



ماعت للسلام والتنمية وحقوق الإنسان
Maat For Peace, Development, and Human Rights

Opportunities and Challenges

Related to Promoting Universality

of Arms Trade Treaty in Arab Countries



Prepared by
Mohamed Mokhtar
Suhaib Ahmed
Ahmed Elsanhoty

Edited by
Dr. Sherif Abdel Hamid

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Preamble

In recent years, the Arab region has experienced a rise in armed conflicts and civil wars, accompanied by widespread violations of international humanitarian law and human rights law. These violations are major byproducts of conflicts primarily fueled by irresponsible arms trade in the region, which suffers from a lack of regulation. This instability has hindered the achievement of sustainable development goals.

The ongoing violence, driven by the influx of weapons to governments that violate human rights and to armed and terrorist groups, has resulted in thousands of deaths, millions of displacements, and deepening humanitarian crises—often in areas far from the global spotlight. In Libya, the flow of weapons to armed factions exacerbates political divisions and obstructs efforts to reach a peaceful resolution to the armed conflict. In Iraq, the availability of weapons threatens to destabilize internal security. In Yemen, the humanitarian, human rights, and security situations are deteriorating daily due to rampant weapon proliferation. In Somalia, terrorist acts by armed groups are escalating, fueled by illegally obtained weapons.

Similarly, in Syria, chaos and violence persist as a result of weapon proliferation, and in Sudan, illegal arms transfers have intensified unrest, leading to violations of international humanitarian law that amount to war crimes. This has resulted in one of the largest displacement crises in the world, with no end in sight. Weapons are frequently used in the Arab region to target civilians and civilian infrastructure, including schools and religious buildings.

Despite the grave consequences of illegal weapon proliferation in the Arab region, only seven Arab countries have joined the Arms Trade Treaty (ATT), and only three have ratified it and committed to its implementation. This Treaty is crucial for enhancing responsibility, accountability, and transparency in the global arms trade.

As I write this, people are suffering and dying due to the irresponsible arms trade in the Arab region. We are in exceptional times that demand exceptional responses. It is imperative that we collaborate to understand the opportunities and challenges of Arab countries joining ATT. Together, we can open a new chapter in our collective efforts to halt irresponsible arms transfers in the region, reduce human suffering, and prevent weapons from reaching warlords, human rights violators, terrorists, and criminal organizations. I am confident that this report will serve as the first step toward strengthening arms trade regulation in Arab region, ensuring that weapons reach the right hands. Will we have the courage to take necessary steps to ensure that weapons are placed in safe hands?

Ayman Okeil

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Introduction

Arms Trade Treaty (ATT) is the first international treaty to address the control of conventional arms transfers on a global scale. It establishes unified standards to regulate arms transfers and prevent their illicit trade, particularly to governments that violate international humanitarian law. ATT aims to promote regional and global peace while reducing human suffering caused by the misuse of these weapons. Since its entry into force, the international community has focused on supporting its implementation and encouraging states to join and adhere to ATT.

Unregulated transfer of arms to Arab region raises numerous humanitarian concerns. Weapons and ammunition continue to flow, both secretly and openly, to countries experiencing armed conflicts, resulting in significant human losses. These losses manifest not only in fatalities but also in long-term changes to individuals' lives due to injuries, trauma, and loss of livelihoods. Civilians bear the brunt of this violence. Lack of adequate monitoring procedures for arms supplies to parties involved in armed conflicts paves the way for violations of international humanitarian law and international human rights law. This inadequacy hinders the delivery of life-saving humanitarian aid, prolongs wars, exacerbates their severity, and often leads to escalating insecurity and violence even after conflicts have ended.

Illicit arms trafficking has become a prominent issue in the Arab region, posing a significant obstacle to conflict resolution. Since 2011, weapons have flowed into many Arab countries, including Libya, Syria, Yemen, Somalia, Sudan, Iraq, and Lebanon. These arms have also fallen into the hands of terrorist and armed groups, as well as fighters accused of committing violations of international humanitarian and human rights laws. The region hosts numerous open markets for arms trade, through which weapons are funneled to armed groups in various troubled countries worldwide. For instance, Libya has become a central hub for arms trafficking, with weapons leaking to armed groups in

Nigeria, Chad, and other African nations. Additionally, the region includes some of the largest importers of conventional weapons globally. Between 2018 and 2023, it was estimated that 30% of international arms transfers occurred within the Arab region.

Although ATT establishes global standards for the responsible transfer of arms to prevent them from reaching violators of international humanitarian law, and aims to eliminate illicit arms trafficking and the diversion of weapons to conflict zones, only six Arab countries have signed ATT, with just three having ratified it and committed to its implementation.

This study addresses the obstacles faced by Arab countries that have not yet become parties to ATT. It provides an overview of ATT's status in the region, explores the reasons behind the reluctance of Arab countries to join, and highlights the urgent motivations for their participation. The study also presents a series of proposals and measures to overcome these obstacles and mitigate the negative effects resulting from the irresponsible arms trade in the Arab region.

Study Methodology

This study employed a methodology that incorporates various research and analytical tools, notably desk research involving a range of studies and documents related to the universality of ATT and its compliance, both within and outside the Arab region. Data was collected from open sources, including reports and studies issued by international organizations and civil society groups. Additionally, national data presented by Arab countries during meetings of the First Committee of United Nations General Assembly on disarmament, the First Conference of States Parties to ATT, and relevant United Nations General Assembly decisions were reviewed.

Maat sought the insights of a group of experts specializing in the international arms trade to identify the obstacles preventing Arab countries from joining ATT. This was accomplished through a series of electronic questionnaires distributed to these experts in advance.

Furthermore, Maat gathered the opinions of legal experts involved in activities organized by the Foundation to assess the negative impacts of weapon proliferation on regional stability and to understand the motivations for Arab countries to join ATT. This process included three discussion panels: the first on August 20, 2024, focused on the challenges facing Arab countries in joining ATT, featuring participation from various disarmament and non-proliferation specialists; the second on June 24, 2024, examined Arab countries' commitments to submitting national reports to United Nations Program of Action for the period from 2018 to 2024; and final panel on January 15, 2024, discussed impact of illegal arms transfers on the rights of women and girls in conflict-affected countries in Middle East and North Africa.

First: Position of Arab Countries on Joining ATT

Idea of regulating the arms trade on a global scale emerged in October 1995 when Costa Rican President Oscar Arias, a Nobel Prize laureate, advocated for an international agreement to regulate the trade in conventional arms. In May 1997, several arms control experts launched International Code of Conduct on Arms Transfers, laying the groundwork for a future ATT. These efforts culminated in 2006 during United Nations General Assembly discussions on ATT negotiations.

During these discussions, the Arab countries that participated expressed a range of opinions, from approval to rejection and abstention. In 2006, United Nations General Assembly approved Resolution 61/89 by a majority of 153 votes, with United States objecting and 21 countries abstaining, including 11 Arab nations: Egypt, Iraq, Kuwait, Libya, Oman, Qatar, Saudi Arabia, Sudan, Syria, United Arab Emirates, and Yemen. This resolution aimed to establish a group of governmental experts tasked with preparing a comprehensive and legally binding instrument to set international standards for the import, export, and transfer of conventional weapons.

In September 2007, UN Secretary-General appointed a group of governmental experts to study the preparation of this comprehensive instrument. In December 2008, General Assembly adopted Resolution 63/240, which addressed measures to combat the illicit arms trade through an arms trade treaty and outlined several future arrangements for discussing ATT. Nineteen countries abstained from voting, including 11 Arab countries: Bahrain, Egypt, Iraq, Kuwait, Libya, Qatar, Saudi Arabia, Sudan, Syria, United Arab Emirates, and Yemen.

In December 2009, General Assembly adopted Resolution 64/48, which called for a conference to negotiate ATT in 2012 to draft the text of a legally binding treaty. This resolution stipulated that all treaty negotiations would be conducted by consensus, with

151 countries agreeing and 20 abstaining, including 10 Arab nations: Egypt, Kuwait, Libya, Oman, Qatar, Saudi Arabia, Sudan, Syria, United Arab Emirates, and Yemen.

In November 2012, UN General Assembly overwhelmingly approved a resolution to hold a second negotiating conference on ATT in March 2013. ATT final text was agreed upon in March 2013, but consensus approval was blocked by Iran, North Korea, and Syria.

In April 2013, UN General Assembly adopted ATT with 156 votes in favor, three against, and 22 abstentions. Among those that objected was Syria, which argued that ATT does not prohibit the transfer of weapons to subnational groups, including armed and terrorist organizations. Syrian delegate emphasized that the text of ATT fails to prevent the supply of weapons to unauthorized, non-state terrorist entities.

Syrian delegate noted that several countries supporting ATT are heavily involved in supplying various types of deadly weapons to terrorist groups, including those operating in Syria, resulting in the deaths of thousands of civilians. This situation highlights the objections from these countries to the inclusion of a provision prohibiting the supply of weapons to unauthorized non-state actors. The delegate argued that ATT serves the interests of weapon-producing countries at the expense of the national security interests of others, pointing to ambiguities in ATT text that allow for manipulation.

In this context, eight Arab countries abstained from voting in favor of ATT: Bahrain, Egypt, Kuwait, Libya, Qatar, Saudi Arabia, Sudan, Syria, and Yemen. In contrast, twelve Arab countries supported ATT: Algeria, Djibouti, Iraq, Jordan, Libya, Mauritania, Morocco, Somalia, United Arab Emirates, Tunisia, Comoros, and Lebanon.

Abstention of Arab countries from voting in favor of ATT can be attributed to several reasons, most notably the absence of explicit provisions banning import of weapons to groups and individuals. This gap raises concerns about potential arming of extremists and terrorist organizations, which could destabilize nations. Sudanese delegate

expressed that his country did not support ATT due to provisions that might permit the arming of individuals and armed groups.

Additionally, many Arab countries that abstained from supporting ATT, including Egypt, emphasized during discussions in First Committee on Disarmament that ATT lacks essential terms and concepts and does not adequately address legitimate interests of weapon-importing nations.

Conversely, several countries have stressed the necessity of ensuring that effective implementation of ATT aligns with UN Charter while respecting the rights of countries to meet their national security and self-defence needs. Some nations fear that ATT may impose restrictions that limit their defensive capabilities. For instance, Kingdom of Saudi Arabia consistently reiterates its support for unified standards to regulate arms trade, provided these standards do not restrict its ability to acquire arms necessary for national defence.

Data analysis conducted by Maat regarding Arab countries positions in First Committee on Disarmament at United Nations reveals a general willingness among these nations to comply with UN Program of Action to Combat the Illicit Trade in Small Arms and Light Weapons. However, they maintain reservations about ATT, viewing it as a restriction on the trade of conventional weapons from an Arab perspective. They argue that ATT does not adequately respect their right to self-defence and lacks objectivity, ultimately affecting their national security requirements.

The stance of Arab countries during the negotiations of ATT, along with their ongoing statements in the First Committee on Disarmament at United Nations, has contributed to their limited compliance with ATT. To date, only seven Arab countries have signed ATT: Bahrain, Libya, United Arab Emirates, Lebanon, Palestine, Mauritania, and the Comoros. Among these, only three have ratified ATT and are thus obligated to implement its provisions. This is concerning given the urgent need for Arab countries to

join ATT to combat the illegal arms trade in the region, address the diversion of weapons, and mitigate the irresponsible arms trade that threatens international peace and security. The following section of the study analyzes the motives and reasons that may encourage Arab countries to reconsider signing and ratifying ATT.

Second: Motives & Reasons for Arab Countries to Ratify ATT

ATT establishes comprehensive rules to regulate international trade in conventional weapons, which pose significant threats to both international and regional peace and security, as well as to human security and human rights. There is a clear connection between the unregulated proliferation of conventional weapons, their illegal trade, and the emergence of internal armed conflicts, organized crime, and terrorist activities. These commitments aim to prevent numerous humanitarian disasters that arise from the availability and misuse of weapons, ensuring that they do not reach perpetrators of human rights violations, including governments, non-state armed groups, or organized crime factions.

Under Article 6 of ATT, states are prohibited from transferring conventional arms if they are aware that such arms will be used to commit genocide, crimes against humanity, certain war crimes, or violations of international humanitarian law. This approach seeks to prevent arms transfers based on reliable information indicating a significant risk of serious human rights violations. Additionally, states must not transfer arms to regions where the Security Council has imposed arms embargoes under Chapter VII of UN Charter.

Article 7 of ATT outlines the criteria under which states are required to refuse arms exports based on a risk assessment. This assessment involves a complex balancing act, considering various factors to ensure effective regulation of the arms industry. The impact on civilians is a fundamental consideration in determining how arms trade should be conducted.

Under Article 7, exporting authorities must evaluate whether arms or items:

- Contribute to the consolidation or undermining of peace and security, potentially being used to:

- Commit or facilitate serious violations of international humanitarian law or international human rights law.
- Commit or facilitate acts classified as crimes under international conventions or protocols related to terrorism or transnational organized crime to which the exporting state is a party.
- Take into account the potential for weapons to be used in acts of serious gender-based violence or violence against women and children.

Moreover, Article 7, paragraph 3, stipulates that if, after conducting a risk assessment and considering available mitigation measures, the exporting state determines that there is a significant risk of any adverse consequences listed in paragraph 1 of Article 7 occurring, the export shall not be authorized. The concept of significant risk was included in draft treaty issued on July 26, 2012, and remains in the final text of ATT.

Article 9 of the Arms Trade Treaty (ATT) emphasizes the regulation of transit and transshipment by requiring each State Party to implement appropriate measures to regulate, where necessary and practicable, the transit or transshipment of conventional arms covered by the Convention under its jurisdiction, in accordance with international law.

Although Article 9 does not explicitly mandate transit and transshipment controls, such provisions have been incorporated into United Nations General Assembly resolutions on ATT and included in the draft documents of the Chairman of the Preparatory Committee for ATT. These activities should be reflected in national legislation, detailing the form that transfer controls should take under ATT. This includes adopting legislation and procedures to manage transit, such as:

- a) Exchange of information between States Parties regarding transit controls.
- b) Submission of public reports on the implementation of these controls.

- c) Providing guidance to peers or experts on improving national practices once ATT enters into force, such as user guides, best practice guidelines, or model legislation.
- d) Establishing a system for arranging international assistance for the design or implementation of transit controls.

Effective enforcement of transit controls requires that relevant non-governmental entities involved in the international arms trade—such as manufacturers, export and import companies, and transport firms—are aware of the risks of diversion and the penalties for attempting to divert legitimate arms to unauthorized users. Therefore, ATT should encourage government agencies and non-governmental entities to exchange information regarding weapons subject to transit controls, prohibited or suspected end users, and companies permitted or prohibited from participating in international arms transactions.

Article 11 of ATT outlines measures that States must take to prevent the diversion of arms. The first paragraph stipulates that each State Party involved in the transfer of conventional arms covered by Article 2, paragraph 1, shall implement measures to prevent such diversion. It also emphasizes the need for cooperation among States Parties to mitigate the impacts of arms diversion and to foster confidence through information exchange, thereby preventing arms from falling into the hands of perpetrators of international crimes or terrorist groups. The diversion of conventional arms, ammunition, and related components poses a significant threat to societies worldwide.

Given this context, there are several key benefits for Arab countries to join ATT:

1. Preventing Arms from Reaching Violators of International Humanitarian Law: ATT, in accordance with Articles 6 and 7, establishes standards that restrict access to arms in areas with poor human rights records. This improvement contributes to better human

rights conditions and helps protect civilians at risk of repression and violence. It also facilitates the enforcement of arms embargo resolutions adopted by the Security Council, particularly in various Arab regions, such as the measures related to the arms embargo imposed on Libya.

Since 2011, the flow of weapons into many Arab regions has resulted in significant civilian casualties and suffering, as well as the destruction of livelihoods. These weapons have often ended up in the hands of fighters accused of committing violations of international humanitarian and human rights laws in countries including Libya, Syria, Yemen, Iraq, Lebanon, Sudan, and Somalia.

For example, Sudan experienced an outbreak of armed conflict between the Rapid Support Forces (RSF) and the Sudanese army in April 2023. Numerous reports indicate that the flow of weapons to both parties has perpetuated the conflict and resulted in widespread civilian casualties. Over 20,000 people have been killed, and many civilians have been injured due to deliberate attacks on homes using conventional weapons. This violence has forced many citizens to flee in fear for their lives, exposing millions to the risk of famine.

In Yemen, all parties to the armed conflict have received weapons and military support, leading to more than 151,000 deaths as a direct result of ongoing hostilities until the end of 2022, according to UN estimates. Yemen is also facing one of the worst man-made humanitarian disasters, with over 80 percent of the population struggling to obtain sufficient food, and around 23.7 million people in need of humanitarian assistance.

In Syria, the continued flow of weapons to parties involved in the conflict, including armed and terrorist groups that violate international humanitarian law, has resulted in the loss of hundreds of thousands of civilian lives and the destruction of large portions of populated areas. As of June 2022, 143,350 civilians had been killed due to the conflict,

including 76,417 deaths attributed to the use of small arms and light weapons. The ongoing violence has left 15.3 million people in urgent need of humanitarian assistance. For these reasons, the accession of Arab countries to ATT would enable them to establish standards that ensure weapons are not transferred to conflict zones, in addition to monitoring their flow within these conflicts.

2. Preventing the Diversion of Weapons to Conflict Areas: Diversion refers to the transfer of weapons from an authorized user to an unauthorized user. This can occur when weapons are diverted from their intended final user to another unauthorized end user. Diversion is a common tactic employed by countries under arms embargoes, warlords, human rights violators, terrorists, and organized criminal groups to acquire weapons.

Weapons can be diverted through various means, including theft from military bases, arms depots, during transport, or through corruption. Officials or employees may sell weapons on the black market for personal gain, or seize weapons during conflicts. This diversion allows weapons to reach non-state actors, prolonging or escalating conflicts by supplying armed and terrorist groups.

In this context, many armed groups in Libya acquired weapons by stealing them from warehouses of the Gaddafi regime in 2011. These weapons were then sold to armed groups in several African countries, including Nigeria, Chad, and Mali. Consequently, Libya has become a hub for arms trafficking across Africa. UN estimates indicate that Libya contains the largest stockpile of uncontrolled weapons in the world, posing a significant threat to civilian lives, estimated at between 150,000 and 200,000 tons. The total number of weapons in Libya is approximately 29 million pieces, encompassing light, medium, and heavy arms. These weapons are diverted along main routes that extend across the border between Chad and Libya.

3. Combating Spread of Illegal Weapons: Civil wars and internal conflicts have significantly contributed to the proliferation of weapons in many Arab countries, exacerbating instability. For example, Iraq continues to grapple with the widespread availability of firearms, with estimates suggesting that between 7.5 million and 10 million civilian-owned weapons exist despite government and public calls for regulation.

Additionally, arms smuggling and illegal transport are prevalent in several Arab nations, with many of these weapons ending up in the hands of terrorist movements and armed groups. These groups utilize the weapons to commit serious human rights violations, including arbitrary killings and threats to citizens' personal safety.

In November 2023, security forces in southern Syria, specifically in the city of Jassem in the Daraa countryside, seized underground warehouses containing large quantities of weapons smuggled to terrorist and armed groups. These weapons included automatic rifles, military pistols (some equipped with silencers), RPG launchers, PKC and RBK machine guns, sniper rifles, and anti-tank shells. Notably, arms smuggling operations have recently intensified in this region, particularly along the Syrian-Jordanian border, involving various armed factions. This situation is mirrored in Libya, Yemen, Lebanon, and several other countries suffering from armed conflicts in the Arab region. These nations require enhanced capabilities for their law enforcement agencies, which ATT could help facilitate through international cooperation in regulating the transfer of conventional weapons.

4. Promoting Transparency and Regional Cooperation in Conventional Arms Trade: The accession of Arab countries to ATT would enhance their ability to fully report their exports, imports, and other transfers of conventional arms at both international and regional levels. This transparency encourages accountability regarding licensing decisions for arms transactions, thereby preventing illicit trafficking.

The exchange of information between countries under ATT's provisions facilitates the implementation of more efficient and effective arms control measures. This cooperation builds confidence among nations and provides technical assistance to those lacking the necessary skills and expertise to promote responsible arms trade.

Third: Challenges to Universality of ATT and Compliance in Arab Region

Several challenges hinder Arab countries from joining ATT, with regional political priorities in arms control and disarmament being paramount. Many Arab nations do not view the regulation of conventional weapons as an urgent necessity at this time. Instead, they prioritize nuclear disarmament as a critical global issue, often overlooking the need for conventional weapons control. This stance is clearly reflected in statements made by Arab countries in the First Committee on Disarmament at United Nations. Arab representatives frequently emphasize the necessity of establishing a zone free of nuclear weapons and other weapons of mass destruction in Middle East, expressing significant concerns regarding the proliferation of nuclear weapons.

In this context, spread of armed conflicts and civil wars, both within and between countries, represents a significant challenge that hinders nations from joining Arms Trade Treaty (ATT). These exceptional circumstances, often fueled by external interventions, lead to political instability and exacerbate the suffering of citizens. A clear example is Libya, which signed ATT in July 2013; however, ongoing armed violence continues to delay its full accession.

Many Arab countries express reservations about ATT due to concerns that it may limit their ability to procure weapons necessary for national security. They emphasize the need for ATT to include explicit provisions that guarantee the right of states to self-defense. For instance, Kingdom of Saudi Arabia relies heavily on arms imports from United States and aims to produce 50% of its weapons domestically by 2050. Thus, concerns about joining ATT may hinder this objective.

Furthermore, many Arab countries perceive ATT as an agreement primarily benefiting arms exporters, neglecting the interests of importing nations. This perception poses an obstacle to their accession, as the provisions of ATT grant exporting countries significant power to control the nations that rely on them for defense needs, particularly regarding

Article 6, which pertains to export bans, and Article 7, which addresses export evaluations.

Additionally, many Arab countries feel that ATT lacks explicit provisions prohibiting supply of weapons to non-state actors, such as armed groups and organized criminal organizations. Another challenge is the insufficient institutional infrastructure and governmental capacity necessary for implementing ATT and its associated controls effectively.

There is also a lack of awareness and information about ATT among members of Arab governments and decision-makers. Many political leaders have a limited understanding of the potential benefits ATT offers in controlling the proliferation of weapons and reducing human suffering.

On the procedural side, bureaucratic obstacles and limited financial resources further complicate the situation. When Arab countries consider joining ATT, they need to update their national laws and ensure that civil servants understand and comply with its provisions, in addition to the financial implications of implementation. For some nations, the decision not to join ATT is rooted in economic concerns, particularly the fear that it may adversely affect their economies by restricting domestic arms production.

The absence of a strong regional coordination mechanism also challenges the universality and implementation of ATT in the region. League of Arab States has not taken significant steps to curb the proliferation of conventional weapons in conflict-affected Arab countries, nor has it sufficiently promoted ATT amidst the ongoing supply of weapons to armed groups, which causes immense suffering for civilians.

A common factor underlying these challenges is the limited number of civil society organizations in the Arab region focused on issues related to conventional weapons and ATT. There is a lack of adequate technical and financial support for these organizations, which play a crucial role in raising awareness about ATT provisions and advocating for countries to join.

Recommendations

There is an urgent need to promote universality of ATT in the Arab region, while urging countries to join ATT, and creating an Arab public opinion that may contribute to promoting universality of ATT in Arab region. Therefore, Maat recommends to all actors from ATT Secretariat and civil society organizations involved in efforts to promote universality of ATT as follows: -

To ATT Secretariat: - Awareness campaigns should be conducted to help remove ambiguity regarding the provisions of ATT and encourage non-party states to join it.

To Arab States that Have Not Joined ATT: - Many discussions and dialogues should be participated in at national and regional levels to reconsider joining ATT, while benefiting from states parties and their experiences in joining ATT.

To Civil Society Organizations: - The need to continue efforts to enhance understanding of the objectives of ATT among Arab states that have not joined, including awareness, mobilization and pressure campaigns that address states concerns about joining ATT.

The need to plan and conduct participation at regional level to support ATT process and establish regional mechanisms and channels that ensure the universality of ATT.

To Donors: - The need to provide support and assistance to civil society organizations so that they can play their role in efforts to raise awareness of ATT, and to provide them with technical and financial support that allows them to engage with all stakeholders in meetings and dialogues that support ways to enhance the universality of ATT in Arab region.

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