



SAFERWORLD
PREVENTING VIOLENT CONFLICT. BUILDING SAFER LIVES



ATT update

SEPTEMBER 2014 · ISSUE NO 7

On 2 April 2013, after more than a decade of civil society campaigning and seven years of work at the United Nations (UN), the UN General Assembly overwhelmingly adopted the Arms Trade Treaty (ATT) by 156 votes to 3.¹ This is the first global treaty aimed at reducing humanitarian suffering by controlling the conventional arms trade. Implemented effectively, it will create a new global norm for the transfer of arms and ammunition assessed against the risk of misuse to commit atrocities.

The ATT officially opened for signature on 3 June 2013. Shortly afterwards the Control Arms Coalition launched the 'Race to 50' to encourage speedy ratification and entry-into-force of the Treaty; at the time of publication of this newsletter, it had been signed by 121 countries and ratified by 53. On 25 September 2014, eight states – Argentina, the Bahamas, Bosnia-Herzegovina, the Czech Republic, Portugal, Saint Lucia, Senegal and Uruguay – ratified the Treaty at a special ceremony at the UN headquarters, in New York, taking the number of ratifying states to 53. The 90-day countdown for the Treaty to enter into force has begun. On 24 December 2014, the ATT will enshrine into international law much-needed controls on the multi-billion-dollar arms trade for the very first time.

HIGHLIGHTS OF RECENT WORK

Over the last three months momentum has begun to build on ATT implementation. Workshops have taken place around the world including the Pacific, Caribbean, Latin America and Central Africa. Alongside challenges specific to each region, topics at these meetings have included the exploration of model legislation, the provisional application of criteria, monitoring and reporting, the interplay between key ATT articles and information exchange.

ARMS TRADE TREATY REACHES 50 RATIFICATIONS

90 DAYS TO GO BEFORE IT COMES INTO FORCE

On 1 July 2014, Saferworld's Expert Group on ATT Implementation, which brings together states, academics and NGOs from around the world, had its 3rd meeting in Berlin, in cooperation with the German Ministry of Foreign Affairs, with a particular focus on issues of reporting and diversion.

The Arms Trade Treaty-Baseline Assessment Project (ATT-BAP) is another civil society initiative designed to aid ATT implementation. Through a survey, the project helps states understand the obligations of the ATT as well as review their existing policies and practices. The ATT-BAP has launched a freely accessible and user-friendly online portal (www.armstrade.info) to share information on ATT implementation and best practices.

Progress has been made towards the first Conference of States Parties (1CSP). The Government of Mexico has offered to host 1CSP, the date of which has yet to be agreed but which must be within one year of entry-into-force. A first informal consultation took place in New York in May, at which states and civil society exchanged views on Rules of Procedure,

the future ATT Secretariat and funding mechanisms, among other topics. An informal consultation on the CSP took place in Mexico City on 8–9 September, with up to three more preparatory meetings scheduled to take place before 1CSP.

The Control Arms Coalition has taken steps towards establishing a civil society monitoring regime for the Treaty (the ATT Monitor). Consultations have included input from many diplomats, academics, NGO colleagues and monitoring experts. A first edition of this ATT Monitor will be launched at 1CSP.

Achieving the intended goals of the ATT will require all stakeholders – including states, international civil society and relevant defence industry members – to continue to work together so that the Treaty is implemented effectively and begins to transform the more problematic elements of the international arms trade.

The information and views set out in this update are those of the author/s and do not necessarily reflect the official views and positions of Saferworld.

continued

THE PREPARATORY PROCESS FOR THE ARMS TRADE TREATY CONFERENCE OF STATES PARTIES

RODRIGO PINTADO

Following its adoption by the UN General Assembly on 2 April 2013, the Arms Trade Treaty has become an increasingly important part of the international discourse on conventional arms control. To date (25 September 2014), 121 states have signed and 53 have ratified the Treaty, which is on course to enter into force by the end of this year. It is a sign of the strong political commitment that exists for the ATT that it will become international law less than two years after its opening for signature.

Article 17 of the ATT requires that the first Conference of States Parties (1CSP) must be held no later than one year following the entry into force of the Treaty. Mexico has made an offer to chair and to host 1CSP and has received widespread support for this proposal. Preliminary consultations, chaired by Mexico, were held at the UN on 5 May 2014 among signing and ratifying states of the ATT, with the participation of civil society representatives supportive of the Treaty.

The Mexican initiative to host 1CSP is underpinned by a desire to engage in an open, transparent and inclusive process that includes not only ratifying states but also signatories, most of whom we hope will be States Parties by the time of, or just after, 1CSP. Ultimately, the States Parties will be the ones responsible for taking

decisions on vital issues at 1CSP for the Treaty's future implementation, but it is nevertheless important that the views of the signatory states are listened to.

There has been some discussion about whether to include non-signatories in the preparations for 1CSP. However, there is a general understanding among participants to limit the discussion to signatories and ratifying states because they have demonstrated a political commitment to the ATT and have a stake in the future of the regime.

An informal Preparatory Meeting for 1CSP took place in Mexico City on 8–9 September. Mexico's goal as Chair of the process is for participants to agree on the calendar of meetings that will lead towards 1CSP. Additionally, the September meeting provided an opportunity to engage on substantive inter-governmental discussions on prospective rules of procedure and financing of the CSP, as well as the Permanent Secretariat.

Finally, it is important to make a clear distinction between the 1CSP preparatory process and the wider aim of universalisation of the ATT. While outreach to states that have not yet signed is of great importance, this is separate from the process that will lead to the establishment of the ATT regime.

continued from p.1

This issue of the *ATT Update* includes contributions from Rodrigo Pintado, Senior Advisor for International Security at Mexico's Vice Ministry for Multilateral Affairs and Human Rights, and from Elizabeth Kirkham, Small Arms and Transfer Controls Adviser, and Roy Isbister, Team Leader of Small Arms and Transfer Controls, both from Saferworld. Rodrigo Pintado notes the strong political

commitment to the ATT and explains the idea behind 1CSP. Kirkham and Isbister explain why it is in the interests of China to sign the Treaty, with key considerations including: combating terrorism, preventing arms transfers to non-state actors, establishing a level playing field for industry, helping to promote stable environments and China's global role.

* The introduction is contributed by Anna Macdonald, Director of the Control Arms Secretariat.

AUTHOR BIOGRAPHIES

Rodrigo Pintado is the Senior Advisor for International Security, Mexico's Vice Ministry for Multilateral Affairs and Human Rights. Previously, he was part of Mexico's Negotiating Team for the Arms Trade Treaty, while also serving as Political Coordinator and Disarmament Expert at the Permanent Mission of Mexico to the United Nations.

Elizabeth Kirkham is Small Arms and Transfer Controls Advisor, having worked on arms and security issues at Saferworld since 1993. Her areas of interest include national, regional and international arms transfer controls and efforts to stem the proliferation and misuse of small arms and light weapons. Elizabeth has produced numerous publications for Saferworld on a wide range of related issues, including: how an international Arms Trade Treaty could be monitored and verified, and highlighting priorities for strengthened controls on small arms transfers to prevent diversion.

Roy Isbister is Saferworld's Team Leader of Small Arms and Transfer Controls. He has worked in this area for over ten years, and has considerable experience in developing and implementing strategies to promote the adoption of responsible arms transfer control strategies at national, regional and international levels. He has chaired the Geneva Process on Small Arms, is currently co-chair of the global Control Arms Coalition, a member of the Board of the Parliamentary Forum on Small Arms and the Co-ordinator of the UK NGO Working Group on Arms.

THE TIME AVAILABLE TO SIGN THE ARMS TRADE TREATY IS SHRINKING FAST: WHY SHOULD CHINA SIGN THE TREATY?

ELIZABETH KIRKHAM AND ROY ISBISTER

INTRODUCTION

On 2 April 2013, the UN General Assembly passed a resolution to adopt the Arms Trade Treaty (ATT) by a majority vote of 156 to 3.² The ATT is a legally binding instrument establishing high common standards for the international trade in conventional arms. China was among the 22 states that abstained on the vote. Nevertheless, China played a positive role in the ATT negotiations, showing flexibility and understanding of other states' positions and supporting the process up to the point at which a credible and widely supported text was produced. That China did not support the adoption of the ATT by a majority vote in the UN General Assembly is primarily the result of China's cautious approach to the conclusion of international legally binding agreements by non-consensual means.

The ATT has the potential to profoundly impact upon the international trade in conventional arms. If it is fully implemented, it will ultimately benefit the safety and security of people everywhere in the world. At a minimum, and in the short term, the ATT will shape the international discourse on conventional arms transfers; indeed, this is already happening in the context of a variety of informal channels that are bringing governments and civil society experts together to discuss ATT ratification and implementation issues. In the longer term it has the potential to shape the arms transfer policies and practices of all states by creating an environment whereby the principles enshrined by the ATT are widely accepted and adhered to.

Accordingly, it is in the interests of China to engage fully alongside other states early in the ATT's life in order to ensure that China's national, regional and global perspectives are given due weight in the discussions that take place and the decisions that are made as the implementation of the Treaty takes shape.

KEY CONSIDERATIONS THAT SHOULD SHAPE CHINA'S ENGAGEMENT WITH THE ATT

Combating terrorism

In recent years China has experienced a growing threat from terrorist groups operating within its borders. As a result, the question of how to prevent such groups gaining access to weaponry is an important concern for China. The ATT (under Article 7.1.b.iii and Article 7.3) addresses exactly this question, and its full implementation by States Parties will contribute to the strengthening of international safeguards against support for, and arming of, terrorist groups. Clearly, the more states that join the ATT and implement the provisions of Article 7, the greater the impact will be.

Preventing arms transfers to non-state actors

China also has concerns with regard to the provision of arms to non-state actors (NSA), with the question of arms sales to Taiwan by other states principal among these. In addition, there is also the issue of the operation of NSA (in the form of non-state armed groups) who threaten security and stability in developing countries and sub-regions where China is engaged. While the ATT does not explicitly address the question of providing arms to NSA, it is certain that, if widely and properly implemented, the ATT would prevent the vast majority of arms transfers to NSA. It is therefore vital that China engages in the discourse around the substance and implementation of the ATT to ensure that its particular concerns are reflected in the emergence of international norms around this issue.

Improving partnerships with developing countries

Following an initial period of scepticism, China's position shifted towards construc-

tive engagement and support for the UN ATT process. This shift was influenced, in part, by China's close relations with a significant number of developing countries, notably in Africa, who are long-standing supporters of the ATT. These partner countries have suffered for many years from the irresponsible and illicit trade in conventional arms and, as a result, see their future security and prosperity as being supported by the ATT. By playing a constructive role in the ATT negotiations, China demonstrated that it takes the concerns of African countries seriously. China can build upon this and, now it has become a reality, show its clear support for the ATT by signing the Treaty.

Helping to promote stable environments

China has a very concrete and rapidly growing interest in stable international, regional and national environments. More and more, Chinese personnel and businesses are at direct risk of physical and commercial harm through operating in zones of insecurity. Ready access to arms by competing groups in these contexts increases the risks faced by these Chinese actors. The same applies to Chinese peacekeepers, who increasingly find themselves in harm's way from armed groups. China therefore has a growing interest in supporting an international regime that prevents international arms transfers that are not subject to effective control by authorised and responsible actors, both through signing and observing the Treaty in its own right and encouraging others to do the same.

Ensuring a 'level playing field' for the industry

Responsible defence-manufacturing companies around the world are well aware and accept that the nature of their business means they will be subject to

continued



continued

certain constraints. Where problems can arise is where these constraints are perceived to be preventing legitimate trade or where competitors are not required to operate to similar standards. However, the ATT is not meant to undermine the legitimate defence trade. Instead, it will help create a situation whereby the parameters within which the defence industry conducts its business are clear and are widely shared. Accordingly an important factor in the progression of the ATT from concept into reality was the support that emerged in many countries from the defence industry and the realisation that the ATT would serve their interests by ensuring a 'level playing field' that would establish common international rules governing the trade in arms. A corollary to this is that defence industry cooperation (for example, in the form of joint research and development and of co-production arrangements) becomes more likely among companies in states whose governments are confident that they share similar views with regard to potential onward sales. Participation in the ATT could thus function as a precursor to increased industrial cooperation in future.

Promoting China's positive global role and international standing

As China's global presence increases, China's international reputation will be affected by how its engagement in different countries is perceived. China is active in a number of fragile contexts – in such circumstances China's impact on security dynamics will be one important yardstick by which its reputation will be measured.

Through financial assistance and development projects, China is already

playing a positive role in conflict-affected and fragile environments. China has also been praised for playing a progressive diplomatic role, for example, because of its mediation efforts following the outbreak of conflict in South Sudan in December 2013, as well as its provision of peacekeepers to various contexts affected by conflict. However, one of the areas where China is sometimes perceived to play a more ambiguous role is with regard to arms transfers. High-profile cases in recent years include arms to Zimbabwe in 2008 and recent arms exports to South Sudan. China is on record as having defended its decisions on the basis that it does not interfere in the internal affairs of other states; however, a decision to supply arms to a government where authority is highly contested and/or tensions are extremely high risks being seen by other countries in a very different light.

As China's global presence grows, it is anticipated that issues regarding its international standing will assume more political importance. It is hard to identify the benefits that might possibly ensue from transferring weapons to countries experiencing serious internal conflict that would compensate for the potential harm that such actions could have on China's broader reputation, not to mention the physical security of Chinese investments and civilians operating in such contexts.

By signing the ATT, China would be sending out an important signal that it fully supports the emerging international consensus about when it is and is not appropriate to transfer arms. It would of course then be incumbent on China, just as with all states, to ensure that its practice is in keeping with its obligations under the Treaty.

Time-limited window of opportunity

It is vital to recognise that the time available to sign the Treaty is shrinking fast. To date, 53 countries have ratified the Treaty. On 24 December 2014, 90 days after the first 50 countries have ratified, the Treaty will enter into force. At this point, the Treaty becomes international law and signature will no longer be an option for China or any other non-signatory. States will then be required to accede to the Treaty which means becoming a full State Party with the responsibility to implement all of the Treaty's provisions in full.

China has traditionally adopted a step-by-step approach to the ATT; it is thus logical to argue that the next step in China's engagement with this Treaty is to sign the agreement before entry-into-force. In this regard, it is worth noting that while signatories to the ATT are being included in the already-established preparatory process which will lead up to the first Conference of States Parties (1CSP), non-signatories will not be involved; moreover, there is no guarantee that non-signatories will be invited to attend 1CSP, even in the capacity of observers. With this in mind, it is noteworthy that while US ratification of the ATT is some way off, the US has nevertheless shown its political commitment to the ATT through signature of the agreement and is now well-placed to engage in and influence the discussions at 1CSP and beyond.

ABOUT THE ATT UPDATE

The *ATT Update*, co-published biannually by Saferworld and the School of Political Science at Tongji University, is a platform for Chinese experts, academics and students to exchange their views on efforts to regulate international transfers of conventional arms under the ATT process. We welcome all comments and ideas for future submissions.



Saferworld

The Grayston Centre
28 Charles Square
London N1 6HT, UK

Phone: +44 (0)20 7324 4646

Fax: +44 (0)20 7324 4647

Email: general@saferworld.org.uk

Web: www.saferworld.org.uk

Registered charity no. 1043843

A company limited by guarantee no. 3015948

NOTES

- 1 The United Nations General Assembly approved the resolution by a recorded vote of 154 in favour, 3 against, and 23 abstentions. Subsequent to the vote, the delegations of Angola and Cape Verde informed the United Nations Secretariat that they had intended to vote in favour. See: www.un.org/disarmament/update/20130402/
- 2 See previous footnote for further information on the UNGA vote to adopt the ATT on 2 April 2013.