



Arms Trade Treaty: Progress and obstacles

Unlike weapons of mass destruction and land mines, international trade in conventional weapons is not covered by a legally binding global treaty. Currently, the relevant international regulations are made up of a patchwork of UN embargos, transparency mechanisms and a voluntary code of conduct.

The EU has one of the most advanced policies in this field and is promoting a strong global Arms Trade Treaty (ATT). Humanitarian and human rights non-governmental organisations (NGOs) also advocate a restrictive and coherent approach, stressing that irresponsible arms trading exacerbates conflicts, violations of human rights, terrorism and organised crime.

Since 2010, a UN preparatory committee on ATT has been mandated to prepare the basis for a final conference to agree the treaty in 2012. The committee has made progress on the scope and general principles guiding the treaty. However, contentious issues remain, including the inclusion of ammunition and private guns in the treaty, the right to deny the transfer of arms as opposed to "sovereign right to self-defence", and the criteria for deciding on the admissibility of arms transfers.



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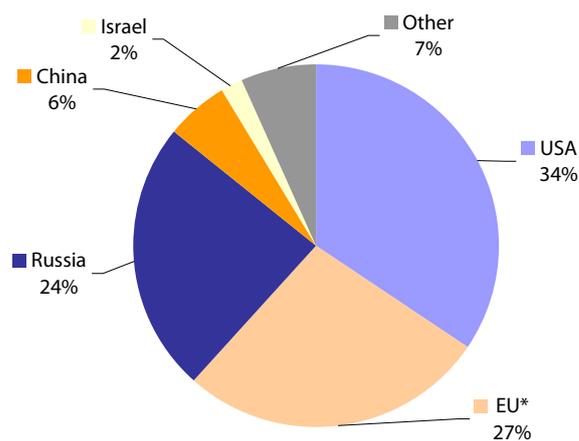
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Arms trade: facts, figures and challenges

The decreasing trend in conventional arms transfers following the end of the Cold War, has reversed. The volume of international transfers of major conventional weapons was 24% higher in the 2006-10 period than in 2001-05.¹ In 2010, the total value of arms exports was €18.8 billion according to figures from SIPRI, the Stockholm International Peace Research Institute.

Figure 1 - Top five exporters of major conventional weapons (2010)



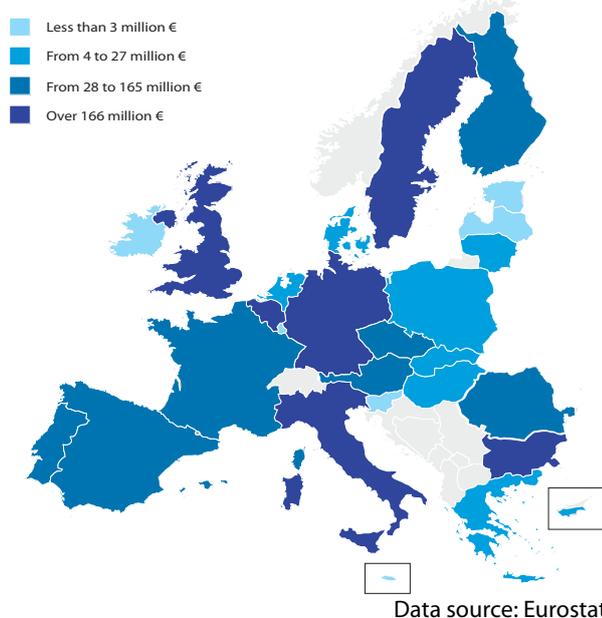
EU*: Germany, UK, France, Sweden, Italy, Spain, Netherlands, Austria, Denmark, Poland, Belgium, Czech Republic, Portugal, Bulgaria, Ireland, Romania

Data source: [SIPRI Arms Transfers Database](#)

The EU is a major player in the global arms trade. With about one-third of world sales, EU arms exports are comparable to those of the USA and Russia. The latter two countries are the main exporters, accounting respectively for 30% and 24% of all exports.

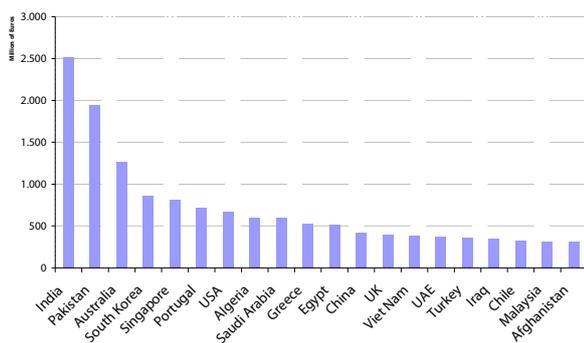
As shown in Figure 2, the EU Member States that export the most arms outside the EU - and therefore stand to be most affected by the future ATT, are Italy, Germany, the UK, Sweden, Bulgaria and Belgium.

Figure 2 - EU exports outside the EU of [arms and ammunition](#) (2010)



The main recipients of arms are India, China, South Korea, Pakistan. Africa's share increased from 5% of global imports in 2001-05 to 7% in 2006-10. The Middle East accounted for 17%.

Figure 3 - Top 20 importers of major conventional weapons (2010)



Importers include countries with serious problems of governance, human rights, and regional stability. NGOs blame the arms trade for exacerbating armed conflict, terrorist attacks and corruption, as well as for grave violations of human rights and humanitarian law.

Current international instruments

Attempts at global regulation of arms exports began after the end of the Cold War. Arms trade or arms transfer is one aspect of arms control, which refers to restrictions on the development, production, proliferation, deployment and use of weapons. Arms transfers include not only commercial trade but also government to government transfers. Today, three main global tools deal with this issue:

Transparency agreements

The [UN Register of Conventional Arms](#) established in 1991 by the UN General Assembly is the first global instrument through which governments disclose information to the public about the import and export of seven types of conventional arms: tanks, combat aircraft and helicopters, warships, artillery, missiles, missile launchers and armoured combat vehicles.

Small arms and light weapons are not formally subject to reporting, due to the opposition of some member states to include this category in the register. Between 1992 and 2009, 174 states reported at least once, and 37 states reported every year. However, 22 states have never submitted a report. However in recent years there has been a dramatic decline in levels of reporting to the register.²

The [UN Programme of action to prevent, combat and eradicate the illicit trade in small arms and light weapons](#) (2001) contains political commitments at national, regional and international levels. It deals with manufacturing, marking and tracing, international transfers, brokering, public awareness, disarmament, demobilisation and reintegration programmes, as well as international cooperation and assistance to facilitate implementation. In the absence of a mandatory mechanism, compliance is monitored on the basis of voluntary self-reporting by states. Between 2002 and 2010, 158 member states reported at least once, (34 member states have never reported).

The level of detail and statistics in national reports varies widely, obstructing efforts at comparison and overall assessment.³

UN arms embargos

The UN Security Council has imposed 12 embargos on countries and non-state entities such as Osama bin Laden and al Qaeda. Although their effectiveness has been questioned, such embargos remain the only global, legally binding prohibition on arms transfers. The implementation of such embargos depends on national transfer controls, which often pose a challenge, as well as on the political will of the Security Council's permanent members and major suppliers and transit states.⁴

EU support for an Arms Trade Treaty

EU Code of Conduct on Arms Export

Some commentators note that the EU has developed a unique approach to this delicate issue. It strives to balance trade facilitation and trade controls, combining the respect of free movement of goods within the EU with foreign policy considerations, human rights protection and conflict prevention.⁵ It was built around the [Code of Conduct on Arms Export](#), a central instrument. Agreed in 1998 in the form of a purely political Council Declaration, the Code became legally binding in December 2008 as a Council [Common Position](#).

It contains eight criteria that Member States have agreed to apply when considering applications for conventional arms export licences. These criteria are related to the internal situation and armed conflict in the recipient country, regional tension, human rights, and economic development and the risk of export diversion. The code includes a transparency measure, the publication of an EU annual report.

Even if EU policy is perceived as among the most advanced in the field, its application, left to Member States, is not uniform. NGOs regularly point to cases when export licences are granted for countries with

human rights or neighbourhood problems, in violation of the Code.⁶

EU support for an Arms Trade Treaty

Since 2005, the EU has consistently supported the conclusion of a legally binding ATT. The Council reiterated this position on [12 July 2010](#). According to the EU, the ATT should require parties to assess all applications for arms trade to the highest possible standards, including respect for human rights and humanitarian norms. It should also include provisions on transparency, monitoring and assistance.

The EU promotes the ATT among UN member states, civil society and industry through activities and regional seminars held in the framework of the [Council Decision on promoting the process leading towards an Arms Trade Treaty among third countries](#).

The European Parliament firmly supports the establishment of an ATT. In 2007, MEPs argued in a specific [resolution](#) on the topic that until the negotiations on ATT are successfully concluded, irresponsible arms transfers would continue to cause human suffering and exacerbate armed conflict, instability and terrorist attacks as well as bad governance, corruption and human rights violations. The EP also stressed that the success of the new treaty would depend on the willingness of states to practice greater transparency about arms transfers through an improved version of the UN Register of Conventional Arms.

Stakeholder positions

Since the mid-2000s, a **coalition of NGOs** has actively participated in the campaign for an ATT. They advocate:

Consistency between arms trade and international law standards

The main argument for an ATT is to introduce more consistency in the existing patchwork of arms-control regimes, often limited in geographical coverage, scope and legal enforcement. The new treaty would

create a single coherent obligatory international legal framework. Arms transfers would be banned if there is evidence that the arms would be used in serious violations of international law, or to fuel conflict.⁷

Wide scope of the treaty

The ATT should cover all types of conventional arms, including small arms and ammunition, production technologies, internal security equipment and goods of dual (civilian and military) use.⁸

Effective implementation and monitoring

Considering that the implementation of an ATT would take place at national level, minimum requirements for this process should be included in the text. Annual reporting at national and international level could improve transparency.

At international level, the minimum expectation of NGOs is an annual meeting of member states to follow up on implementation, as well as a formal treaty review conference every five years.⁹

More sceptical voices point to difficulties inherent in the ATT process. Implementation, measurement and control are seen as critical challenges. For some, the wide scope of the treaty and the multiple criteria it seeks to apply will hinder any effort to assess implementation.¹⁰

The **defence industry** on both sides of the Atlantic supports a strong legally binding ATT. The defence industry is already heavily regulated, but regulation is not universal in scope and effect. Convergence among trade control systems, if procedures are kept simple, could make it easier for industry to comply with the various national systems of control. Moreover, an ATT is seen as an efficient means to reduce reputational risk, making Western arms manufacturers more attractive for investors.¹¹ However, in other countries such as Russia, the industry fears an ATT may cause loss of sales.

The ATT: negotiation progress

The ATT process formally started in December 2006 when the UN General Assembly adopted [resolution 61/89](#) "Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms". It requested member states to present their views 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. The [initial views of UN member states](#) were presented at the UNGA in 2007.

Since 2010, three formal [preparatory meetings](#) have taken place at diplomatic level in order to build the basis for the international conference which is supposed to finalise the treaty in mid-2012. The outcome of the third meeting held in July 2011 in New York is ambivalent. Although the parties reached common understandings on certain points, some delegations remain pessimistic about the 2012 conference. Divergences persist on:

The scope of the treaty

Most states accepted the inclusion of small arms and light weapons (SALW) into the scope of the treaty. However, Canada and the USA propose to exclude arms for private use and hunting. This position is criticised by numerous delegations. Mexico for example notes that the weapons seized most often from criminal activities are hunting guns.

The inclusion of ammunition in the ATT is generally accepted, with the notable exception of the USA.

Denial of transfer issue

Importing countries, such as Pakistan, Egypt and Saudi Arabia seek to introduce a system of international appeals against any denials of requested arms transfer. The main argument used is the "sovereign right" of states to obtain arms for self-defence.

This position is strongly opposed by Western countries which insist that denial of transfer is a matter of national sovereignty for the state granting the initial licence.

Enforcement of the ATT

One of the challenges after the treaty is concluded will be to ensure that states have the capacity to enforce it.¹² A number of delegations stress this issue and would require international aid for this purpose.

Criteria for denial of transfer

There is general agreement that national decisions on arms transfer must take into account international norms such as UN embargos, as well as the risk of aggravating regional insecurity, or of facilitating genocide, organised crime or terrorism.

However on other criteria views diverge. China and India oppose the criterion related to serious human-rights violation. Caribbean states propose to soften this criterion by replacing "serious violation" with "gross and systematic violation" of human rights.¹³

The aim of the treaty

Russia and Syria are still uncertain about the aim of the ATT: whether it will be a disarmament treaty, an instrument to fight illicit arms trade or a regulation treaty. As

the USA insists that the ATT be adopted by consensus rather than majority, such misgivings call into question the success of the 2012 conference.¹⁴

US ratification of ATT will be put at risk by the strong internal opposition to the ATT. According to the US [National Rifle Association](#) the treaty infringes US citizens' constitutional right to bear arms. The only solution for them would be to exclude civilian firearms from the scope of the treaty.

Main references

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Endnotes

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