context of the increased globalization of a traditionally opaque international arms market and an increasingly complex chain of arms transfers due to the involvement of multiple actors. As a regulatory instrument – not a disarmament or even an arms control treaty – it does not intend to prohibit the arms trade nor to end all gun violence, but it creates extra responsibility in this area and helps to normalize the arms market through more transparency. The new Treaty *ipso facto* promotes human security and full respect for international humanitarian law. The ATT tends to harmonize national control systems; it provides a vector for the universalization of existing rules, whereas a patchwork of norms and political declarations, applying only to certain States or regions and to certain types of weapons, was so far the only reference.

This study will introduce the genesis and history of the Treaty, followed by its object, purpose and scope. It will then focus on the central aspect of this instrument: the control of arms exports, which goes through a rigorous conditionality – although not immune from vulnerabilities. After that, we will confront the newly adopted Treaty with the OSCE *acquis*, and see whether its provisions supplement the OSCE norms or remain below

1 The text of the Treaty adopted on 2 April 2013 has been issued under UN ref. a/conf.217/2013/l.3. See <http://www.UN.org/disarmament/ATT>.

2 According to its Article 22, the ATT “shall enter into force ninety days following the date of the deposit of the fiftieth instrument of ratification (...)”. On 1 November 2015, 130 States had signed the Treaty and 77 had ratified it.

them. We will also ask how the OSCE could contribute to the implementation of the ATT. Finally, we will try to foresee the challenges that may impact the Treaty's near future.

I Genesis of the Treaty

Governmental control over arms transfers has long been an issue in international relations. Arms trafficking had been enrolled in the programme of the League of Nations since the creation of this Institution pursuant to section 23(d) of the Covenant, and several attempts at regulation emerged between the two World Wars, such as the Convention of Saint-Germain-en-Laye of 10 September 1919, which can be considered as the first international agreement on international arms trade control.³

As in other areas (disarmament, arms control), the end of the Cold War has seen the establishment of a favourable context for discussion. At the dawn of the 21st century, facing the excessive and destabilizing accumulation of weapons, the escalation of illicit trafficking as a consequence of globalization and the technical development of conventional weapons, the UN General Assembly requested the Secretary General and the Conference on Disarmament "to elaborate universal and non-discriminatory practical means to increase openness and transparency in this field".⁴ Meanwhile, President Arias of Costa Rica, who was awarded the Nobel Peace Prize in 1987, jointly with eight other Laureates, had published a Code of Conduct on Arms Transfers in May 1997,⁵ from which a group of NGOs had prepared a draft Convention on international arms transfers.

In 2003, Amnesty International, Oxfam and the International Action Network on Small Arms launched in 70 countries the "Control Arms Campaign" calling for a "maximalist" treaty. In 2005, the United Kingdom, then the world's fifth arms exporter, became the first permanent member of the UN Security Council to officially support the ATT, followed by all the member States of the European Union and by 38 member States of the Commonwealth.

In 2006, the UNGA tasked the Secretary General to seek the views of member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms, and to set up a group of international experts.⁶ Based on their work, resolution 64/48 of 2 December 2009 convened a United Nations Conference on the ATT, which began its work on 2 July 2012.

However, four weeks of discussions in 193 States, overseen by hundreds of NGOs, were not yet sufficient to build consensus. In particular, the United States, then in presidential campaign and facing a growing internal debate on the constitutional guarantee of carrying weapons, called for more time to review the project. The Conference therefore resumed in March 2013. On 28 March, three States subject to sanctions by the international community (Syria, Iran and North Korea) prevented the adoption of the text by consensus. But a group of 90 States bypassed this obstruction and asked the Secretary General to bring the project to the attention of the General Assembly.

3 See Naoum Sloutzky, *La Société des Nations et le contrôle du commerce international des armes de guerre*, Dotation Carnegie pour la paix internationale, Geneva, June 1969, 155 p.

4 See a/res/43/75 I, 7 Dec. 1988 and a/res/46/36 I, 6 Dec. 1991.

5 Text in *The Codes of Conduct to Control Arms Transfers*, UNESCO Chair on Peace and Human Rights, Universitat Autònoma de Barcelona, May 1998, pp. 28–34, on <http://unesdoc.unesco.org/images/0011/001128/112830eo.pdf>.

6 *Towards an Arms Trade Treaty: establishing common international standards for the import, export and transfer of conventional arms*, a/res/61/89, 6 Dec. 2006.

On 2 April 2013, the ATT was adopted by the latter by a large majority.⁷

II Object, Purpose and Scope of the Arms Trade Treaty

Article 1 assigns the ATT two main objectives:

- “Establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms”; and
- “Prevent and eradicate the illicit trade in conventional arms and prevent their diversion”; this second objective echoes the Treaty’s preamble, where the States underline the need to put an end to these illicit trades and diversion, notably in the commission of terrorist acts.

As for the purposes of the ATT, they are:

- “Contributing to international and regional peace, security and stability”;
- “Reducing human suffering”;
- “Promoting cooperation, transparency and responsibility by State Parties in the international trade in conventional arms, thereby building confidence among State Parties”.

The categories of arms to include within the scope of the Treaty had been one of the stumbling blocks of the discussion in 2012. Finally, the ATT applies only to eight categories of conventional arms which are those already covered by the United Nations Register of Conventional Arms established in 1992 (battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers – including the MANPADS), plus a category which currently does not fall under the Register: small arms and light weapons. As for ammunition, the ATT offers only a minimal compromise on this aspect, which is undoubtedly a weakness, considering ammunition’s potential for trafficking and their role in organized crime, corruption and violence against non-fighters.

Therefore many categories of modern weapons fall outside the ATT, like for instance C4I equipment (Command, Control, Communications, Computers, and military Intelligence) as well as weapons assigned to protect public order, including non-lethal weapons such as *tasers* or blinding lasers. The applicability of the ATT to drones (or unmanned aerial vehicles, UAV) is questioned.

III The Core of the Treaty: The Regulation of Arms Export

The Treaty applies to the whole arms trade process, i.e. export (Article 7), import (Article 8), transit or transshipment (Article 9), brokering (Article 10), operations for which each State Party has to take measures to inform and regulate. However, remaining outside the Treaty are activities that do not, strictly speaking, pertain to “international trade”, i.e. donations, loans and leasing – not without ambiguities – as well as transfers of technology.

Article 6 of the ATT strictly prohibits arms transfers if:

⁷ Project A/67/L.58 (which then became resolution 67/234 B) was adopted by 155 States, whereas three voted against (North Korea, Iran and Syria) and 22 abstained (Bahrein, Belarus, Myanmar, Bolivia, China, Cuba, Ecuador, Egypt, Fiji, India, Indonesia, Kuwait, Laos, Nicaragua, Oman, Qatar, the Russian Federation, Saudi Arabia, Sri Lanka, Sudan, Swaziland and Yemen).

- this transfer violates its obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes;
- this transfer violates its relevant international obligations under international agreements to which it is a party; and – and this is the most important –
- the State has knowledge at the time of authorization that the arms would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes.

This last provision, possibly inspired by the Rome Statute of the International Criminal Court, has been criticized as inappropriate or even inapplicable. Indeed, this notion of “knowledge” is not easy to understand, as evidenced by the subtle nuances in the case law.⁸

Even if the export is not prohibited under Article 6, each exporting State Party, prior to the authorization of the export of conventional arms shall assess, in an objective and non-discriminatory manner, if there is an “overriding risk” that the conventional arms or items would contribute to or undermine peace and security, or could be used to commit or facilitate a serious violation of international humanitarian law, a serious violation of international human rights law, an act of terrorism or organized crime. After this assessment, and if no measures can be undertaken to mitigate the risks identified, such as confidence-building measures or jointly developed agreed programmes by the exporting and importing States, “the exporting State Party shall not authorize the export”.⁹

These provisions of Article 7 have given rise to much criticism. In particular, the notion of “overriding risk”, which is in no way defined by the Treaty – and is indeed impossible to define – is prone to subjective interpretations and leaves the State with too much leeway. Moreover, several important criteria, whose inclusion was requested by NGOs, are excluded from Article 7 (the nature of the political regime of the State of destination, sustainable development, corruption, the risk of a diversion of the exported arms to illegal markets – although Article 11 of the Treaty is dedicated to diversion). Strangely, Article 7 applies only to exports: no link is made with other types of transfers such as import, transit, transshipment and brokering.

However, through the ATT, a major change arises: the time is over when the arms user State alone supported responsibility for compliance with human rights and humanitarian law and the exporter State had no liability for what would happen: the latter is now, somehow, co-responsible for the use made of the weapons it has transferred (or otherwise decided not to transfer) and, alternatively, may be jointly responsible for the violations

⁸ According to the Rome Statute of 2008, “‘knowledge’ means awareness that a circumstance exists or a consequence will occur in the ordinary course of events” (Art. 30 para. 3); in addition, to invoke the criminal responsibility and liability of a group of persons, the commission or attempted commission of a crime must be made “in the knowledge of the intention of the group to commit the crime” (Art. 25, para. 3., d, ii). See also International Court of Justice, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, Judgement, i.c.j. Reports 2007, pp. 222– 224, para. 432; and Special Court for Sierra Leone, *Prosecutor v. Charles G. Taylor, Trial Chamber ii, Case scsl-03-01-T, Judgement*, 18 May 2012, para. 487, p. 179, on: <http://www.rscsl.org/Documents/Decisions/Taylor/1283/SCSL-03-01-T-1283.pdf>.

⁹ These confidence-building measures or jointly developed and agreed programmes could, for example, aim at improving and reinforcing the management and security of stockpiles of arms and ammunition on the territory of the importing State, in order to avoid their diversion and illicit trafficking. On these aspects, the impressive corpus of best practices, norms and decisions set up by the OSCE since 2000 can be referred to (see Best Practice Guide on National Procedures for Stockpile Management and Security and Best Practice Guide on National Procedures for the Destruction of Small Arms and Light Weapons, 19 Sept. 2003, nos. iii and vii in OSCE, *Handbook of Best Practices on Small Arms and Light Weapons*, Vienna, 2003).

that could occur if it has neglected its due diligence obligation.

IV How do the Standard-setting Instruments of the OSCE Compare with the New Treaty?¹⁰

In some aspects, the ATT falls short of OSCE requirements.

With regard to the abovementioned criteria governing assessment prior to the authorization of exports, the OSCE Principles Governing Conventional Arms Transfers (1993) and the OSCE Document on Small Arms and Light Weapons (SALW) (2000, revised in 2012) are more detailed than the ATT. On re-exports, the OSCE Document on SALW requires each participating State to “make every effort within their competence to encourage the insertion of a clause within contracts for the sale or transfer of small arms requiring that the original exporting State be advised before the re-transfer of those small arms”; no such requirement can be found in the ATT. Admittedly, Article 8 of the Treaty provides that “Each importing State Party shall take measures to ensure that appropriate and relevant information is provided (...) to the exporting State Party” and that “Such measures may include end use or end user documentation”, but there is nothing about the obligation to inform the original exporting State before the arms are re-exported. End-use certification and record keeping are other aspects on which the ATT requirements are not as comprehensive as those of the OSCE.

On the contrary, other ATT provisions usefully complement OSCE tools.

The “effective and transparent” national control system and the national control list that Article 5 of the Treaty require each State to establish are very important. In comparison, the Document on SALW merely calls on the participating States to ensure “effective national licensing or authorization procedures which allow the participating State concerned to retain adequate control over such transfers and to prevent the diversion of the small arms”; so something slightly less precise. As for the criteria regarding transfers, it is paradoxical that an organization like the OSCE, which attaches such importance to the question of women in armed conflicts, did not include this aspect in its criteria for allowing the export of arms. There is no mention of this either in the 1993 Principles or in the Document on SALW. It was not until the 2010 OSCE Plan of Action on Small Arms and Light Weapons that the link with this important topic was established. Conversely, the ATT calls on the exporting State to “take into account” the risk of the arms transferred being used to commit or facilitate serious acts of violence against women or children. The OSCE could revisit, in light of the ATT, its own instruments on this last point.

The ATT's fairly detailed Article 11 on combating diversion deserves to be mentioned, as it rightly helps to compensate for the relative weaknesses of the Treaty on other points. In comparison, the 1993 Principles and the Document on SALW of 2000 make only brief references to the risk of diversion.

V What can the OSCE do to Support the ATT Process?

The OSCE is a “regional arrangement” under Chapter viii of the Charter of the United Nations – actually the largest, with 57 participating States and 11 Asian and Mediterranean Partner Countries. It operates through a broad network of field presences, which gives the Organization direct access to relevant governmental agencies in many of its participating States. It must therefore work towards the universalization and implementation of a Treaty negotiated and signed under the auspices of the United Nations, especially since Article 16 of the ATT on international assistance for its implementation makes a direct reference to the support of regional organizations.

¹⁰ The following remarks are based on the presentation made by the author at the 727th meeting of the OSCE Forum for Security Cooperation on “The Arms Trade Treaty and the OSCE: what are the implications and what can be done to help promote the new Treaty?”, on 18 Sept. 2013.

The OSCE can play a crucial role in bolstering the ATT's nascent reputation as a credible treaty driving real change and valuably assisting with outreach. With its expertise in assisting States and in capacity-building in Small Arms, the OSCE could on the one hand serve as a hub for the development of States' capacities in implementing the ATT. On the other hand, it can offer its own expertise in helping States to identify gaps in their respective regulations and in providing them with models and best practices to address these gaps. This assistance could focus on areas where the Organization has great added value: end-use certification, an area in which it is leading the way, brokerage, as well as stockpile management. The OSCE could also focus on the capacity-building which is necessary to establish or improve an "effective and transparent" national control system and a national control list. Such a system already exists in many OSCE participating States, but a sharing of best practices would certainly be useful. Finally, the Organization could focus on combating diversion, an important aspect of the ATT.

With regard to the submission of reports by States to the ATT Secretariat (Article 13), the OSCE could certainly help in overcoming the overall reporting "fatigue", notably in further working on the harmonization with the United Nations format of the information that its participating States will submit.

Although the OSCE participating States do not yet have a common position on the ATT (on 1 November 2015, 45 OSCE participating States (out of 57) had signed the Treaty, while 36 of them had already deposited their instruments of ratification), the OSCE – and particularly its Forum for Security Co-operation (FSC) – could help in maintaining momentum and serving as a platform for dialogue and discussion on the Treaty, including its implementation and universalization as mentioned by Ministerial Decision 10/14 adopted in Basel.¹¹ The OSCE's wide network of field operations in South-Eastern Europe, Eastern Europe, the South Caucasus and Central Asia, which are one of the Organization's main comparative advantages, could also, in the future, enable it to foster States' capacity, upon their request, with regard to the ATT.

VI New International Order or Lowest Common Denominator? Mixed Feelings about the ATT

Without lowering the impact of the ATT process nor its outcome, one should honestly acknowledge the shortcomings and weaknesses of the Treaty.

The objective of an ATT that would be no less ambitious than existing instruments such as the EU Common Position,¹² set by many States and NGOs, has obviously not been achieved. Yes, indeed, on the regulation of exports, for example, the new Treaty is usefully filling gaps and defines legally binding obligations for States. But, in contrast, concerning some other aspects (imports, transit, brokerage) the attenuation of the language which is necessary to reach a compromise has resulted in the lowering of the current legal provisions. The fact that ammunition had been the subject of a minimal compromise and that transfers to non-State actors have been ignored in the Treaty may have disappointed some southern States, particularly the West African countries, who had hoped for a time that the new instrument would help to deal with their domestic insecurity. The Treaty contains no mechanism to monitor its implementation and to allow for rapid, impartial and transparent investigations in cases of alleged violations, and neither does it provide sanctions for violators. This deficiency might be overcome by the civil society and NGOs, who have played a key role in the maturation and adoption of the Treaty.

All in all, it is a useful but imperfect text, and the result of a painstaking consensus that UN member States

11 'Invites the participating States to (...) Continue within the Security Dialogue general discussions related to the ATT', MC.DEC/10/14, 5 December 2014.

12 Council Common Position 2008/944/cfsp of 8 Dec. 2008, defining common rules governing control of exports of military technology and equipment, Official Journal of the EU, L335, 13.12.2008, pp. 99–103.

adopted on 2 April 2013.

What will be the real impact of the ATT on the international flow of arms? The involvement of all the EU members and of the United States has placed more than 70% of the global arms market under the Treaty's influence. But in regions where State power is weak or non-existent ("failed states"), the ATT may be of no influence at all. The question will also arise concerning entities that are not recognized by the international community and which are, thereby, unable to accede to the ATT and are doomed to remain "black holes" of international arms trafficking. In this respect, eloquent is the situation of Puntland, a region of North-Eastern Somalia that declared itself autonomous in 1998 and appears to be the platform for the trafficking of weapons and ammunition towards the African Horn; but such "black holes" also exist within the OSCE region.

Binding criteria for the transfers of conventional weapons will probably not prevent serious divergences between implementing countries: as P. Holtom and M. Bromley demonstrate, the EU Code of Conduct and the 2008 Common Position did not prevent some European States from continuing their arms exports to Georgia on the eve of the August 2008 conflict, while others interrupted. Similarly, the Wassenaar Arrangement has not deterred Russia from supplying Myanmar, Sudan and Zimbabwe, while the United States and the EU members, also parties to this instrument, implemented arms embargoes against those countries.¹³

Therefore, the ATT is not meant to cure all the ills of the world, and should in no way encourage the establishment of a new international order. Governments' political will, but also the vigilance of civil society, will determine the fate of this iconic document of the early 21st Century.

VII What is the Near Future of the Arms Trade Treaty?

The future of the ATT depends on its universality. Its Preamble reaffirms the "desirability of achieving universal adherence to this Treaty".

A period of time is therefore needed to allow States to bring their domestic systems into conformity with the new Treaty and to provide those in need with assistance in capacity building.¹⁴ The overwhelming support that the international community provided to the Treaty in 2013, as well as increased vigilance and pressure from civil society and NGOs, have facilitated the ratification process and accelerated the entry into force of the ATT. A fund has been set up, financed by voluntary contributions, to help States towards the ratification and implementation of the Treaty (un Trust Facility Supporting Cooperation Arms Regulation, UNSCAR).

As a precursor of the ATT, the United Kingdom was one of the few to indicate that it would ratify the ATT within a year, and it did so. France also deposited its instrument of ratification on 2 April 2014, together with a group of 17 member States of the EU. Among the top five arms exporters (the USA, Germany, Russia, France, China and the UK), Russia and China abstained in 2013. As for the United States, it has finally signed the Treaty without apparently having overcome all obstacles that may impede ratification by Congress.

- China has recently joined the group of the five largest arms exporters. The fact that it failed to vote in favour of the text in 2013 does not mean that it will not accede to the Treaty at a later stage. Although

¹³ Paul Holtom and Mark Bromley, "The International Arms Trade: Difficult to Define, Measure, and Control", *Arms Control Today*, vol. 40, July-August 2010, on: http://www.armscontrol.org/act/2010_07-08/holtom-bromley.

¹⁴ The UN Office for Disarmament Affairs has issued a brochure that describes the procedures that States must follow in order to sign, ratify, accept, approve or accede to the ATT (http://www.UN.org/disarmament/ATT/docs/ATT_info_kit.pdf).

Beijing has initially displayed a hostile attitude, especially on the inclusion of SALW and ammunition and on the insertion of “humanitarian” criteria in the Treaty, China’s position has evolved towards more flexibility. The seminar in which the author of this article participated in Beijing on 16 May 2013 confirmed China’s observer attitude, especially with regard to the American position.¹⁵ China moving towards the ATT would have an obvious impact on Russia’s position, which would then become isolated.

- Unlike China, Russia’s reservations concerning the ATT have grown as the work of the Conference approached a favourable outcome. Moscow has highlighted the effectiveness of its arms control system, which according to Russia would go well beyond the ATT requirements (which did not prevent Russia from transferring, in recent years, war material to authoritarian States such as Syria, Iran, Myanmar, North Korea, Cuba, Uganda, Sudan or Zimbabwe). The Russian authorities have also protested against the lack of provisions on non-State actors; in this respect, their position vis-à-vis Syria could expose them to criticism.¹⁶ The current international context, characterized by a “cold” relationship between Russia and the United States and its allies should not play in favour of a shift in Russian policy.¹⁷
- Due to its unchallenged position on the arms market, signature by the United States was a key issue for the future of the ATT. State Secretary Clinton’s change of position in 2009¹⁸ has been one of the surprises of the ATT process, ending three years of obstruction. After a noticeable absence at the ceremony of signature in New York, and after a few months of delay, Secretary of State Kerry finally signed the Treaty on 25 September 2013 in New York, making his country the 91st State to sign the ATT.

Having succeeded in obtaining the recognition in the Preamble of “the legitimate trade and lawful ownership, and use of certain conventional arms for recreational, cultural, historical, and sporting activities”, which makes the ATT compatible with the Second Amendment to the American Constitution, ratification by Congress will primarily depend on changes to the ITAR (International Traffic in Arms Regulations) and EAR (Export Administration regulation), described as a “gold standard” during the negotiations. The majority of two-thirds which is necessary to obtain the Senators’ blessing may be difficult to gain. In 2011, 36 American Congressmen, led by Senator Jerry Moran, had issued a resolution advising President Obama not to sign the Treaty and Congress to refrain from ratifying it, and echoing the concerns of the National Rifle Association and the Heritage Foundation about the defence of the Second Amendment. A year later, 51 Senators from both political sides signed a letter to President Obama, calling on him to ensure the protection of private activities related to firearms and warning that they would oppose ratification if their request was not taken into account;¹⁹ at the same time, 130 Representatives also

15 Seminar on “The next steps of the Arms Trade Treaty Process”, jointly organized by Saferworld and the China Arms Control and Disarmament Association, Beijing, 16 May 2013, Seminar Report, 24 May 2013, 3 p.

16 See Loïc Simonet, “Le Traité sur le commerce des armes et la rébellion syrienne”, Tribune no. 539 in *Revue Défense Nationale*, 6 June 2014, <http://www.defnat.com> and “Syrie : Fallait-il livrer des armes à la rébellion ?”, *Valeurs actuelles*, no. 4061, 25 Sept. 2014, pp. 95–96.

17 “Russia Warns It May Not Sign Landmark UN Arms Treaty”, no. 5102, 4 April 2013 and “U.S. to Sign New Arms Trade Treaty, Russia Undecided”, no. 5141, 4 June 2013, *The Moscow Times*, on: <http://www.themoscowtimes.com>.

18 “U.S. Support for the Arms Trade Treaty”, press statement, Hillary Rodham Clinton, Washington dc, 14 Oct. 2009, on: <http://www.state.gov/secretary/rm/2009a/10/130573.htm>.

19 See http://www.moran.senate.gov/public/index.cfm/files/serve?File_id=9cd86202-9498-47ca-8b8d-534bf60b52f7.

expressed their hostility.²⁰ Much will depend on pressure from civil society and the moral authorities, like the eighteen Laureates of the Nobel Peace Prize, who urged President Obama to endorse the Treaty more quickly,²¹ imitated a month later by the American bishops.²²

The US position vis-à-vis the ATT will be closely observed by several other reluctant States, starting with China and Russia.

Conclusion

Despite its imperfections, will the ATT exercise the same power of attraction and deterrence as the Ottawa Convention on landmines or the Dublin Convention on cluster munitions which, even before their entry into force, were already applied by many non-signatory States and have deterred explicit actions against their provisions? Similarly, will the label “ATT Compliant” promote the establishment of a network of countries and companies harmonizing their practices in accordance with the ATT? The OSCE, working for stability through confidence building and military transparency, and above all including countries that represent around 80% of the global arms trade (the EU, the Russian Federation and the US), will undoubtedly act as a forum for sharing best practices and setting up concrete co-operation projects on the newly entered into force Treaty, upon the request of its participating States, while fully taking into account the position of those that are not yet bound by its provisions.


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20 ^see <http://kelly.house.gov/sites/kelly.house.gov/files/ATT%20Letter.pdf>.

21 “Securing a Strong Arms Trade Treaty”, 14 March 2013, on: <http://www.amnesty.org/fr/library/asset/ACT30/019/2013/en/ef798908-c340-49f5-b459-313197c458f0/act300192013en.pdf>.

22 “In light of the position of the Holy See, I urge the Administration to expedite a thorough review of the Treaty so that the President can sign it in early June. As a world leader and a major arms exporter, our nation should set a positive example for other nations to follow in efforts to reduce the flow of weapons into situations that violate human rights and cause terrible suffering” (letter by Mgr R. E. Pates, Bishop of Des Moines and Chairman of the Conference of the Catholic Bishops of the US, to State Secretary J. Kerry, on: <http://www.usccb.org/news/2013/13-066.cfm>).



This article was first published with Brill | Nijhoff publishers, and was featured on the Security and Human Rights Monitor (SHRM) website.

Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

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