
Arms Trade Treaty
Second Conference of States Parties
Geneva, 22 – 26 August 2016

PROMOTION OF ARMS TRADE TREATY UNIVERSALIZATION

BACKGROUND

The Arms Trade Treaty (ATT) is a legally-binding instrument which seeks to establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms. It also seeks to prevent and eradicate the illicit trade in conventional arms and prevent their diversion. The ATT was adopted by the UN Member States on 2nd April, 2013. The Treaty was negotiated by the UN Member States, in recognition of the security, social, economic and humanitarian consequences of the illicit and unregulated trade in conventional arms. Before this landmark Treaty came into being, the global trade in these weapons of war and national defence, remained poorly regulated, as no internationally agreed standards existed. The ATT came into force on 24 December 2014 when the ratification threshold set for its entry into force was attained.

2. The purpose of the Treaty is to contribute to international and regional peace, security and stability, reduce human suffering, and promote cooperation, transparency and responsible conduct by States Parties in the international arms trade, in order to build confidence among States Parties.

3. The object of the Treaty rides on the conscious assumption that States, as players in the international system, will adopt and conduct themselves according to these international trade norms. To enable us understand the importance of the Treaty as part of international law, the preambular section of the ATT emphasises the desirability of achieving universal adherence to this Treaty. It is common cause in international law that adherence to any Treaty is based on States giving consent to be bound by the Treaty provisions through the formalised legal process of ratification, accession or acceptance.

THE STATUS OF RATIFICATIONS

4. The current membership of the Treaty is standing at 85 States Parties and a further 45 Signatories whose ratifications, accessions or acceptance are still being awaited. The numbers are, no doubt, impressive if viewed against the backdrop of the Treaty being hardly two years in force. This is, however, not a picture to be complacent about, considering that the United Nations has 193 Member States. If the Treaty is to be truly universal, the current level of membership needs to increase through the creation of a momentum towards more ratification, accessions or acceptance. There is need to move signatory states to full-fledged states parties and more importantly, to make forays into the ranks of the over 60 UN Member States that remain outside of the Treaty. For example, the Arab world (with the exception of Mauritania) and the Middle East are currently not on the list of States Parties.

5. As states may have different reasons for not coming on board the ATT, there is value in knowing why, so that remediation measures could be better tailored.

PROMOTING THE UNIVERSALITY OF THE TREATY

6. Article 17 (4) of the Treaty outlines what Conferences of State Parties must consider at its formal sessions. Article 17(4) (b) specifically provides that the Conference of States Parties shall “*consider and adopt recommendations regarding the implementation and operation of this Treaty, in particular the **promotion of its universality***”. The Treaty, through its text, as quoted, identifies the promotion of Treaty universality as a critical element deserving of consideration by the Conference of States Parties. The question is not whether the promotion of the Treaty’s universality should be discussed. The text of the Treaty answers that question in the affirmative. Rather, what should form part of the CSP2’s discussion is how Treaty universality should be considered and what approaches would best yield the desired results. Although the notion of universalization is not defined in the text of the Treaty, it can be operationalized to mean ensuring that the Treaty’s jurisdiction stretches, as far as possible, to all parts of the universe.

7. In the course of deliberating on how best to handle promotion of Treaty universalization at the Second Conference of States Parties (CSP2), there are factors to consider. These include, but are not limited to, the following:

- The recognition of the unique opportunity that CSP2 presents to States Parties to set the right tone for future CSPs’ focus and discussion and keep that as consistent as possible to the Treaty directive contained in Article 17 (4).
- The appreciation of the Treaty maturity level to ensure that realistic expectations continue to be set for sessions of the CSP, through a careful determination of Treaty priorities. It needs to be recognised that the universality of an instrument like the ATT, cannot be achieved overnight, rather, it would evolve with time, depending on measures put in place to promote it.
- The determination of achievable and measurable interventions over a set period of time.

SUGGESTED APPROACHES

8. Taking the foregoing into account, the following may be considered as interventions to promote the ATT universalization. These suggestions derive from consultations with a variety of stakeholders. To the extent possible, efforts have been made to represent these views in as complete a manner as possible.

- **Creating a Momentum Towards More Ratifications by Setting Ratification/Accession Targets:** The aim is to raise the number of Treaty ratifications from the current number of 85 to a higher number, over a two year period (2016 to 2018), by undertaking the following specific actions, among others:
 - Deliberate Treaty propagation and advocacy, to be anchored by States Parties, civil society and advocacy groups, with the aim of getting countries from different parts of the universe to subscribe to it, in order to give it the status of a universal instrument. Propagation and advocacy could be through multilateral as well as bilateral engagement.

-
- Partnering with UN agencies, civil society and friendly donor agencies to conduct outreach programs with signatory states with a view to identifying the impediments standing in the way of ratification and helping such states resolve identified impediments. Priority countries in this regard would be Signatory States.
 - Encouraging non-states parties to attend conferences and meetings of the ATT by deliberately giving them exposure to such fora for the purpose of subtle sensitization.
 - **Utilising every opportunity for High Level statements on the ATT:** A big challenge the process of universalization may face is the issue of political will of States to remain engaged on the ATT at high level, now that the initial high-profile phase of year one of the Treaty is over. States Parties should seek all opportunities to remind other States of the need to join the Treaty, by ensuring their leaders and Ministers make apt references to the ATT in international fora such as UN meetings, World Summits, Regional Conferences and key bi-lateral meetings. Keeping the profile of the ATT high on the political agenda will be the fastest route to universalization.
 - **Establishing a working group on universalization:** The purpose of the working group is to lead the process of harmonising thoughts on the issue of universalization with a view to determining the best approach for taking the issue forward. The Working Group may include States, civil society and advocacy groups and meet to generate new ideas and strategies for advancing universalization. Target numbers could be an incentive to speed up the process, as was done by civil society during the campaign to reach the 50 ratifications needed for the Treaty to enter into force. In the work of the Working Group, it will be useful to share lessons learned from approaches to the subject, adopted by other Treaties and Conventions. A Draft Terms of Reference for the proposed working group on universalization is attached as an Annex to this paper.
 - **Rotating the regional focus of universalization each year:** A different region could be prioritised each year for a particular focus on universalization, perhaps by using the region of the CSP President, if appropriate. It will be helpful, at some point, to come up in each target region, with a list of priority countries to be the focus of such universalization efforts. It will also be useful to identify countries that are influential in the target regions that could help spread the gospel of universalization to others in the region.
 - **Making universalization materials easily available, and in multiple languages:** There is need to ensure that guides to ratifying and acceding to the ATT are clearly available on the ATT Secretariat website along with links to practical resources, such as those from the ICRC and civil society, as well as the UN. Consideration may be given to translations beyond the 6 UN languages where this may be helpful. However, there will be need to align the desire to promote universalization with the limited financial resources available to the Treaty. To save costs and also remove this potential mine field, countries that are native speakers of the languages of interest could be approached to assist with the required translations. With regard to easy availability of universalization materials, an additional suggestion is that the menu on the Treaty website may include a universalization tab, where users can click and access relevant materials, as well as see the current lists of States Parties and signatories.
 - **Role of Regional Organizations:** The role of (sub-) regional actors/institutions and the benefits of a (sub-) regional approach should be recognised. Relevant regional bodies have been important actors right through the Treaty creation process (from pre-negotiation to Treaty adoption) and this should continue and be explicitly supported going forward into the

phase of Implementation. Where feasible, synergies between these regional bodies and the CSP as well as the President of the Conference should be exploited. Regional organizations can advance the cause of universalization by helping to motivate internal actors, such as parliamentarians within target countries. In addition, the sharing of experiences by states is important and Regional Organizations can become veritable vehicles for such experience-sharing amongst countries within a given region.

- **Producing region-specific policy resources:** Each region has different challenges with regard to both the negative effects of the illicit arms trade and their universalization needs. Tailored resources, which focus on the precise nature of the challenges will be much more useful than generic ones. Examples: the model law that has been produced by New Zealand for Small Island States, and UNLIREC training materials that are tailored to the needs of Latin American countries.
- **Coordinating with Civil Society:** Civil society continues to be engaged on universalization. Civil society organisations continue to sustain targeted activities at national and regional levels in support of universalization, with the objective of providing high-quality, targeted advocacy and information sharing as well as public pressure to maintain political prioritization of the Treaty.
- Civil society can sustain its support for the process by collaborating and partnering with the ATT Secretariat to achieve the following, amongst others:
 - Providing technical expertise and advice to governments seeking to ratify or accede to the Treaty, including resource material, guides, toolkits and campaign materials to assist with advocating for signature and ratification.
 - Developing policy resources on specific arms-control areas, such as reducing diversion to terrorism, and linkages with other instruments.
 - Supporting and organising regional seminars or conferences for relevant officials, experts and NGOs focused on technical assistance and support for effective Treaty implementation.
 - Building the network of researchers and academics who can provide support to the Treaty's legislative and implementation processes.
 - Supporting awareness-raising activities to encourage the public to get more actively involved in calling for national accession and effective implementation.

THE CSP PRESIDENT, THE SECRETARIAT AND THE PROMOTION OF UNIVERSALIZATION

9. The President of the Conference and the ATT Secretariat have very prominent roles to play in leading the process for Treaty universalization. Whether or not the roles and processes described in the foregoing narrative succeed, will largely depend on the vision and the degree of coordination applied by the President and the Secretariat to achieve connectivity with critical stakeholders. In this regard, a fully functional Secretariat will be a vital prerequisite, along with a stakeholder-friendly website which creates ease for information, knowledge and experience sharing and dissemination. While the role of the Secretariat in relation to Treaty universalization is important, the CSP President must take the driver's seat.

UTILISING THE VOLUNTARY TRUST FUND TO PROMOTE TREATY IMPLEMENTATION

10. Treaty Implementation and Universalization will inevitably meet at some point, as effective implementation becomes an indispensable element in the effort to promote universalization. The ATT envisages that some states may require support and assistance to implement some of its provisions. Consequently, the Treaty makes provision for the establishment of a Voluntary Trust Fund (VTF) for this purpose. An effective VTF carries the prospect of supporting states lacking resources to overcome financial challenges standing in the way of their Treaty ratification and implementation. This way the number of ATT States Parties will grow. It is therefore important that VTF, as a support mechanism be configured in a manner to meet varying aspirations of stakeholders.

CONCLUSION

11. Effective Treaty Implementation will promote the universality of the ATT. It would seem that a number of States are still sitting on the fence, waiting to see how the implementation and effectiveness of the ATT are going to pan out. An ATT, the implementation of which, is able to make a telling and fulfilling impact in resolving the myriad of problems posed by the poorly regulated trade in conventional arms, will itself become an incentive to encourage those yet sitting on the fence, to become States Parties.

ANNEX**PROPOSAL FOR
TERMS OF REFERENCE FOR THE INFORMAL WORKING GROUP ON TREATY UNIVERSALIZATION**

1. On 18 May 2016 during the final CSP2 informal preparatory meeting, a paper on Treaty universalization was presented and the meeting agreed that the paper forms a good basis for future Treaty universalization discussions. The paper presented suggestions on how Treaty universalization could be carried forward. In order to create a platform for all stakeholders to generate and share ideas on Treaty universalization, the establishment of an informal working group was proposed.
2. Rule 42.2 of the ATT Rules of Procedure provides that ``the Conference shall determine the matters to be considered by each subsidiary body, including its mandate, officers, composition, size, duration and budgetary issues and may authorise the President to make appropriate adjustments in the allocation of work``. In line with these procedural requirements, the following terms of reference are proposed for the Informal Working Group on Treaty universalization.

Mandate

3. The Informal Working Group shall generate and share views and implementation measures on Treaty universalization and where appropriate, place in context vital lessons from other Treaties and Conventions.

Composition and Membership

4. The Informal Working Group shall be open to participation by States Parties, Signatory States and Observer States, as well as by representatives of civil society and other advocacy groups, and be under the chairmanship of the President of the Third Conference of States Parties.

Working Method

5. The Informal Working Group shall operate in accordance with the ATT Rules of Procedures with particular reference to Rule 42 and 43.
6. The Informal Working Group shall hold its meetings on the back of major events in Geneva for cost saving purposes and for ensuring maximum participation.
7. Information exchange amongst participants shall be processed through the ATT Secretariat which shall provide administrative support to the Informal Working Group.
8. The working language of the Informal Working Group shall be English.

Budgetary Implications

9. Direct meetings costs, such as for conference, technical support and documentation shall be covered by the budget of the Third Conference of States Parties. Indirect meeting costs, such as travel and accommodation, shall be borne by participants.
