

# SECTION 4

## THE ARMS TRADE TREATY, PEACE AND SECURITY



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**Irresponsible transfers and illicit diversions of weapons and ammunition can pose serious threats to public safety, peace and sustainable development.**<sup>1</sup> As armed violence moves increasingly from conventional inter-state wars to internal asymmetrical conflicts,<sup>2</sup> small arms and light weapons are used to force even larger numbers of people, or whole communities, from their homes.<sup>3</sup> Poorly regulated and readily available light-weight firearms make possible the recruitment of child soldiers.<sup>4</sup> Outside conflict zones, armed violence is also used to pursue individual and group grievances, political goals and profit.<sup>5</sup> In 2016, 77 states recorded an increased impact of terrorism.<sup>6</sup> Where law and order fall away, the ready availability of firearms can exacerbate sexual and gender-based violence.<sup>7</sup>

As outlined in *Section 2*, irresponsible arms transfers and diversions can facilitate the accumulation and unregulated circulation of arms, which has an impact on the lives and livelihoods of whole communities or even nations. The proliferation of illicit weapons commonly diminishes security and stability at the state, regional and international levels.

There is no single definition of security that encompasses human, national and regional security. But they are not mutually exclusive, as violence in one state can affect neighbouring countries or entire regions. Security is important in both conflict and peace. It influences all aspects of daily life, affecting health delivery, public safety, the economy and school attendance.<sup>8</sup> Violence and fragility impede development and were the largest obstacles for many states attempting to reach Millennium Development Goals<sup>9</sup> (see *Section 6*).

For the security sector there is also no model for maintaining security.<sup>10</sup> But whereas each state establishes its sector differently, there are nevertheless some commonalities. According to the UN, these commonalities include all the 'structures, institutions and personnel responsible for the management, provision and oversight of security'.<sup>11</sup> They include, but are not limited to, defence, correctional services, customs and border control, police, law-enforcers and the judicial sector.<sup>12</sup> Every aspect of this security sector plays a role in the development and implementation of the ATT. In turn, the treaty helps the security sector with its job of creating safer, more secure environments.

To explore the broader benefits of the ATT to overall security, this section breaks the topic into three parts: human security, national security and regional security. It begins by exploring the importance of engaging with human security and how the ATT contributes to this. By way of example, it then discusses the contribution of the ATT to preventing crimes of atrocity and gender-based violence, and to reducing the drivers of refugee flows. Finally, it looks at how the ATT strengthens international humanitarian law (IHL).

The section then moves from a focus on human security to the benefits of the ATT to states. It examines the broader benefits to national security and national interests, counter-terrorism and, finally, regional security.

## THE BROADER BENEFITS: HUMAN SECURITY

**Human security is predicated on an essential human desire for freedom from fear and want, and for a life with dignity.<sup>13</sup>**

**The UN's conception of human security is to provide the best conditions for human beings to realise their potential.<sup>14</sup>**

**This concept was developed in response to new, interrelated and complex security threats that are linked to other aspects of daily life.<sup>15</sup>**

**The concept is multidimensional and context-specific. It broadly incorporates threats to security that include food security, water scarcity and the effects of climate change.<sup>16</sup>**

## Human security: How it links to the ATT?

In the context of this section—how the ATT can strengthen human security—the focus is on freedom from fear, from the threat of armed violence or from the threat of physical harm or death from the misuse of small arms. At the state level, armed violence has adverse effects on good governance, law and order, access to education, healthcare, justice and other civil rights.<sup>17</sup> This is where the ATT, human security and development intersect.

*'Human security, in its broadest sense, embraces far more than the absence of violent conflict. It encompasses human rights, good governance, access to education and health care and ensuring that each individual has opportunities and choices to fulfil his or her potential. Every step in this direction is also a step towards reducing poverty, achieving economic growth and preventing conflict ... these are the interrelated building blocks of human—and therefore national—security.'<sup>18</sup>*

UN Secretary-General Kofi Annan (2000)

The benefit of engaging with a human security approach is that it decompartmentalises issues that are interlinked in complex ways. For example, human security addresses the need for good governance, which in part is the provision of robust social, political and legal institutions.<sup>19</sup> The ATT deals with the impacts of irresponsible and illicit transfers of conventional arms which can put socio-political structures under stress and create the conditions for violations of human rights and IHL.<sup>20</sup>

Good governance requires security to be provided in order to enable citizens to live productive human lifestyles free from fear of armed violence, and the ATT is an international framework that contributes to that security.



UN Photo: Mark Garten

## How do human rights protections differ from human security?

Although international human rights law (IHRL) is discussed later in this brief, it is useful to acknowledge the relationship between the ATT and human security in order to consider how human rights protections differ. Human security is created, in part, by such assets as human rights and human security are indivisible.<sup>21</sup> It is possible to see IHRL as a mechanism for balancing social and national security interests—all actions that are both necessary and proportionate—and rights fundamental to achieving necessary freedoms as conceived in human security. Human rights law is a mechanism that, in part, contributes to overall human security.

The accumulation and circulation of illicit arms and ammunition can prolong armed conflict and continue to threaten civilians long into the post-conflict period.<sup>22</sup> Illicit weapons can also foster and extend conditions that give rise to starvation and disease.<sup>23</sup> They continue to break down social and political structures, weaken economies and deny citizens access to livelihoods, education and healthcare.<sup>24</sup> The ready availability of illicit weapons can raise levels of armed violence, which in turn hinders the efforts of states or UN Peacekeeping Missions aimed at reintegration, reconstruction and reconciliation.<sup>25</sup>

Concerns over the threats that arms accumulation and illicit circulation pose to peace and security are repeatedly expressed. These often take the form of UN Security Council Resolutions regarding illicit arms and ammunition transfers, their uncontrolled accumulation and end-user misuse of conventional arms.<sup>26</sup> They can also express concern at the security situation in a region such as sub-Saharan Africa, where illicit arms have intensified and prolonged armed conflicts.<sup>27</sup> Some illicit conventional arms pose a serious international threat to civilian aviation: for example, the loss of military technology such as Man-Portable Air Defence Systems (MANPADS).<sup>28</sup>

## The link between human security and illicit arms: Non-conflict zones

Type of human security <sup>29</sup>	Link to illicit arms
Economic security	<ul style="list-style-type: none"> <li>• Armed violence can cause the flight of capital.</li> <li>• Pervasive armed violence demonstrably dissuades international investment.</li> <li>• Accumulations of illicit arms can contribute to the disruption or closure of industries.</li> </ul>
Food security	<ul style="list-style-type: none"> <li>• Armed violence can inhibit access to farming, markets and other necessary infrastructure.</li> <li>• Armed violence can prevent humanitarian relief from reaching targeted destinations.</li> </ul>
Political security	<ul style="list-style-type: none"> <li>• Politically motivated violence is enhanced when arms are available. Armed violence can undermine democratic practices by disrupting and preventing elections.</li> <li>• Insecure arms circulation and accumulation contribute to <i>coups d'état</i> and other political insecurity.</li> </ul>
Health security	<ul style="list-style-type: none"> <li>• Pervasive armed violence can prolong conditions that give rise to disease and epidemics.</li> <li>• Armed violence can prevent people from accessing healthcare centres.</li> <li>• Arms-related injuries can overburden healthcare infrastructure.</li> </ul>
Personal security	<ul style="list-style-type: none"> <li>• In many regions, the pervasiveness of arms has corresponded with the increase in interpersonal armed violence and homicide.</li> <li>• Arms contributing to a decrease in law and order can facilitate a sense of impunity that contributes to sexual violence.</li> </ul>
Community security	<ul style="list-style-type: none"> <li>• Armed gangs threaten public safety.</li> <li>• Arms contribute to inciting tribal or gang-related violence.</li> </ul>

In a non-conflict or post-conflict setting, threats to civilians from armed violence are often indirect. For instance, armed actors can inhibit access to livelihoods, healthcare, education and electoral choice.<sup>30</sup> Unregulated arms accumulation and circulation can inhibit law and order or, in post-conflict contexts, can obstruct efforts to disarm, demobilise and reintegrate armed actors.<sup>31</sup> Post-conflict environments can also attract a proliferation of small arms intended for self-protection which, when misused, often complicate and undermine international peacebuilding efforts.<sup>32</sup> Politically motivated violence in civil conflicts frequently gives way to criminally motivated armed violence,<sup>33</sup> damaging state legitimacy and the efficacy of political institutions as a result.<sup>34</sup>

The ATT contributes to human security by keeping arms from end-users who might misuse them to commit violations of international law or war crimes which affect citizens' freedom from fear—a necessary condition of human security.<sup>35</sup> Articles 6 and 7 of the ATT establish the framework for a risk-assessment process (see Section 2) through which States Parties must consider the possible adverse effects of a particular arms transfer on peace and security.

Other important obligations established under the treaty oblige States Parties to adopt measures to prevent the diversion of arms and ammunition.<sup>36</sup> Each state is to 'take appropriate measures to enforce national laws and regulations that implement the provisions of this Treaty'.<sup>37</sup> This obliges states to 'maintain a national control system, including a national control list',<sup>38</sup> put in place adequate stockpile management, and have effective export, import and border controls.<sup>39</sup> Strong international efforts to regulate arms trade begin with comprehensive systems that include legislation, regulations and procedures at the domestic level.



UN Photo: Sylvain Liechti

# THE ARMS TRADE TREATY, PEACE AND SECURITY

## NATIONAL SECURITY AND INTERNATIONAL COOPERATION IN ACTION

**AFP and US agencies stop shipment of 5000 guns organised by bikies for Australia.**

**The largest-ever shipment of guns organised by bikies and bound for Australia has been stopped in the US and seized by police ...**

The almost 5000-strong shipment of handguns and automatic rifles was nabbed late last year before reaching Australian shores as part of a joint investigation between federal, state and international policing agencies ...

The haul included handgun frames that had been illegally smuggled into the US and 136 AR-15 assault rifles, and receivers, that had not been stamped ...

Officers from the Australian Federal Police's National Anti-Gang Squad, the United States Bureau of Alcohol Tobacco and Firearms and the United States Department of Homeland Security Investigations as well as local state police were involved in the sting ...

Lanai Scarr, News Corp Australia Network  
(16 March 2017)<sup>40</sup>

The ATT requires each State Party to institute 'appropriate measures to regulate, where necessary and feasible, the transit or trans-shipment (of arms) under its jurisdiction'<sup>41</sup> and to adopt measures to regulate brokering within its jurisdiction of arms covered under the treaty.<sup>42</sup> National controls may also require import systems such as providing 'end use or end user documentation'.<sup>43</sup> Information exchange enables States Parties to coordinate the upholding of international law and to prevent the arms trade from being subject to corrupt practices.<sup>44</sup>

The aims of the ATT are interlinked and mutually reinforce human security.<sup>45</sup> The treaty contributes to peace, stability and security by requiring states to cooperate, and where necessary to assist other States Parties and signatories, to enable and reinforce this responsible regulatory framework. This can reduce the scope for corruption, arms accumulation and illicit circulation of weapons, which contribute to human suffering.<sup>46</sup>

The treaty has a part to play in ensuring that available arms remain in the possession of responsible end-users and to diminish the supply of arms to criminal organisations that threaten public health and safety.<sup>47</sup> Additional benefits include cutting arms and ammunition supplies to remote areas of, for example, Papua New Guinea, where the deadly nature of traditional inter-group conflict has been heightened by the arrival of more lethal weapons.<sup>48</sup>

*'In a world awash with small arms, a quarter of the estimated \$4 billion annual global gun trade is believed to be illicit. Small arms are easy to buy, easy to use, easy to transport and easy to conceal. Their continued proliferation exacerbates conflict, sparks refugee flows, undermines the rule of law and spawns a culture of violence and impunity.'*<sup>49</sup>

Kofi Annan, former UN Secretary-General (2006)

## Human suffering, refugees and internally displaced persons

In many regions of the world arms accumulation and misuse add to human suffering by forcing people from their homes and livelihoods. In 2016, refugee flows were at a 60-year high, having doubled from 2007 to 2015.<sup>50</sup> There are approximately 60 million refugees worldwide, a significant number of whom were displaced as a result of armed violence.<sup>51</sup> Roughly 60% of the population of Syria has been displaced, whereas some sub-Saharan countries affected by armed violence and conflict have seen 20% of their citizens become refugees.<sup>52</sup>

Unregulated arms flows, violence and conflict often cause displacement. This adds to human suffering generally, but it also has massive impacts transregionally. North African and Middle Eastern armed violence and conflicts have triggered the so-called 'European refugee crisis'.<sup>53</sup> Another consideration is the economic cost imposed on countries that process applications for refugee status and grant asylum to refugees. Even states far from the conflict feel bound to contribute to the international community's investment in protecting such people.

The ATT helps to stem the flow of arms that cause displacement. People become displaced by armed violence because they are unsafe in their homes or because their livelihoods, food sources and essential civilian infrastructure have been destroyed. Civilians may be threatened either directly or unintentionally by armed violence. The ATT's risk assessment requires the potential impact of any arms and ammunition transfer on civilians and infrastructure to be considered.<sup>54</sup> Any risk that transferred arms might target civilians or that they could be used to undermine peace and security would need to be mitigated in order to become less than an 'overriding risk' before any arms transfer is allowed to proceed.

## THE ATT AND ENHANCING ATROCITY PREVENTION<sup>(i)</sup>

Each state has a responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity.<sup>55</sup> Anyone accumulating and circulating illicit conventional arms is capable of challenging a state's security sector and the ability of armed forces and law-enforcement personnel to provide effective domestic security. The presence of illicit arms can also challenge a state's troops as part of international peacekeeping operations.

Secure and responsibly traded and used conventional arms are not the issue here. Globally, armed violence accounts for '90 per cent of all deaths during armed conflict and 60 per cent of all violent deaths outside armed conflict'.<sup>56</sup> Finance and arms are necessary to enable perpetrators to commit crimes of atrocity.<sup>57</sup> Being vigilant against such crimes requires noting early-warning factors that often become apparent in the context of conflict.<sup>58</sup> Therefore, identifying unusually high accumulations and circulation of illicit arms early is beneficial to preventing atrocities.<sup>59</sup>

(i) Laura Spano 'Linking the Arms Trade to Atrocity Prevention: How the ATT and the Responsibility to Protect Can Work Together' (In Press).



## Snapshot: The UN's Framework of Analysis for Atrocity Crimes: Linking arms and crimes of atrocity

Risk factors for crimes of atrocity	Indicator(s) involving small arms and light weapons
<b>Risk factor 1</b> Situation of armed conflict or other forms of instability	1.2 Security crisis caused by, among other factors, defection from peace agreements, armed conflict in neighbouring countries, threat of external interventions or acts of terrorism.
<b>Risk factor 3</b> Weakness of state structures	3.1 National legal framework that does not offer ample and effective protection, including through ratification and domestication of relevant international human rights and humanitarian law treaties. 3.7 Lack of awareness of and training in international human rights and humanitarian law among military forces, irregular forces and non-state armed groups or other relevant actors. 3.8 Lack of capacity to ensure that means and methods of warfare comply with IHL standards.
<b>Risk factor 4</b> Motives or incentives	4.6 Real or perceived membership of or support for armed opposition groups by protected groups, populations or individuals.
<b>Risk factor 5</b> Capacity to commit atrocity crimes	5.1 Availability of personnel and of arms and ammunition, or of the financial resources, public or private, for their procurement. 5.2 Capacity to transport and deploy personnel and to transport and distribute arms and ammunition.
<b>Risk factor 7</b> Enabling circumstance or preparatory action	7.4 Acquisition of large quantities of arms and ammunition or other objects that could be used to inflict harm.
<b>Risk factor 8</b> Triggering factors	8.2 Spill-over of armed conflict or serious tensions in neighbouring countries.
<b>Risk factor 11</b> (crimes against humanity) —Signs of a widespread or systematic attack against any civilian population	11.3 Increase in the level of organisation or coordination of violent acts and weapons used against a civilian population.
<b>Risk factor 12</b> (crimes against humanity) —Signs of a plan or policy to attack any civilian population	12.6 Access to and use of weaponry or other instruments not easily obtained inside the country. 12.7 Preparation or mobilisation of armed forces <i>en masse</i> against civilian populations.
<b>Risk factor 13</b> (war crimes)—Serious threat to those protected under IHL	13.10 Evidence of conduct related to the planning, development, production, storage, acquisition, availability or threat of use of weapons, projectiles, materials or substances which are by their nature indiscriminate or cause superfluous injury or unnecessary suffering to people, or that can cause widespread, long-term or severe damage to the natural environment.

Relevant risk factors selected from UN Framework of Analysis for Atrocity Crimes<sup>60</sup>

The ATT's risk-assessment process for states considers early-warning factors of crimes of atrocity such as arms accumulations, insecure stockpiles and arms diversions. A risk assessment is mandatory for States Parties before they authorise the transfer of conventional arms, ammunition, parts and components covered under the treaty.<sup>61</sup> The ATT also requires importing<sup>62</sup> and transit or transshipment<sup>63</sup> states to implement procedures to prevent the diversion of arms.<sup>64</sup> This includes adequate record-keeping and reporting.<sup>65</sup> Such an approach is important in order to close any gaps in the transfer system where diversion might occur.

The treaty requires that each exporter must perform a risk assessment to check that a transfer of any of the listed items will not contribute to serious violations of international law.<sup>66</sup> The ATT provides an important legal framework which identifies risk criteria and standardises diverse trade practices and standards.<sup>67</sup> Increased adoption of the ATT normalises risk assessments as standard practice in the conventional arms and ammunition trade.

States also have pre-existing obligations as UN members to prohibit transfers where a UNSC arms embargo is in place.<sup>68</sup> The ATT reinforces the implementation of these embargoes.<sup>69</sup> It is a platform where States Parties can discuss what constitutes effective best practice during export, transit and import for the highest possible common standards in conventional arms transfers. The aim is to prevent crimes of atrocity to avoid early-warning conditions being undermined.

The ATT will establish guiding norms for reciprocal expectations and predictability.<sup>70</sup> Committing to the highest possible trade standards can help prevent conventional arms being diverted or illicitly accumulated and circulated.<sup>71</sup> As a regulatory framework, the treaty will reduce the quantity of arms being diverted to the illicit market or for the purposes of misuse by end-users who might commission or commit crimes of atrocity. By denying them access to quality high-powered arms, the framework seeks to diminish the capacity and lethality of those committing such crimes.



UN Photo: Jean-Marc Ferré

## THE ATT AND COMBATING GENDER-BASED VIOLENCE

The link between conventional arms accumulation, illicit circulation and gender-based violence as a tactic in conflict remains a major problem in fragile and conflict-affected countries.<sup>72</sup> Most contemporary armed conflicts involve mobile, lightly armed forces that avoid major military engagements.<sup>73</sup> These 'low-intensity' conflicts frequently target civilians as the breakdown of law and order increases the impunity of the perpetrators.<sup>74</sup> Young males usually bear the direct effects of gender-based violence in the form of death in battle and targeted massacres.<sup>75</sup> Women and children often bear the indirect effects of conflict and armed violence, accounting for 80% of internally displaced persons and refugees.<sup>76</sup>

Armed conflict and pervasive armed violence facilitate gender-based violence of a specifically sexual nature that is often directed at women. This violence may include rape, sexual humiliation, forced prostitution, forced sterilisation, forced impregnation, human trafficking and sexual slavery.<sup>77</sup> Armed violence can also create environments of lawlessness that encourage harmful customary or traditional practices such as female genital mutilation, forced marriages, forced abortions or 'honour crimes'.<sup>78</sup> The indirect effects of gender-based violence that are sometimes less obvious include targeting defenceless people, usually women and the elderly, by destroying or stealing property—including property used for subsistence and livelihood.<sup>79</sup>

*'Ending sexual violence in conflict is central to peace building, conflict prevention and reconciliation.'*<sup>80</sup>

HE Matthew Rycroft,  
UK Permanent Representative to the United Nations  
(15 May 2017)

## Gender-based violence in conflict and post-conflict

Threatening and perpetrating sexual and physical harm to women and children can be considered a systematic 'weapon of war'.<sup>81</sup> For example, in one atrocity alone 250,000 rapes took place, later to be interpreted as a tool of genocide.<sup>82</sup> In 2000 the UN Security Council Resolution 1325 on Women, Peace and Security stated that in 'order to respond to the specific needs of men and women in conflict and post-conflict situations', gender perspectives should be incorporated into understanding the different impacts of armed violence on men and women.<sup>83</sup> Resolution 1325 acknowledged for the first time the particular, disproportionate and unique impact of conflict on women.<sup>84</sup>

In the context of armed conflict, systemic sexual violence is recognised as an international crime.<sup>85</sup> In this regard, various international courts and tribunals have defined gender-based violence of a specifically sexual nature as a crime against humanity,<sup>86</sup> and precedents set in international courts and tribunals have expanded the definitions of rape and sexual assault so that in particular contexts they may be considered acts of genocide.<sup>87</sup>

Courts and tribunals of note include:

- International Criminal Tribunal for the former Yugoslavia (1993)—established the systematic tactic of rape in conflict, alongside torture, as a crime against humanity.<sup>88</sup>
- International Criminal Tribunal for Rwanda (1994)—established rape with intent to destroy an ethnic group as a crime of genocide.<sup>89</sup>
- International Criminal Court (in force since July 2002) established systematic rape, sexual slavery, forced prostitution, forced pregnancy and forced sterilisation as crimes against humanity.<sup>90</sup>

## The International Criminal Court recognises rape as a war crime

### The court's guilty verdict against a former Congolese commander marks a milestone

*For the first time since it started to function in 2002, the International Criminal Court at The Hague has passed a guilty verdict on a warlord for perpetrating, among other things, rape as an act of war. It is also the first time that the court has secured a conviction for 'command responsibility', meaning that a commander can be found guilty even if he did not himself take direct part in such crimes as rape, murder and pillage but allowed them to be committed.<sup>91</sup>*

*The Economist* (22 March 2016)

### Non-conflict gender-based violence

The accumulation of arms can have a unique impact on gender roles in non-conflict situations. In some cultures, men carry guns as part of their constructed role as protectors.<sup>92</sup> Overwhelmingly, men are involved in most direct incidents of armed violence. Male victims account for 79% of approximately 500 daily homicides around the world, make up 95% of perpetrators and account for 90% of missing persons.<sup>93</sup> Of the estimated 875 million small arms and light weapons held globally, 650 million are privately owned.<sup>94</sup> Firearms are used in an average 41% of homicides, while this figure jumps to 66% in the Americas.<sup>95</sup> Approximately two million people worldwide live with firearm injuries sustained in non-conflict settings.<sup>96</sup> Participants in the arms trade—buyers, sellers, end-users and misusers—are also overwhelmingly men.<sup>97</sup>

Women are often both directly and indirectly affected by arms accumulation as this facilitates domestic violence:<sup>98</sup> weapons are frequently used to threaten and intimidate women in their homes and communities.<sup>99</sup> This violence may either be interpersonal or intended to inhibit women's participation in social or political activity. Conventional arms accumulation and misuse obstruct economic and social development, including through the loss of livelihood<sup>100</sup> and a range of other violations that interfere with human, civic, cultural and political rights.<sup>101</sup> Conventional arms are also an enabler of criminal activity that targets women in trafficking, forced prostitution and sexual violence.<sup>102</sup>

A firm link between the ATT and domestic armed violence has not been substantiated, but effective treaty observance together with implementation and enforcement of the UNPoA may reduce the incidence of armed violence between victims and perpetrators who know each other well.

### How the ATT reinforces the reduction of armed gender-based violence

The ATT is the first multilateral treaty to link irresponsible international arms trade, the illicit arms trade and gender-based violence.<sup>103</sup> Article 7(4) of the treaty requires that the exporting State Party, in making its risk assessment, 'shall take into account the risk of the conventional arms ... being used to commit or facilitate serious acts of gender-based violence or serious acts of violence against women and children.'<sup>104</sup>

Gender-based violence in this context is not merely a proxy for 'violence against women'. 'Gender-based violence' and 'violence against women' are both specified because gender perspectives may include violence targeting males—for example, massacres of males of fighting age—while, as mentioned above, women may be targeted in a specifically sexual way.

*'Iceland would like to thank the 100 delegations that supported the initiative to make gender-based violence a binding criterion for arms export in the Arms Trade Treaty ... Where gender-based violence is not covered by international human rights or humanitarian law, it must still be taken into account. Having the explicit, binding criterion on preventing gender-based violence in paragraph 4 of article 7 requires a State to act with due diligence to ensure that an arms transfer would not be directed or diverted to a non-State actor, such as a militia that commits acts of gender-based violence.'*<sup>105</sup>

Ms Gunnarsdóttir (Iceland)  
General Assembly Sixty-seventh session 72nd plenary meeting  
(2013)

As demonstrated, conventional arms accumulation and misuse violently intersect with gender at many levels—in criminal activity, interpersonal violence and homicide and socio-political violence. Males generally are affected by the direct application of violence: during conflict, they may be targeted as combatants or even as non-combatants. In peacetime too, males are targeted in homicides, whereas women are targeted in domestic, criminal, sexual and socio-cultural violence.

For these reasons, if an ATT State Party has knowledge at the time of authorising an arms transfer that the end-user or end-use could violate Article 7(4), the risk must first be mitigated to enable the transfer. If the risk cannot be mitigated beneath the level of an 'overriding risk', then the transfer should not be authorised.



UN Photo: Kim Haughton

## THE ATT AND PROMOTING INTERNATIONAL HUMANITARIAN LAW

The Geneva Conventions and Additional Protocols form the core element of IHL.<sup>106</sup> The Geneva Conventions have been ratified by 196 states,<sup>107</sup> whereas IHL is universal in the sense that both government and non-government combatants are required to adhere to its provisions.<sup>108</sup>

This means that IHL applies to conflict between two or more states, a state or a coalition against one or more non-state armed groups, or between non-state groups only.<sup>109</sup> IHL applies only in war and armed conflict.<sup>110</sup> The express purpose of the ATT is to reduce human suffering through the highest possible common standards of arms regulation.<sup>111</sup> This complements IHL, which regulates the rules of war to minimise human suffering and to conduct warfare humanely.<sup>112</sup> IHL does this in two ways:

- by restricting the means and methods by which parties to an international conflict or a conflict not of an international nature can attack their enemy, and
- by providing protection to those not participating in conflict.<sup>113</sup>

There are three links between IHL and the ATT:

- First, the accumulation and circulation of illicit arms can facilitate tensions that bring about armed conflict. The Geneva Conventions, and therefore IHL, are initiated once there is an armed conflict, either in the form of an international armed conflict<sup>114</sup> or as a non-international armed conflict.<sup>115</sup>
- Second, IHL regulates who can be targeted for attack, and how. One of the principal rules of IHL is that civilians cannot be the object of attack.<sup>116</sup> This is the case with all weapons, conventional or otherwise. Despite this, conventional arms have been used in conflict to attack civilians directly.<sup>117</sup>
- Third, IHL attempts to minimise human suffering and to provide humanitarian assistance in armed conflict by protecting those who are not taking direct part in hostilities.<sup>118</sup> However, the availability of illicit arms can impede attempts to provide such protection. In conflict situations, armed violence targeting non-combatants can endanger those who attempt to deliver medical and humanitarian assistance.<sup>119</sup>

Part of an effective humanitarian reconciliation and reconstruction response involves collecting weapons and stemming the inflow of more arms through responsible regulation.<sup>120</sup> Imperative to humanitarian responses, responsible regulation aims to restrict the availability of arms and ammunition to those who commit criminal offences or crimes of vengeance or atrocity in violent or post-conflict contexts.<sup>121</sup>

## HOW THE ATT REINFORCES IHL

The ATT is a complementary instrument to IHL in that it can help stem the flow of arms into areas where violations of IHL are occurring. The treaty also supports humanitarian responses by contributing to secure environments where medical and humanitarian assistance can be delivered unhindered.<sup>122</sup> The ATT does this by strengthening compliance with both IHL and IHRL.<sup>123</sup> States Parties must act in good faith in interpreting and implementing the ATT within its humanitarian purpose.<sup>124</sup> The ATT Preamble calls on States Parties to act in accordance with pre-existing obligations under international law.<sup>125</sup>

Article 6 of the treaty strictly outlines the protection of humanitarian principles through context-specific prohibitions. Under this article it is incumbent on a State Party not to export conventional arms where it has knowledge at the time of authorisation 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 as defined by international agreements'.<sup>126</sup> Such international agreements include existing obligations such as the Charter of the United Nations for Member States, the Geneva Declaration and the Universal Declaration of Human Rights.<sup>127</sup>

In short, many of the international agreements under Article 6 are treaties that establish IHL. 'Attacks directed against civilian objects'<sup>128</sup> as stipulated under Article 6, would include civilian buildings and infrastructure such as hospitals.<sup>129</sup>

Other provisions covered under Article 6 may include supplying conventional arms used to target internally displaced persons or wounded, sick or captured combatants protected under IHL.<sup>130</sup>

The export assessment under Article 7 seeks to protect peace and security by assessing the potential that a transfer of conventional arms could facilitate a serious violation of either IHL or IHRL. An example may be where there is an 'overriding risk' that a transfer to a legitimate party will be diverted to non-state actors targeting civilians.<sup>131</sup> Whereas Article 7 of the treaty explicitly mentions IHL and IHRL,<sup>132</sup> Article 6 on Prohibitions uses a higher degree of qualifying language: '... would be used in the commission of ...'. It is important to note that Article 7 stipulates that States Parties must take into account the potential that the conventional arms:

- would contribute to or undermine peace and security;
- could be used to commit or facilitate a serious violation of IHL or IHRL.<sup>133</sup>

The use of 'potential', 'could' and 'facilitate' may indicate a lesser threshold for halting authorisation while investigation and mitigation processes take place under Article 7.<sup>134</sup> Within Article 7 itself, it may seem that an exporting State Party must establish a higher degree of potential that transfers of conventional arms would contribute to undermining peace and security.

Violation of IHL or IHRL seems to have a lower threshold for triggering a risk assessment and mitigation process.<sup>135</sup> For example, if the exporting state suspected that an end-user may be committing IHL abuses, Article 7 suggests that the exporting state may wish to investigate the situation further and attempt to mitigate the concern to beneath the level of an 'overriding risk' before authorising the transfer.

The ATT is a legal framework that promotes adherence to IHL by requiring States Parties to assess whether conventional arms transfers encourage or enable end-users, in both conflict and non-conflict contexts, in the commission of IHL violations.<sup>136</sup> Therefore, the ATT reinforces IHL by incorporating IHL compliance as a necessary consideration when authorising a transfer.

## THE BROADER BENEFITS: NATIONAL SECURITY

Illicit cross-border arms flows threaten the security of political and social institutions, whereas arms can also be used to damage or destroy infrastructure and threaten civilian safety. Trade in illicit arms takes place in all regions to varying degrees, and across all borders.<sup>137</sup> Illicit arms enable criminal gangs and terrorists to threaten security-sector personnel, political and diplomatic staff, and the public at large.<sup>138</sup> One terrorist attack in India demonstrated the lethality of a small group of attackers armed with high-powered firearms and grenades when in 2008 a group of 10 assailants managed to kill 164 people.<sup>139</sup>

Organised crime groups can also have a large-scale impact through politically motivated violence to alter operational environments.<sup>140</sup> One of the most violent countries in the world outside a conflict zone<sup>141</sup> El Salvador, has seen a ratio of 64 violent casualties per 100,000 per annum (2014).<sup>142</sup> In Honduras, in some 81% of homicides firearms were used (2009) and they were often gang-related in support of the drug trade.<sup>143</sup> This rate of death and injury is estimated to have cost 3% of national GDP in 2013.<sup>144</sup> These cases indicate that even with legal domestic arms being available—which can be stolen for use in criminal activity—demand-driven cross-border arms flows continue.<sup>145</sup> INTERPOL's iARMS system reveals that illicit firearms are smuggled widely, sometimes from across the world.<sup>146</sup>

### How the ATT offers a benefit to national security

The ATT is an important international legal framework for helping to strengthen national control systems. In a security-sector review, treaty compliance can help to highlight gaps in existing systems. Many States Parties have already undertaken a gap analysis assessment when compiling their compulsory initial, or baseline, report.<sup>147</sup> Both signatories and non-signatories have used tools such as the ATT Baseline Assessment Survey and Initial Report template to assess their current arms control systems, which indicate both improvements in compliance and potential gaps.<sup>148</sup> This has led to the development of comprehensive programmes to fill these gaps.

For example, an assessment of the current arms control system in Fiji indicated a gap in brokering legislation, a requirement under Article 10 of the treaty.<sup>149</sup> Similar positive steps are being taken in New Zealand.<sup>150</sup>

The process of reviewing current systems, inspired by the adoption of the treaty, has led and will lead to other positive changes. For example, a gap analysis conducted prior to ratification may indicate a need for increased stockpile security, increased numbers of law-enforcement personnel and resources, or changes in enforcement policy.<sup>151</sup> Increased enforcement capacity can then provide data and other forms of information for international exchange to identify illicit brokering, smuggling corridors, methods of concealment and corrupt practices.<sup>152</sup>

In Samoa, the process of compiling the ATT Annual Report highlighted the challenges inherent in their record-keeping system—manual and decentralised, with consequent difficulties in collecting data. Without such data, it is difficult to quantify the current presence of lawfully held arms in the country, let alone to trace and detect illicit arms. Samoa now plans to implement a centralised database system using a grant from the ATT's Voluntary Trust Fund.<sup>153</sup>

Developing a comprehensive national system may require cooperation with other jurisdictions whose territories are being used in illicit supply chains. One benefit of a treaty compliance review is the opportunity to develop procedures and amend legislation to empower enforcement agencies and prevent gaps that are exploited by criminal activity.<sup>154</sup> The ATT helps the international community to combat unregulated international arms flows that might have adverse effects on national security.

Effective ATT implementation requires collaboration, with international assistance where necessary, so that States Parties can review and develop domestic material infrastructure, regulations and administrative measures. With a strong domestic base, capable States Parties contribute to 'the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms'.<sup>155</sup>

## The ATT and counter-terrorism

### Terrorism is at an all-time historical high. Deaths from terrorism have risen 286% since 2008.<sup>156</sup>

In 2015 France saw multiple terrorist incidents committed with high-powered assault rifles.<sup>157</sup> The 13 November attacks in Paris saw 130 dead and 350 injured. It was not explosives that caused most of the casualties but access to military-grade firearms that are illegal under French law.<sup>158</sup> Arms used in terrorist attacks in Western Europe, a region with restrictive firearm laws, often originate from the 1990s Balkan conflicts.<sup>159</sup>

It is estimated that between three and six million firearms are in circulation in the Balkans region.<sup>160</sup> These weapons are easily concealed and easy to move across borders.<sup>161</sup> Arms transferred to irresponsible end-users, or end-users with weak stockpile security, may either quickly or eventually enter the illicit market. These arms become unaccounted for, are not easily detected and can have unforeseen adverse effects for decades to come.

The rise of the individual terrorist or the small terrorist group intent on suicide creates relative autonomy.<sup>162</sup> This makes them difficult to locate and partly explains a recent shift in tactics, from coordinated attacks using explosives to firearms readily available from the civilian market or the black market. These can be concealable, as lethal as military weapons and can require less expertise to use.<sup>163</sup>

## How the ATT can combat terrorism

The ATT supports counter-terrorism by attempting to diminish the lethality of terrorists. Treaty compliance will combat unregulated transfers, and therefore inhibit access to high-powered conventional arms. The treaty does this in two ways:

- by identifying the capabilities of the import systems of the receiving end-user;<sup>164</sup>
- by obliging exporting States Parties to consider whether the transferred conventional arms could be used to commit or facilitate an act constituting a terrorist offence under international conventions or protocols to which the exporter is a State Party.<sup>165</sup>

The difference between these two is that the former might oblige the exporter to consider whether the import destination has capable import systems, such as post delivery monitoring programs,<sup>166</sup> and stockpile security sufficiently adequate to receive the transfer safely.<sup>167</sup> An example of the second might include an obligation on the exporter to consider whether the transferred conventional arms could be diverted because the end-user has a record of allowing conventional arms to 'leak'.<sup>168</sup> If these risk factors can be mitigated to a level below an 'overriding risk', the transfer can be authorised.



UN Photo: Stuart Price

## THE ATT AND NATIONAL DEFENCE

**Because the ATT does not inhibit trade in conventional arms for the purpose of national defence,<sup>169</sup> it is compatible with Article 51 of the Charter of the United Nations, which recognises that every state has a sovereign right to self-defence.<sup>170</sup> The ATT Preamble states that the trade in conventional arms is a legitimate practice because of the political and security interests of states.<sup>171</sup> Trade in conventional arms may be particularly important for non-manufacturing states to equip security-sector and armed forces so that they can fulfil their duty to protect and to provide security and stability. For example, non-manufacturing states that contribute to peacekeeping missions require modern arms to ensure they are well equipped to fulfil their UN mandate by protecting civilians.<sup>172</sup>**

ATT Article 2 explores the scope of conventional arms under the treaty.<sup>173</sup> This article also clearly states that the treaty 'shall not apply to the international movement of conventional arms by, or on behalf of, a State Party for its use provided that the conventional arms remain under that State Party's ownership'.<sup>174</sup> This provision applies to deployed security and armed forces.

In this regard, transferring equipment to deployed troops does not constitute a 'transfer' under the treaty and does not require an Article 6 or 7 risk-assessment process, provided armed forces do not retransfer equipment to or equip other actors or are not negligent in leaving viable equipment in the field of operation.<sup>175</sup> Deployed equipment must remain under state forces' ownership and control.

Committing itself to regulating international trade in conventional arms under the ATT does not infringe upon the 'sovereign right of any State to regulate and control conventional arms exclusively within its territory, pursuant to its own legal or constitutional system ...'.<sup>176</sup> It does this in a regulated manner to prevent the diversion of arms into the illicit market. The treaty also seeks to reinforce domestic security agencies and laws by strengthening the transfer chain in order to prevent the diversion of stockpiles that could otherwise end up in the hands of those committing acts of terrorism and organised crime.

The ATT requires States Parties to establish a national control system.<sup>177</sup> It is at the discretion of the state to determine the regulatory structures and legislative foundation of its national control system so long as

it has designated competent national authorities to coordinate the effective implementation of the treaty.<sup>178</sup> For example, a small importing state is not required to develop a comprehensive export control system. Instead, it might simply use legislation to prohibit manufacturing or exporting and build a strong importing and transit system. Likewise, a large exporting state should develop a comprehensive risk-assessment system to ensure due diligence for each transfer it conducts.

One point of emphasis of national control systems is to provide a strengthened domestic front that prevents the diversion of arms from state control to the illicit market. A national control system is important for preventing diversions and implementing Article 14 on enforcement—taking ‘appropriate measures to enforce national laws and regulations that implement the provisions of this Treaty’ as its object.<sup>179</sup> If States Parties determine that an intervention or policing activity is necessary, appropriate and feasible, then enforcement agencies must have the material, regulatory and legislative resources to act effectively.<sup>180</sup> Developing these systems enables enforcement agencies to take appropriate measures to enforce national laws and regulations when required.

This will contribute to national defence by closing gaps where corruption and unregulated arms transfers operate.

A State Party must have a national control list, at a minimum, that covers conventional arms within the scope of the treaty.<sup>181</sup> This will record what can and cannot be imported into a jurisdiction. Linked to this, a national point of contact must be established to coordinate international cooperation in information exchange and on matters related to the implementation of the treaty.<sup>182</sup>

This contact person will be responsible for coordinating national arms control efforts and identifying issues of mutual interest with other States Parties.<sup>183</sup>

## THE ATT AND NATIONAL INTERESTS

A poorly regulated conventional arms trade can contribute to state fragility: it is usually within fragile states or regions that terrorist organisations seek refuge.<sup>185</sup> The availability of military-grade technologies enables terrorist organisations, militias or armed groups to have greater impact.<sup>186</sup> For example, there is a suspicion that illicit brokering in high-powered conventional arms enables insurgents fighting against US, NATO and allied troops abroad.<sup>187</sup> The heavy accumulation of arms in a post-conflict state can threaten the security of another state. Criminals find new markets and exploit poor border controls to find new customers for otherwise discarded weaponry. This can raise tensions already existing in the region. States have a vested interest in preventing such illicit flows that hinder their ability to provide security.

### ILLICIT TRADE, REGIONAL SECURITY AND NATIONAL INTERESTS COALESCE

**In 2010 an Italian arms broker was arrested after Romanian customs officials forwarded a tipoff to Italian officials about an illicit arms deal.<sup>188</sup> The individual was implicated in a complex Iranian arms procurement network that violated a 2007 UNSC arms embargo against Iran.**

The Milan-based arms brokering and smuggling network had operated undetected for at least three years. Prosecutors claimed that the network provided sniper scopes, various types of munitions, explosive chemicals, helicopters, parachutes, helmets and scuba gear to Iran.<sup>189</sup> The network started to unravel when sniper scopes manufactured in Germany were recovered from Taliban militants fighting NATO troops in Afghanistan. A serial number trace established that the individual's network had supplied these scopes to Iran.<sup>190</sup>

The NATO troops being attacked by Taliban militants were German soldiers. This incident ran contrary to German support for UNSC arms embargoes and the country's commitment to peace and stability in Afghanistan.<sup>191</sup> This case demonstrates how each state has a national interest in regulating international trade in conventional arms to prevent diversions.

## Link with economic interests

At the state level, the accumulation and circulation of firearms can damage or destroy infrastructure, destabilise communities and threaten national projects that underpin growth and prosperity. An example of this is in Papua New Guinea, where the accumulation of high-powered firearms by landowners seeking royalties,<sup>191</sup> dividends and development levies destabilised operations at the country's largest resource project run by the providers of natural gas.<sup>193</sup> The landowners blockaded the site with repeated incursions. They claimed to have accumulated high-powered firearms and threatened to attack the natural gas plant if a more favourable royalties deal was not brokered.<sup>194</sup>

The World Bank has found that the socioeconomic costs of crime and violence in Papua New Guinea (PNG) inhibit investment and national growth.<sup>195</sup>

- 81% of businesses reported that decisions about further investment or expansion were affected by the law-and-order situation.
- 67% of firms identified crime as a constraint—four times the regional average of 16% in East Asia and the Pacific.
- 84% of companies pay for security. This is more than 30% higher than the average in East Asia and the wider Pacific region.
- The cost of private security is significant and the average cost in PNG is 5% of annual expenses compared to 3.2% in East Asia.<sup>196</sup>

The PNG case shows how the presence of unregulated arms can damage investment prospects, private-sector expansion and economic growth.

Sometimes the human costs of armed violence are

quantifiable—casualty figures, injury, disability and displacement—whereas the economic impacts can be harder to estimate. Some examples of the costs of arms accumulation and illicit trade which remain difficult to tally include:

- loss of social capital and institutional trust;
- lost opportunity to reinvest capital expended in high prevention costs;
- foregone productivity following the disruption of education and livelihoods;
- lost opportunities for tourism, investment and trade.<sup>197</sup>

Increasingly insecure investment environments run contrary to national economic interests when a lack of security brings with it major obstacles to investment and development.<sup>198</sup> It is difficult to extrapolate the financial costs associated with lost opportunities, but investment in armed violence containment might otherwise be invested in productive activities.<sup>199</sup> (see *Section 6*).

In insecure environments, resources are diverted from productive civilian activity to containing increased violence.<sup>200</sup> During an average civil conflict, the expenditure on armed forces increases to 5% of GDP, reflecting a subsequent decrease in opportunity to invest in social services, infrastructure or other productive activity.<sup>201</sup> The typical civil conflict lasts seven years, during which period income loss for the civilian population can average 15%.<sup>202</sup> An average civil armed conflict can have a notable impact on growth, costing an equivalent of 30 years of GDP growth in a medium-sized country.<sup>203</sup> During an average-length civil conflict, the loss of state income can total as much as 60% of annual GDP.<sup>204</sup>

The losses sustained from armed violence particularly strain developing states coping with protracted conflict. Arms transfers to developing states cost US\$71.5 billion in 2011,<sup>205</sup> whereas in the same states poverty reduction lagged by more than 20%.<sup>206</sup> The Institute for Economics and Peace calculates

that global internal security expenditure in 2015 was approximately US\$3,533 billion.<sup>207</sup> It is worth noting that violence and state fragility was the main constraint on progress across all Millennium Development Goals.<sup>208</sup> (see *Section 6*).

These figures indicate that the unregulated accumulation and illicit circulation of conventional arms can have serious social, political and economic impacts on individual states. Where the costs are not direct, they can hurt national interests by threatening investment or the operations of national and multinational corporations. Unregulated conventional arms also threaten the state by enabling organised crime, terrorist organisations and armed groups to operate.

The spill-over effect is also costly for the international community as conventional arms destabilise states and regions, causing disruption to resource extraction and trade, while population displacement demands costly international responses. In such circumstances, States Parties are encouraged to consult and cooperate with each other, consistent with their respective security interests and national laws.<sup>209</sup> As demonstrated in this section, the ATT can assist with securing national interests by:

- facilitating a domestic security-sector review;
- strengthening regulations;
- sharing information;<sup>210</sup> and
- assisting in investigations, prosecutions and judicial proceedings.<sup>211</sup>

A robust domestic national control system under the treaty, with the addition of international assistance and cooperation outlined under Article 15, enables States Parties to restrict access to conventional arms that can destabilise states or regions and empower criminal and terrorist organisations.

## THE ATT AND CIVILIAN ARMS OWNERSHIP

Lawful civilian possession of firearms is outside the scope of the ATT. The treaty reaffirms ‘the sovereign right of any State to regulate and control conventional arms exclusively within its territory, pursuant to its own legal or constitutional system’.<sup>212</sup> In this regard, the lawful ownership of firearms does not conflict with the objective and purpose of the treaty, which is simply to ensure a standardised and secure international arms trade.

There are many cultural, commercial and legal interests that result in a state’s deeming civilian firearm ownership both legitimate and necessary. For example:

- pest control in farming, including the humane destruction of livestock;
- protection against dangerous animals;
- sports shooting;
- recreational or subsistence hunting;
- self-defence.

The ATT interferes with none of these.



UN Photo: Nektarios Markogiannis

## THE BROADER BENEFITS: REGIONAL SECURITY

Increases in security-sector expenditure can result in lower state investment in other basic services.<sup>213</sup> An estimated 1.5 billion people live in areas affected by fragility, conflict or large-scale organised criminal violence. Such environments not only directly affect the day-to-day lives of citizens, but also the development outcomes pursued by the state. On average, fragile or conflict-affected states lagged 40—60% behind other low-and middle-income states in achieving the Millennium Development Goals.<sup>214</sup>

Firearm misuse has a range of regional social and economic impacts. For example, the Caribbean has a long history of smuggling and illicit trade. The persistent and growing availability of high-powered firearms continues to fuel organised crime, injury and lethal violence.<sup>215</sup> According to UN reports, a major contributing factor to ‘the surge of gun-related criminality in the region is the trafficking of narcotics, which has facilitated the availability of firearms’.<sup>216</sup> The region has become a violently protected corridor for illicit trade.

Pervasive crime and violence in the Caribbean not only affects state-sponsored development, but also threatens individual lives and livelihoods. One regional state has seen a rise in firearm use in homicide jump from less than one-third before 2000 to 74% by 2006.<sup>217</sup> If the two Caribbean states worst affected by firearm violence reduced their homicide rate from 34 per 100,000 population to 8.1, which is the lowest rate in the same region, these countries would increase their per capita growth rate by 5.4% annually.<sup>218</sup>

Sub-Saharan Africa provides a well-known illustration of regional instability exacerbated by the proliferation of firearms and the illicit weapon trade. Armed violence and conflict costs the African continent approximately US\$18 billion a year.<sup>219</sup> The most commonly used conventional arms are not manufactured on the continent but imported from elsewhere.<sup>220</sup> While strong demand factors continue in affected regions of Africa, the international community can improve regional security by restricting the illicit and irresponsible arms flow that fuels and prolongs these conflicts.<sup>221</sup>

Many African governments, acknowledging the globalised nature of the conventional arms trade, see regional regulations as part of the solution, while stronger common international standards will also be necessary to overcome armed violence.<sup>222</sup> Exporting States Parties therefore have a responsibility to ensure that the quantity and level of sophistication of transferred arms do not contribute to instability or exacerbate existing regional conflicts by creating uncertainty or by contributing to arms races.<sup>223</sup>

There are many examples of conventional arms accumulations entering the illicit market and enabling terrorist organisations to commit atrocities and political violence. In Libya (post-2011) the loss of control of state stockpiles enabled armed violence in Niger and Mali, by al-Shabab in Somalia, Palestinian groups in Gaza, and during the Syrian civil war.

Thirty portable air defence systems from Libya have resurfaced in Chad, while al-Qaeda-linked militants, supplied with arms from former Libyan state stockpiles, attacked an oil facility in Algeria and killed scores of hostages.<sup>224</sup> State fragility in Iraq (post-2003) saw the so-called Islamic State (IS) loot armouries of weapons, which were then used to commit terrorism, alleged war crimes and crimes against humanity on a region-wide scale.<sup>225</sup>

Irresponsible transfers, arms accumulation and illicit trade inhibit the United Nations in effectively discharging its mandate. Between 2013 and 2014, UN Peacekeeping efforts cost approximately US\$7.83 billion,<sup>226</sup> with Member States shouldering the financial burden of these missions. Stemming the flow of arms into regions of conflict and post-conflict could save the United Nations and donor states significant resources. Furthermore, the availability of conventional arms puts UN, NGO, regional and civil-society personnel at risk.<sup>227</sup>

The presence of unregulated arms is one of the major causes of the non-delivery of humanitarian aid.<sup>238</sup> The ATT will assist the United Nations, international NGOs, and regional and local civil society groups by creating a more secure operational environment to:

- promote social and economic development;
- support peacekeeping operations;
- fund peacebuilding efforts;
- monitor sanctions and arms embargoes;
- deliver food aid;
- protect civilians (in particular children);
- promote gender equality;
- foster the rule of law.<sup>229</sup>

Serious challenges and setbacks are commonly traced to security environments adversely affected by an unregulated or a poorly regulated arms trade.<sup>230</sup> Irresponsible transfers of conventional arms and ammunition intensify and prolong many conflicts that lead to such regional instability and consequently hinder social and economic development.<sup>231</sup>

In the Caribbean and sub-Saharan Africa, armed violence brings with it some of the regions' most severe human and economic costs. The firearms involved were not manufactured domestically, but imported from elsewhere.<sup>232</sup> Many of the governments involved see the proliferation of small arms and their illicit circulation as empowering terrorists and militants, who then contribute to regional instability. This threatens the human security of the citizens in these regions, and in an increasingly globalised world this cannot remain a contained issue. Organised transnational criminals and terrorist organisations have a global reach. The ATT sets out the steps all nations should take to curb the proliferation of illicit weapons.

## The ATT builds confidence among States Parties

One purpose of the ATT is to promote cooperation, transparency and responsible joint action that builds confidence among States Parties, and so contributes to regional peace, security and stability.<sup>233</sup> The ATT provides a framework for strengthening existing regional networks (see *Section 8*) and can assist in establishing new networks to combat diversion and illicit arms flows.

The ATT increases collaboration by communicating trends in regional illicit arms flows, providing information about potential illicit activity, and assisting those who do not have sufficient resources to prevent arms proliferation. The ATT encourages assistance through the Voluntary Trust Fund, partnering in training and technology exchange to develop national control systems. This enhances the ability of States Parties with limited capacity to participate better in collaborative efforts to secure the international arms trade, prevent diversions and combat corruption and illicit trade. As a result, a region with developed national control systems across all states is better able to control the cross-border movement of illicit trade and provide region-wide stability. In turn, secure regions contribute to combating the worldwide illicit trade in conventional arms.

The process of becoming treaty compliant includes amending legislation and strengthening procedures for managing stockpile security.<sup>234</sup> This restricts cross-border stockpile leakage and prevents regions becoming havens for armed groups.<sup>235</sup> It also contributes to regional confidence that neighbouring stockpiles will not fuel domestic criminal or political armed violence. In addition, effective stockpile management can increase confidence among exporters that deliveries will be made in a reliable, secure way. This enhances the reputation of traders as reliable stakeholders in the international arms industry, which in turn increases confidence among international trading partners (see *Section 7*).

The ATT can also contribute to confidence-building by easing tensions and exercising transparency to prevent misunderstandings and miscalculations. As detailed in *Section 3*, the ATT provides a forum to communicate voluntarily additional information on transfers, perhaps reducing scepticism regarding a state's intent and capability.<sup>236</sup> This can help avoid an arms race and even reduce national stockpiles, and therefore aid international control efforts.<sup>237</sup> To this end, the ATT also encourages States Parties to identify 'matters of mutual interest regarding the implementation and application' of the treaty.<sup>238</sup> The ATT can generate transparent documentation of arms flows and accumulation. This can highlight abnormal accumulation, act as a potential indicator of conflict prevention and contribute to confidence in peacekeeping (see *Section 3*).<sup>239</sup> As a result, the ATT builds confidence among States Parties by:

- increasing collaboration among regional networks to combat diversion and illicit trade;
- providing assistance for capacity-building to develop national control systems;
- encouraging stringent stockpile management as part of national control systems, which increases confidence:
  - that regional stockpiles will not contribute to illicit arms supplies through leakage;
  - among trading partners that transfers can be received in a reliable and secure way.

By maintaining transparency through ATT reporting, states can ease tension by disclosing the capacity of their weapons systems and declaring their intent to avoid an arms race.

## Summary

**To better understand the contribution the ATT can make to security, this section has separated the topic into themes. This is not to suggest that each security concern originates or operates in isolation. Some issues may affect some countries or regions more than others, yet each is interlinked. Just as trade in conventional arms is global in scope, globalisation has also caused domestic and regional security issues to have a worldwide impact. This is because the effects of irresponsible or illicit arms trade are no longer domestically or regionally contained. Furthermore, unregulated conventional arms can have adverse effects on the international community's effort at peacekeeping and humanitarian relief.<sup>240</sup>**

At a localised or individual level the unregulated accumulation and circulation of conventional arms threatens lives and livelihoods. Human security requires freedom from violence, plus freedom from the fear or threat of violence.<sup>241</sup> However, the full benefits of the ATT to human security are much broader. The treaty contributes to building the kind of world we want to live in, one in which children are safe to attend schools and citizens can access healthcare without the threat of armed violence. Where people can earn a living without armed violence destroying their crops, homes or services, or the infrastructure on which their livelihood relies. Productive and safe communities contribute much more to national economic development (see *Section 5*).

The ATT will not solve all security challenges. However, an investment in the ATT will strengthen the international system that prevents the diversion of arms into the illicit market or arms transfers to irresponsible end-users. This will diminish the availability of arms to those who commission or commit crimes of atrocity. The ATT will positively affect security at national, regional and global levels, creating safer and more secure environments for all.

This section has demonstrated that the ATT provides broader security benefits in the following ways:

- It contributes to safe local, regional and international environments that ensure people are free from violence and free from the fear of violence.
- It minimises access to conventional arms and ammunition for those commissioning or committing crimes of atrocity, particularly irresponsible end-users and non-state actors.
- It reduces access to illicit conventional arms used by organised crime and terrorist groups.
- It strengthens the IHL framework by supporting the protection of non-combatants in armed conflict.
- It helps the security sector perform its essential role of protecting civilians.
- It ensures access to conventional arms and ammunition to equip armed forces for defence against security threats, or to perform peacekeeping or humanitarian duties.
- It contributes to the prevention of cross-border illicit arms and ammunition flows, which in turn reduces the destabilising effect conventional arms can have on regional security.

**Although this is not an exhaustive list, this section applies the object and purpose of the treaty to security. As demonstrated, the ATT will be an invaluable part of the international community's work to provide a safe and secure world.**