

I. The Arms Trade Treaty

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The 2013 Arms Trade Treaty (ATT) is the first legally binding international agreement to establish standards for regulating the international trade in conventional arms and preventing illicit arms transfers.¹ As of 31 December 2019, 105 states were party to the ATT and 33 had signed but not yet ratified it.² There were five new ATT states parties in 2019—Botswana, Canada, Lebanon, Maldives and Palau—a decrease compared to 2018 when six states ratified the treaty.³ During 2019, President Donald J. Trump announced that the United States would withdraw its signature from the ATT.⁴ In contrast, China—which has been sceptical of the ATT and has not signed it—announced its intention to join the treaty.⁵

Following two sets of preparatory sessions and meetings of the Working Groups on Treaty Universalization (WGTU), Effective Treaty Implementation (WGETI) and Transparency and Reporting (WGTR), the Fifth Conference of States Parties (CSP5) to the ATT was held in Geneva on 26–30 August 2019 under the presidency of Ambassador Jānis Kārklīņš of Latvia. CSP5 was attended by 106 states and 47 regional and international organizations, non-governmental organizations (NGOs), research institutes, industry associations and national implementing agencies.⁶ The proceedings covered seven areas: (a) treaty implementation; (b) transparency and reporting; (c) treaty universalization; (d) international assistance; (e) the work of the ATT Secretariat; (f) the status of financial contributions to the ATT budget and how the financial situation might be improved; and

¹ For a summary and other details of the Arms Trade Treaty see annex A, section I, in this volume. The 2001 UN Firearms Protocol is also legally binding but only covers controls on the trade in firearms. United Nations, General Assembly, Resolution 55/255, Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crime (UN Firearms Protocol), adopted 31 May 2001, entered into force 3 July 2005.

² Arms Trade Treaty, 'Treaty status', [n.d.].

³ Lebanon and Palau ratified the ATT in May and April 2019, respectively, Botswana and Canada in June 2019 and Maldives in Sep. 2019. See United Nations, United Nations Treaty Collection, Status of Treaties, ch. XXVI Disarmament: 8. Arms Trade Treaty; Arms Trade Treaty, 'Treaty status' (note 2).

⁴ Smith, D., 'Trump withdraws from UN arms treaty as NRA crowd cheers in delight', *The Guardian*, 26 Apr. 2019.

⁵ Stavrianakis, A. and Yun, H., *China and the Arms Trade Treaty: Prospects and Challenges*, (Saferworld: London, May 2014); and AFP/Reuters, 'China advances plans to join Arms Trade Treaty spurned by Trump', *Deutsche Welle*, 28 Sep. 2019.

⁶ CSP5 was attended by 86 states parties of the then 102 states parties and 15 of the then 33 signatories. In addition, Botswana and Canada, which by then had acceded to the ATT, also participated in the work of the conference. Finally, three states (China, Fiji and Tonga) participated as observers. See Arms Trade Treaty, 5th Conference of States Parties (CSP5), Final Report, ATT/CSP5/2019/SEC/536/Conf.FinRep.Rev1, 30 Aug. 2019.

Table 14.1. Arms Trade Treaty ratifications, accessions and signatories, by region^a

Region	No. of states	No. of parties	No. of signatories	No. of non-signatories
Africa	53	26	14	13
Americas	35	27	3 ^b	5
Asia	29	4	7	18
Europe	48 ^c	41	2	5 ^c
Middle East	16 ^d	2 ^c	4	10
Oceania	14	5	3	6
Total	195	105	33	57

^a The treaty was open for signature until it entered into force in Dec. 2014. Existing signatories may accept, approve or ratify the treaty in order to become a state party. A non-signatory state must now directly accede to the treaty in order to become a state party.

^b This figure includes the United States. On 18 July 2019, the USA notified the ATT of its intention not to become a state party to the treaty.

^c This figure includes the Holy See.

^d This figure includes Palestine.

Source: United Nations, United Nations Treaty Collection, Status of Treaties, ch. XXVI Disarmament: 8. Arms Trade Treaty.

(g) preparations for CSP6.⁷ The first day of the conference also featured a discussion on gender and gender-based violence (GBV), which Latvia chose as the official theme of CSP5.⁸

Discussion of these areas briefly gave way to exchanges between Japan and the Republic of Korea (South Korea) over Japan's imposition in July 2019 of restrictions on the export to South Korea of certain dual-use goods, namely chemicals used in the production of smartphone displays and semi-conductors. Japan cited national security concerns as the reason for the restrictions, prompting protests from South Korea in several international fora, including the World Trade Organization.⁹ During the CSP5 plenary, South Korean officials claimed that the measures were politically motivated and undermined the credibility of the ATT.¹⁰ The final day of CSP5 also saw disagreements about the potential adoption of measures aimed at persuading states to make their assessed financial contributions to support the functioning of the ATT (see below under the heading 'Financial contributions').

Despite these tensions and disputes, CSP5 reached consensus on the adoption of a final report and made progress with establishing language on how key aspects of the treaty should be implemented. This section summarizes

⁷ Arms Trade Treaty, CSP5, 'CSP5 Provisional Annotated Programme of Work', ATT/CSP5/2019/SEC/525/Conf.AnnPoW, 26 July 2019.

⁸ Arms Trade Treaty, CSP5, 'CSP5 Provisional Annotated Programme of Work' (note 7); Arms Trade Treaty, 'Gender and gender based violence', Working paper presented by the president of the Fifth Conference of State Parties to the ATT, ATT/CSP5/2019/PRES/410/PM1.GenderGBV, 15 Jan. 2019.

⁹ Johnson, K., 'Why are Japan and South Korea at each other's throats?', *Foreign Policy*, 15 July 2019.

¹⁰ Republic of Korea, 'Arms Trade Treaty CSP5', Statement, 26 Aug. 2019, p.4.

key ATT-related developments and debates during 2019 and at CSP5, including during working group and preparatory meetings. It looks at the status of treaty universalization and the provision of international assistance; treaty implementation and the focus on gender and GBV; and issues related to the functioning of the treaty, focusing in particular on noncompliance with national reporting obligations and shortfalls in financial contributions.

Treaty universalization and international assistance

Treaty universalization

Achieving universalization remains a key priority for the ATT. Although the treaty currently counts more than 100 states parties, geographical representation in ATT participation remains unbalanced, with states from Asia and the Middle East being particularly under-represented in terms of signatories and states parties (table 14.1).¹¹ In the run-up to and during CSP5, the WGTU discussed ways and proposed measures to enhance universalization, including the development of the ATT Universalization Toolkit and a ‘Welcome pack for new States Parties to the ATT’, both of which CSP5 adopted.¹² In line with the suggestions of the WGTU co-chairs, CSP5 also encouraged stakeholders to translate these documents into other languages (including non-UN official languages) and South Korea offered to take on this task.¹³ The WGTU also stressed the role of the ATT Voluntary Trust Fund (VTF) in promoting universalization through its outreach activities and the need to have regular exchanges among the CSP president, the WGTU, the VTF chair and civil society.¹⁴

In 2019, the two developments with the potentially most significant impact on the universalization of the ATT were the US decision to stop the process of joining the treaty and the Chinese announcement of its intention to accede to it. The USA took an active role in negotiating the ATT—which it signed in September 2013—and many of the treaty’s key provisions directly reflect the views and positions of the US government of the time.¹⁵ However, given the need for a two-thirds majority of the US Senate to approve, ratification was

¹¹ Bromley, M., Brockmann, K. and Maletta, G., ‘The Arms Trade Treaty’, *SIPRI Yearbook 2019*, pp. 503–10; Bromley, M. and Brockmann, K., ‘The Arms Trade Treaty’, *SIPRI Yearbook 2018*, pp. 405–12; and Acheson, R. and Kerins, A., ‘News in Brief’, *ATT Monitor*, vol 12, no 7, 29 Aug. 2019, pp. 10–11.

¹² Arms Trade Treaty, CSP5, Final Report (note 6), para. 28; Arms Trade Treaty, Working Group on Treaty Universalization (WGTU), Co-chairs’ draft report to CSP5, ATT/CSP5.WGTU/2019/CHAIR/532/Conf.Rep, 26 July 2019, annex A and annex B.

¹³ Arms Trade Treaty, CSP5, Final Report (note 6), para. 28(b); Arms Trade Treaty, WGTU (note 12), para. 13(b).

¹⁴ Arms Trade Treaty, WGTU (note 12), para. 13(e).

¹⁵ See German Government, ‘Memorandum of the Federal Government on the Arms Trade Treaty’, 1 Mar. 2014. As a signatory of the ATT the USA is required to ‘refrain from acts which would defeat the object and purpose of a treaty’: Vienna Convention on the Law of Treaties 1969, Article 18.

unlikely, even under the Administration of President Barack Obama, and then became impossible under that of President Trump, which strongly opposes the treaty. In March 2019 Trump announced in a speech at a National Rifle Association of America (NRA) event that the USA was ‘taking its signature back’.¹⁶ However, while the ATT contains provisions detailing how a state that has joined the treaty can withdraw, it does not lay out procedures for how a state that has not yet joined can withdraw its signature. In July 2019, the US Government informed the United Nations secretary-general that the USA ‘does not intend to become a party’ to the ATT and so ‘no legal obligation’ arises from its signature.¹⁷

China also took an active role in the ATT negotiations and influenced key aspects of its text.¹⁸ However, China abstained from the UN General Assembly vote adopting the draft ATT in April 2013 and chose not to sign the treaty. China stated that its opposition was based on the fact that the ATT was a multilateral arms control treaty adopted through a majority vote in the General Assembly rather than on the basis of consensus.¹⁹ In September 2019 China announced at the 74th Session of the UN General Assembly that it had ‘initiated the domestic legal procedures to join the Arms Trade Treaty’.²⁰ It portrayed the move as evidence of its commitment to multilateral arms control and contrasted its positions on these issues with those of the USA.²¹ China was the world’s fifth largest arms exporter during 2015–19 and its decision to join the ATT could boost the credibility of the instrument, particularly in Asia where several states were reportedly waiting to see whether key arms suppliers—including China—would join the treaty before doing so themselves.²² However, the decision of the world’s largest arms supplier, the USA, to stop the process of joining the treaty may have more influence over states that are not members of the ATT, including other major arms exporters.²³ The US announcement could also have implications for the financial health of the ATT (see ‘Financial contributions’ below).

¹⁶ Weaver, C., ‘Donald Trump to withdraw US from UN Arms Trade Treaty’, *Financial Times*, 27 Apr. 2019; Smith (note 4).

¹⁷ United Nations (note 3).

¹⁸ Bromley, M., Duchâtel, M. and Holtom, P., *China’s Exports of Small Arms and Light Weapons*, SIPRI Policy Paper no. 38 (SIPRI: Stockholm, Oct. 2013), pp. 9–11.

¹⁹ Bromley, Duchâtel and Holtom (note 18), pp. 9–11.

²⁰ Wang Yi (Chinese Minister of Foreign Affairs), ‘China today: A proud member of the global community’, Statement at the 74th Session of the United Nations General Assembly, 27 Sep. 2019, pp. 6–7.

²¹ Fu, C. (Director-General, Department of Arms Control, Chinese Ministry of Foreign Affairs), Statement at the 74th Session of the United Nations General Assembly, 12 Oct. 2019.

²² Bromley and Brockmann (note 11), pp. 405–12, Wezeman, P. D. et al., ‘Trends in international arms transfers, 2019’, SIPRI Factsheet, Mar. 2020.

²³ Stohl, R., ‘Trump unsigns the Arms Trade Treaty: How did we get here?’, *War on the Rocks*, 3 May 2019.

International assistance

CSP5 also discussed international assistance in the form of financial support through the VTF, and its role in supporting ATT universalization and implementation. Within this framework, the ATT Secretariat reported on VTF activities over the last year and noted that, since its establishment in 2016, the VTF has received more than \$8 million in voluntary contributions.²⁴ The funds provide a solid financial basis for the activities of the VTF, in contrast to the shortfall in funding for the treaty's infrastructure (see 'Financial contributions' below). Since 2016, the VTF has either provided funding or had plans to provide funding for 44 projects (the majority in African countries); the VTF Selection Committee approved 20 of these under the 2019 project cycle.²⁵ The VTF Selection Committee issued a new call for applications for the 2020 project cycle in October 2019.²⁶

The VTF is not the only instrument providing ATT-related assistance. The European Union Partner-to-Partner (P2P) export control programme implements a significant number of assistance activities aimed at improving ATT implementation. The UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR) also provides financial support for this type of assistance.²⁷ These projects and activities have a certain degree of geographical and functional overlap.²⁸ As part of its mandate as VTF administrator, the ATT Secretariat continued to seek cooperation with the EU and its member states and the UN in order to avoid overlaps and duplication of efforts.²⁹ During CSP5 the ATT Secretariat also highlighted the continued need for better coordination among implementing organizations and donors.³⁰

As mandated by CSP4, the VTF Selection Committee, supported by the ATT Secretariat, also developed the document 'Guidance for VTF Project Evaluation', to support assessment of completed projects and ensure

²⁴ Arms Trade Treaty, Voluntary Trust Fund (VTF), 'Report on the work of the ATT Voluntary Trust Fund (VTF) for the period August 2018 to August 2019', ATT/VTF/2019/CHAIR/531/Conf.Rep, 26 July 2019, para. 7.

²⁵ The other 24 projects are: 17 selected for the first project cycle (2017) but 2 beneficiaries withdrew, leaving 15 projects; and 10 selected for the second project cycle (2018) but one beneficiary withdrew, leaving 9. See Arms Trade Treaty, VTF (note 24), paras 11, 12 and 15, and annex F.

²⁶ Arms Trade Treaty, VTF (note 24), para. 17.

²⁷ European Commission, 'EU P2P export control programme for arms—ATT', 3 Oct. 2019; and United Nations Office for Disarmament Affairs (UNODA), 'UNSCAR: UN Trust Facility Supporting Cooperation on Arms Regulation', [n.d.].

²⁸ Maletta, G., 'Coordinating arms transfer and SALW control assistance: What role for the Arms Trade Treaty?', SIPRI WritePeace Blog, 27 Mar. 2019.

²⁹ ATT Secretariat, 'Terms of reference of the ATT Voluntary Trust Fund', ATT/VTF18/2018/SEC/251/ToR.Cons.Dr.v1.Rev1, Aug. 2016, Attachment, para. 7; Arms Trade Treaty, VTF (note 24), para. 24; and Maletta, 'Coordinating arms transfer and SALW control assistance: What role for the Arms Trade Treaty?' (note 28).

³⁰ Arms Trade Treaty, VTF (note 24), para. 24; Maletta, 'Coordinating arms transfer and SALW control assistance: What role for the Arms Trade Treaty?' (note 28); Geyer, K., Pytlak, A. and Kerins, A., 'News in Brief', *ATT Monitor*, vol. 12, no. 6 (28 Aug. 2019), p. 6.

transparency and accountability in their management.³¹ CSP5 noted this guidance document and welcomed further outreach activities to promote the VTF.³² The CSP5 also discussed proposals on how to improve the reach and effectiveness of the VTF. The United Kingdom, for example, called for the establishment of a mechanism providing ‘in-depth feedback’ to applications that were rejected in order to improve the quality of submitted proposals.³³ Representatives from NGOs proposed to open the VTF to projects led only by civil society organizations and called for a general review of the VTF reporting requirements that could better ensure transparency.³⁴

Treaty implementation

Gender and gender-based violence

Article 7(4) of the ATT requires states parties, when conducting an export assessment in line with the provisions contained in Article 7(1), to ‘take into account’ the risk that the export items may be used to commit or facilitate serious acts of GBV or violence against women and children. GBV can be understood as violence targeting a person on the basis of gender and sex that, although also perpetrated against men and boys, disproportionately affects women and girls—especially in the context of armed conflicts.³⁵ A number of organizations, in several contexts, have stressed the role of the illicit proliferation and misuse of conventional arms, especially small arms and light weapons (SALW), in facilitating these forms of violence.³⁶ However, the ATT is the first legally binding international agreement which both recognizes the

³¹ Arms Trade Treaty, ‘Report on the ATT Secretariat’s work for the period 2018/2019’, ATT/CSP5/2019/SEC/526/Conf.SecRep, 26 July 2019, para. 10(j); Arms Trade Treaty, VTF (note 24), annex H.

³² Arms Trade Treaty, CSP5, Final Report (note 6), para. 24.

³³ Geyer, Pytlak and Kerins (note 30), p. 5.

³⁴ Geyer, Pytlak and Kerins (note 30), p. 6; Control Arms, ‘Summary of CSP5 Day 2’, 27 Aug. 2019, p. 1.

³⁵ Control Arms, *How to Use the Arms Trade Treaty to Address Gender-based Violence: A Practical Guide for Risk Assessment*, Control Arms Practical Guide (Control Arms: New York, Aug. 2018); Lindsey, C., *Women Facing War: ICRC Study on the Impact of Armed Conflict on Women* (International Committee of the Red Cross: Geneva, Oct. 2001); United Nations Security Council Resolution 1325 (2000) [on women and peace and security], 31 Oct. 2000. On the definition of violence against women see e.g. UN General Assembly Resolution A/RES/48/104, 20 Dec. 1993; UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation 19 of CEDAW on Violence Against Women (11th session, 1992), A/47/38; and United Nations Commission on the Status of Women (CSW), ‘Agreed conclusions on the elimination and prevention of all forms of violence against women and girls’, *Report on the Fifty-seventh Session (4–15 March 2013)*, E/CN.6/2013/11, (United Nations: New York, 2 Apr. 2013), ch. 1 part A, paras 10–11.

³⁶ See e.g. UN CSW (note 35), para. 25; UN Secretary-General, *Securing Our Common Future: An Agenda for Disarmament* (UNODA: New York, 2018), pp. 39–40; UNODA, Third Review Conference of the UN Programme of Action on SALW, Final Report, A/CONF.192/2018/RC/3, 6 July 2018, paras 73–79; United Nations, Sustainable Development Goals Knowledge Platform, ‘Sustainable Development Goal 16’, [n.d.].

link between the proliferation of arms and GBV, and requires states parties to take preventive steps in response.

The inclusion of GBV within the operative provisions of the ATT was largely a result of the campaigning work by NGOs with support from a group of states that championed this issue.³⁷ Issues related to the practical implementation of Article 7(4), its relation to other ATT articles (including Article 6 on prohibitions) and the interpretation of key terms, emerged during the intersessional meetings of the WGETI.³⁸ However, these discussions highlighted a general lack of expertise among states parties on how to properly operationalize Article 7(4). In particular, no states parties appear to have a well-developed risk assessment for GBV in their national systems and none has denied a licence on the basis of this provision.³⁹ Some commentators see the lack of interest among some countries in discussing GBV-related issues, and the higher priority some of them attach to other implementation matters, as a potential obstacle for GBV-related risks being properly considered in arms transfer decisions.⁴⁰

Having taken note of these issues, the CSP5 president developed a list of policy recommendations which CSP5 considered for adoption. These recommendations went beyond the application of GBV-related risk assessment to cover measures such as gender-balanced representation in ATT-related decision-making processes and facilitating states parties' understanding of the gendered impact of armed violence and conflict.⁴¹ CSP5 adopted most of these recommendations along with related measures, such as inviting states to be represented in ATT events and bodies by gender-balanced delegations; considering gender-related criteria in the sponsorship programme and as part of the selection process of the VTF; and encouraging states to collect and publish gender-disaggregated data as part of their national statistics on crime and health, including on victims of violence.⁴² CSP5 also adopted a series of measures directly impacting the future work of the WGETI, including developing a voluntary GBV-training guide; encouraging discussions on the interpretation of key terms in the treaty's text that broadly apply to Article 7, such as 'serious', 'facilitate' and 'overriding' risk; and facilitating exchanges on national practices with reference to

³⁷ These states were originally Finland, Iceland, Kenya, Malawi, Norway, and Trinidad and Tobago. See Green, C. et al., 'Gender-based violence and the Arms Trade Treaty: Reflections from a campaigning and legal perspective', *Gender & Development*, vol. 21, no. 3 (2013), pp. 555–56.

³⁸ Arms Trade Treaty, WGETI, 'Chair's draft report to CSP5', ATT/CSP5.WGETI/2019/CHAIR/529/Conf.Rep, 26 July 2019, para. 10.

³⁹ Arms Trade Treaty, WGETI (note 38), para. 10; Alvarado Cobar, J. F. and Maletta, G., 'The inclusion of gender-based violence concerns in arms transfers decisions: The case of the Arms Trade Treaty', SIPRI WritePeace Blog, 23 Aug. 2019.

⁴⁰ Alvarado Cobar and Maletta (note 39).

⁴¹ Arms Trade Treaty, CSP5 president, 'Draft decision of the CSP on gender and gender based violence', ATT/CSP5/2019/PRES/528/Conf.GenderGBV, 26 July 2019, paras 1.1–1.5 and 2.1–2.4.

⁴² Arms Trade Treaty, CSP5, Final Report (note 6), para. 22(a)–(b).

‘mitigating measures’.⁴³ Although modest, these achievements are significant given the original resistance of some states parties to including a GBV-related provision in the treaty and proved, once again, the strong influence civil society can have in initiating certain debates.⁴⁴

Other implementation issues

While the work of the WGETI sub-working group on Article 6 (Prohibitions) and Article 7 (Export and Export Assessment) largely focused on GBV, the sub-working groups on Article 5 and Article 11 continued to address issues related to, respectively, general implementation and diversion.⁴⁵ More specifically, the sub-working group on Article 5 made progress in elaborating initial sections for a ‘Voluntary Basic Guide to establishing a National Control System’.⁴⁶ The WGETI chair recommended that the work of the sub-working group on Article 5 ‘could be temporarily discontinued to start addressing other ATT articles’, particularly Article 9 (Transit and transshipment).⁴⁷ CSP5 accepted this recommendation.⁴⁸

Discussions on diversion continued within the sub-working group on Article 11, particularly highlighting the ‘the lack of shared understanding on terminology for end-use and end-user documentation’ and reaching consensus on developing a voluntary guide that would serve as a ‘repository of key terms used by states’.⁴⁹ In conclusion the sub-working group agreed that more work on diversion is still needed and proposed a multi-year work plan for Article 11; CSP5 adopted this proposal.⁵⁰ Discussion of diversion also took place within the framework of the WGTR meetings which—in consultation with the WGETI chair, the facilitator on diversion and the ATT Secretariat—organized the first informal meeting in the margins of CSP5 to discuss concrete cases of diversion.⁵¹

Issues related to the functioning of the treaty

Reporting obligations

The ATT Secretariat and states parties carried out substantial work to assist states with fulfilling their reporting obligations under the ATT. For example, the WGTR has produced guidance documents, one focusing on systemic

⁴³ Arms Trade Treaty, CSP5, Final Report (note 6), para. 22(c).

⁴⁴ See Green et al. (note 37).

⁴⁵ Arms Trade Treaty, WGETI (note 38).

⁴⁶ Arms Trade Treaty, WGETI (note 38), para. 31(a) and annex A.

⁴⁷ Arms Trade Treaty, WGETI (note 38), para. 31(a).

⁴⁸ Arms Trade Treaty, CSP5, Final Report (note 6), para. 25.

⁴⁹ Arms Trade Treaty, WGETI (note 38).

⁵⁰ Arms Trade Treaty, CSP5, Final Report (note 6), annex D.

⁵¹ Pytlak, A., ‘What will—and won’t—be discussed at CSP5’, *ATT Monitor*, vol. 12, no. 4 (26 Aug. 2019), p. 2; Arms Trade Treaty, Working Group on Transparency and Reporting (WGTR), Co-chairs’ draft report to CSP5, ATT/CSP5.WGTR/2019/CHAIR/533/Conf.Rev1, 29 Aug. 2019, para. 11.

issues that hamper national reporting and another on ‘Reporting authorized or actual exports and imports of conventional arms under the ATT’; the WGTR revised and updated the latter during 2019.⁵² Despite these efforts, rates of compliance with the ATT’s reporting instruments are either stagnant or in decline.

Within one year of ratification, each state party is obliged to provide the ATT Secretariat with an initial report detailing the ‘measures undertaken in order to implement this Treaty’.⁵³ As of 31 December 2019, 26 per cent of the states that were due to submit an initial report had failed to do so, the joint highest proportion at this point in the reporting year since the treaty entered into force (figure 14.1). Promoting ‘transparency’ in the international arms trade is listed as one of the objects and purposes of the treaty. Nonetheless, of the 72 states that have submitted their initial report, 12 (Benin, Burkina Faso, Cyprus, Greece, Honduras, Kazakhstan, Madagascar, Mauritius, Nigeria, Senegal, Palestine and Tuvalu) chose to only allow their reports to be seen by other ATT states parties.⁵⁴

States parties to the ATT are also required to submit an annual report on their arms imports and exports during the previous calendar year.⁵⁵ The percentage of states fulfilling this reporting obligation has decreased—from 80 per cent for 2015 to 66 per cent for 2018—meaning that while the number of treaty members has increased, the number of submitted reports on arms transfers has not increased at the same level (figure 14.2). Moreover, fewer than half of the state parties had submitted their report on arms transfers in 2018 by the deadline of 31 May 2019.⁵⁶

Financial contributions

All ATT states parties and signatories, as well as states attending CSPs as observers, are required to make financial contributions to cover the costs of organizing the CSPs and the work of the ATT Secretariat.⁵⁷ However, a significant number of states are failing to pay their assessed contributions. As of 20 December 2019, 52 of the 147 states that have been obliged to make contributions since 2015 were behind with their payments, creating an accumulated deficit of \$345 673.⁵⁸ The final report of CSP5 again highlighted ‘the risks that the ATT process and its essential activities . . . will face if the

⁵² Arms Trade Treaty, WGTR (note 51), annex B.

⁵³ Arms Trade Treaty (note 1), Article 13(1).

⁵⁴ Arms Trade Treaty, ATT Secretariat, ‘Annual reports’.

⁵⁵ Arms Trade Treaty (note 1), Article 13(1).

⁵⁶ Arms Trade Treaty, WGTR (note 51) para. 36(a). On states’ reports on arms transfers under the ATT and other international instruments, see chapter 9, section III, in this volume.

⁵⁷ Arms Trade Treaty, First Conference of States Parties (CSP1), ‘Financial rules for the Conferences of States Parties and the Secretariat’, ATT/CSP1/CONF/2, 25 Aug. 2015, Rules 5.1 and 5.2.

⁵⁸ Arms Trade Treaty, ATT Secretariat, ‘Status of contributions to ATT budgets (as at 20 December 2019)’.

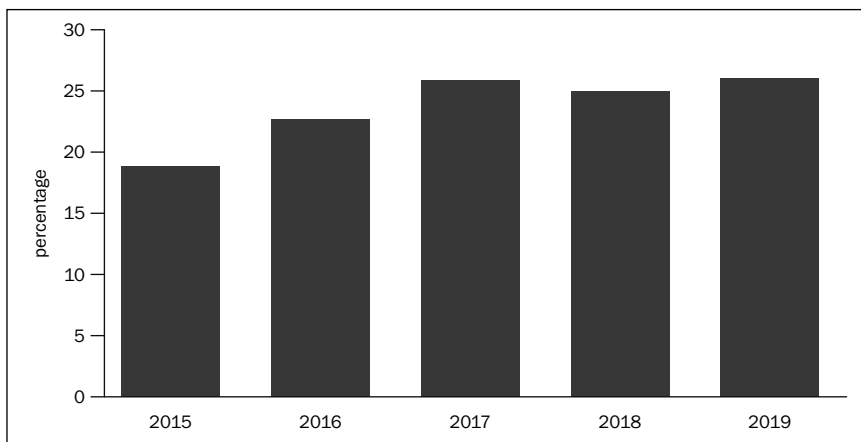


Figure 14.1. Number of Arms Trade Treaty states parties submitting annual reports, 2015–17

Source: Arms Trade Treaty, ATT Secretariat, ‘Annual reports’.

situation is not addressed’.⁵⁹ The decision of the US government to stop the process of joining the ATT may increase these challenges. As is the case in most areas where the UN standards of assessed contributions are applied, US support for the running of the ATT has been the highest of all states and the USA provided 13 per cent of all budgetary contributions made during 2019.⁶⁰ If the US decision leads it to end financial support for the treaty, that would create a significant challenge for the treaty’s long-term health.

Several disarmament and arms control instruments are facing similar challenges in ensuring that states provide the financial support they require.⁶¹ As has occurred in the context of these other instruments, ATT states parties sought to introduce measures in 2019 to improve financial liquidity. During CSP5 a group of European states and Australia sought to promote the full application of Rule 8.1(d) of the ‘Financial Rules for the Conferences of States Parties and the Secretariat’, which have been largely ignored to date.⁶² Applying Rule 8.1(d) in full would entail suspending the voting rights and other prerogatives within CSP bodies for states that have not paid their financial contributions for two or more years. The move was strongly opposed by African and Latin American states. The final report of CSP5

⁵⁹ Arms Trade Treaty, CSP5, ‘Final Report’ (note 6), para. 34.

⁶⁰ Arms Trade Treaty, ATT Secretariat (note 58).

⁶¹ These include the Biological Weapons Convention, the Anti-Personnel Mines Convention, the Convention on Cluster Munitions, and the Convention on Certain Conventional Weapons (CCW)—see annex A, section I, in this volume for details of these treaties. On financial hardship, see Boulanin, V. et al., ‘The Convention on Certain Conventional Weapons and lethal autonomous weapons systems’, *SIPRI Yearbook 2019*, pp. 449–57; and LeGrone, O., ‘As 2020 dawns, disarmament treaties face financial hardship’, *Arms Control Now*, 17 Jan. 2020.

⁶² Arms Trade Treaty, CSP1 (note 57), Rule 8.1(d).

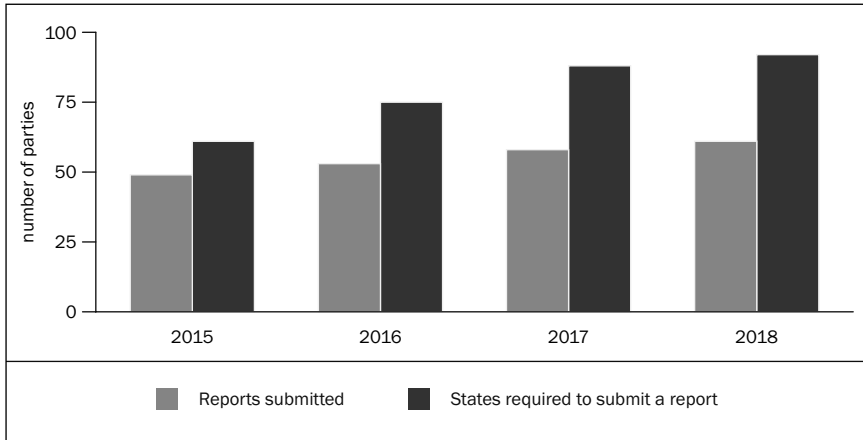


Figure 14.2. Number of Arms Trade Treaty states parties that have submitted required annual reports, 2015–18

Source: ATT Secretariat, 'Annual Reports'.

delayed a final resolution of the issue by requesting that the Management Committee prepare guidelines on how to address the topic for discussion at CSP6.⁶³ Efforts to persuade states to comply with their financial obligations also affected discussions about the work of the VTF. In the run-up to CSP5 the VTF Selection Committee proposed that for the 2020 project cycle, applications from states that are in arrears with their financial contributions be 'unlikely' to receive 'positive consideration'.⁶⁴ Members of civil society organizations and representatives of less resourced states argued that the countries that benefit the most from the VTF and other assistance instruments (e.g. the sponsorship programme) are also the ones encountering particular challenges in complying with their financial obligations.⁶⁵ The final report of CSP5 noted that for the time being 'no State shall be prejudiced' in applying for support from the VTF until CSP6, 'when this matter will be considered'.⁶⁶

Conclusions

As in previous years, CSP and working group meetings largely focused on administrative and technical issues related to the functioning of the ATT, such as the fulfilment of states' reporting and financial commitments. For

⁶³ Arms Trade Treaty, CSP5, Final Report (note 6), para. 35; Acheson, R. and Pytlak, A., 'Turning from the final report to implementation, let's make the ATT a treaty that saves lives', *ATT Monitor*, vol. 12, no. 9 (30 Aug. 2019), pp. 2–3.

⁶⁴ Arms Trade Treaty, Voluntary Trust Fund (VTF) (note 24), para. 18; Arms Trade Treaty, CSP1 (note 57), Rule 8.

⁶⁵ Acheson, R., 'A fight for the moral and political credibility of the ATT', *ATT Monitor*, vol. 12, no. 8 (30 Aug. 2019).

⁶⁶ Arms Trade Treaty, CSP5, 'Final Report' (note 6), para. 36.

their part, NGOs continued to stress the importance of making use of these events to address what has been described as the ‘rhetoric–compliance’ gap in treaty implementation.⁶⁷ In this regard, they noted that while the CSPs widely discuss non-compliance with reporting or financial contributions obligations, there is still a reluctance to address the possible non-compliance of particular arms transfers with treaty provisions (e.g. Article 6 and Article 7), including those transfers whose legality the national courts of some states have called into question.⁶⁸ States parties have often responded to this argument by noting that the ATT does not set absolute standards and leaves interpretation of its obligations up to individual governments. However, this discrepancy—and a perceived CSP focus ‘to “do” arms trading better’—may increase doubts about the long-term ability of the treaty to truly fulfil its humanitarian purpose of ‘reducing human suffering’.⁶⁹

⁶⁷ Acheson (note 65), p. 1.

⁶⁸ Pytlak, A., ‘The meaning of implementation’, *ATT Monitor*, vol. 12, no. 7 (29 Aug. 2019), p. 2; Maletta G., ‘Legal challenges to EU member states’ arms exports to Saudi Arabia: Current status and potential implications’, SIPRI Topical Backgrounder, 28 June 2019.

⁶⁹ Pytlak, A., ‘New opportunities to reduce human suffering’, *ATT Monitor*, vol. 13, no. 1 (3 Feb. 2020), p. 3.