

ARMS TRADE REGULATION AND SUSTAINABLE DEVELOPMENT: THE NEXT 15 YEARS

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- *Considerations on the possible implications of the Arms Trade Treaty and the 2030 Agenda for human security* •

ABSTRACT

This article analyses the confluence of the 2030 Agenda for Sustainable Development and the Arms Trade Treaty (ATT) processes as they pertain to human security. It identifies opportunities for the mutual reinforcement of these processes through implementation measures which could be adopted in this early phase of each process's existence. Special attention is given to Goal 16 of the 2030 Agenda, which deals with peace and security, specifically Target 16.4.2 on the control of the illegal arms trade, which can provide the central locus of interaction between these processes. The article also takes into account the humanitarian approach and the limitations of the ATT, and considers possibilities for overcoming them in the implementation process.

KEYWORDS

2030 Agenda | Arms Trade Treaty | Sustainable development | Arms transfers | Goal 16

Today, 15,700 nuclear warheads, of which 1,800 are in a constant state of alert, can be found in 9 countries.¹ All the while, armed conflicts continue to expand and become increasingly complex in North Africa, the Middle East, Eastern Europe and Central Asia. The international relations between the West, China and Russia are undergoing a process of strategic readjustment the outcome of which will remain uncertain so long as the “cold wars” of the Korean Peninsula and South Asia continue. There is no end in sight to the Palestine-Israel conflict, which has turned into a humanitarian catastrophe for the people of Gaza. Global climate change is affecting access to food, water, farmland, housing, health and the planet at the immediate expense of the most vulnerable. There are 60 million people currently in intra- and inter-state migration.² More than 800 million people live in extreme poverty.³ We have reached levels of inequality in which 1 percent of the world population owns 65 times the amount of wealth of the poorest 50 percent of the population; seven out of every ten people live in a country where inequality has increased in the past 30 years; and the poorest half of the population has the same amount of wealth as the 85 richest people on the planet.⁴

In this context, it will be difficult to establish a world order of peace and security. This is especially true so long as the serious problem of armed violence, which threatens the lives of thousands of men, women and children, is not confronted head on. Between 2007 and 2012, an average of 508,000 people died every year as the result of violence in and outside of armed conflicts.⁵ Furthermore, in addition to the loss of lives, armed violence has social and economic impacts, with an annual cost estimated at hundreds of billions of dollars.⁶ Situations of conflict generate an annual burden of US\$400,000 million and the cost of armed violence outside of armed conflicts, measured in terms of loss of productivity, is between US\$95 billion and US\$163 billion.⁷

There is a vicious cycle between armed violence and underdevelopment. The latter is not only the consequence, but also a structural factor in this violence. “Countries suffering from sustained levels of armed conflict or violence are also those furthest from reaching their Millennium Development Goal (MDG) targets. In fact, 22 of the 34 states furthest from achieving these targets are in or emerging from armed conflicts.”⁸

Between 2014 and 2015, two international processes have produced potentially complementary means to address armed violence: the Arms Trade Treaty (ATT) that came into effect in December 2014⁹ and for which the first conference was held in August 2015 in Mexico; and Goal 16 of the 2030 Agenda, adopted in September 2015 at the United Nations Sustainable Development Summit in New York. Goal 16 is designed to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”.¹⁰ In this article, we analyse the extent to which these two processes can be seen in an integrated manner, since sustainable development is only possible in a world free from the daily violence imposed by weapons.

1 • Parallel Processes: Sustainable Development and the Regulation of the Arms Trade

The objective of the ATT is “to prevent the illicit trade in conventional arms and prevent their diversion” through the “[establishment of] the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms”. Its purpose is “to contribute to international and regional peace, security and stability; reduce human suffering; promote cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.”¹¹ The ATT is the most recent contribution to arms control from a humanitarian and a human rights perspective, together with the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (PoA)¹² and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, which complement the United Nations Convention on Transnational Organized Crime¹³ and which were both adopted in 2001.

The proliferation, generalised presence, easy access to and improper use of weapons together with the presence of non-state armed groups diminish the state’s capacity to meet the basic needs of the population - from guaranteeing water supply and vaccinations to access to justice and the maintenance of public infrastructure. Even worse, many states become perpetrators of abuse and violence against their own populations.

It is in this context that international arms transfers take place, and end up being both a business and a means to intervene in the internal affairs of other countries, without attention always being paid to the humanitarian risks that they generate. In the absence of adequate controls, arms transfers divert essential resources away from human development needs in arms receiving countries.

Arms transfers, unless they are illegal from the start - that is, intended either to supply arms to terrorist groups or criminal groups, or to violate arms embargoes imposed by the Security Council - should arrive only at their final destination and be used for the declared purposes registered on the transaction certificate. This is not always the case, however, as sometimes the arms, their parts, components and munitions are deviated during shipment and end up in the hands of unauthorised recipients, or the designated recipients are governments that commit acts of genocide, war crimes, torture or large scale human rights violations, but are not subject to embargoes.

One notable example is that of South Sudan - a country where arms transfers have caused humanitarian disasters and contributed to the incapacity to meet the population’s sustainable development needs. Marked by low income, only 25% of the population in South Sudan has access to health services and the life expectancy is 55 years of age.¹⁴ The country has been in conflict since its foundation in 2011 and even earlier, during the decades of independence struggles, the country’s territory suffered the devastation of various forms of war: tribal, cross-border, and civil war. This has resulted in 50,000 deaths, 1.5 million internally displaced persons and 500,000 refugees.¹⁵

The atrocities committed in this conflict have been carried out with arms that travelled through Kenya, Uganda and Sudan with the authorisation and, at times, the direct participation of these countries' governments, despite the situation mentioned above.¹⁶ The original destination of the transfer of a large portion of these weapons was Sudan, which was to be the final user, but authorities there redirected them to the conflict in South Sudan. The countries of origin of these arms - Russia, Iran and China - continue (or did at least until last year) to transfer all sorts of weapons even though they are being deviated. This occurs despite the arms embargo imposed by the European Union on Sudan and the existence of a UN Security Council expert panel that is supposed to monitor and report on arms transfers to South Sudan.¹⁷

The ATT process has taken place in the midst of advances at the international level, such as bans and restrictions on arms that infringe international humanitarian law (IHL) (e.g. anti-personnel mines and cluster munitions) and ongoing actions to eliminate arms of mass destruction, advances in which states with progressive positions on these issue and civil society organisations actively participate. However, efforts to regulate conventional arms, especially small and light weapons, have not advanced beyond politically binding commitments, as is the case of PoA.

The relation between sustainable development and armed conflict was clearly recognised in the 2030 Agenda through Goal 16 (SDG16), which focused on the promotion of peaceful and inclusive societies. Economic stagnation, poverty, growing inequalities, the scarcity of basic resources for survival and ecological pressures play a pivotal role in the generation of armed conflicts - even more than strategic factors.¹⁸ Therefore, “[the] inclusion of Goal 16 reflects the growing acceptance that issues related to peace, security, and good governance should play a role in the post-2015 development framework”.¹⁹ SDG16 is perhaps the most diverse and heterodox goal of the 2030 Agenda as it covers a wide range of issues, from armed violence, violence against children and terrorism to legal identity, governance, transparency, the fight against corruption, access to information, inclusive decision-making processes, the rule of law and access to justice, and measures against illegal arms trafficking.

SDG16 puts emphasis on preventing and reducing violence through Targets 16.1,²⁰ 16.2²¹ and 16.a.²² Through Target 16.4,²³ the Agenda seeks to take action on illicit arms flows due to their negative impacts on sustainable development. Indicators are to be adopted for this goal and the first steps of institution building for the 2030 Agenda to be taken. We will thus have initial baseline indicators for Target 16.4.2, which are to constitute core elements of the actions to fight armed violence included in national sustainable development plans.

The ATT contributed to the consolidation of an international regime for the control of arms transfers by supporting steps taken beforehand at both the global and regional levels to address this issue. While some countries have had national control systems in place for many years, for the majority this is not the case. In 2006,²⁴ three years after the launch of the global campaign for a legally binding international instrument for the control of the arms trade, the resolution entitled “Towards an Arms Trade Treaty” was presented by the First Committee of the UN

General Assembly.²⁵ Seven years later, the Treaty was adopted when, immediately after the second session of negotiations ended without reaching a consensus, 12 governments put a resolution on the negotiating table proposing that the text of the Treaty be approved by the General Assembly at its April 2 session.²⁶ 154 states voted in favour of the resolution.²⁷

2 • The First Conference of States Parties (CSP) to the Arms Trade Treaty in 2015

The First Conference of States Parties (1CSP) to the ATT took place in Cancun, Mexico, in August 2015, after a series of preparatory meetings were held in Mexico City, Berlin, Port-of-Spain, Vienna and Geneva. Mexico was in charge of the provisional Secretariat.

More than 130 signatories - including 69 States Parties, as well as 11 observer states (including Saudi Arabia and China) - participated in the Conference, as did 10 intergovernmental organisations; civil society representatives from the Control Arms campaign; the arms industry and even NGOs that lobby in favour of firearms, such as the National Rifle Association.²⁸

Agreement was reached on the Rules of Procedure (ATT/CSP1/2015/WP.1/Rev.1), which finally established guarantees for civil society participation; a decision-making process based on consensus with the option to vote; and meetings open to the public. The Financial Rules were also established (ATT/CSP/2015/WP.3/Rev.1), with funding based on the UN quota system and voluntary contributions; public meetings, and Secretariat headquarters²⁹ in Switzerland. Simeon Dumisali Dladla from South Africa was named the provisional secretary. He will hold this position until 2CSP, when the process for selecting a permanent secretary will be completed. An Administrative Committee directly related to the Secretariat was created, in accordance with the terms of reference established in ATT/CSP/2015/WP.5/Rev.2, with the goal of supervising the Secretariat on financial issues. Côte d'Ivoire, the Czech Republic, France and Jamaica are members of the Committee. The issue of annual reports was left open, and accordingly, a working group on the reports was established.

Ambassador Emmanuel E. Imohe of Nigeria was elected to preside over the next Conference, even though the location of the second meeting of the State Parties has not yet been defined. The representatives of Costa Rica, Finland, Montenegro and New Zealand were elected as vice-presidents. In the first few months of 2016, a one-day extraordinary meeting, announced in Cancun, will be held in Geneva to revise and consider, for adoption, the proposal on administrative arrangements for the Secretariat and subsequently, the revision of its provisional budget. Furthermore, this Committee is carrying out the temporary administrative functions of the Secretariat, as Dumisali Dladla assumes the position. It has not been decided if preparatory meetings will be held for 2CSP - although the possibility of holding at least one meeting has been informally mentioned, without discarding the possibility of it being

in Nigeria. In any case, it has been established that if no other country offers to organise the meeting, it will take place in the city of the Secretariat's headquarters, Geneva.

The Conference of the States Parties agreed to consider actions and activities from its Plan of Action (ATT/CSP1/2015/WP.8.Rev.1). In the period between the first two CSPs, the following activities will be considered, among others: identifying and evaluating developments in the field of conventional arms; comparing best practices for the implementation and operation of the Treaty; promoting the universalisation of the Treaty; identifying lessons learned and the need for adjustments during implementation; and comparing the practices of designated states on the basis of the Treaty's interpretation.

3 • Agenda 2030 and its Relationship to the Arms Trade

Only a few days after the 1CSP, the 2030 Agenda was adopted at the United Nations Sustainable Development Summit held from September 25 to 27, 2015 in New York. Thus, the real challenge of giving substance, an institutional framework and assessment capacity to multilateralism for sustainable development has only just begun. The first step in this direction is to generate indicators for each of the 169 targets, which are still in the process of being elaborated and will only be defined during the March 2016 meeting of the United Nations Statistical Commission.³⁰ In its October 2015 meeting in Bangkok, Thailand, the Inter-agency and Expert Group on the SDGs had the mission of revising the list of possible global indicators and discussing its framework, the connections between different targets, critical issues regarding the disaggregation of data, the final phase of the work plan and the next steps. Even though the process is still ongoing, various indicators have already been approved. There are, however, cases where work remains to be done on the indicators in order to improve precision and add a scheme for disaggregation. These are the so-called "green indicators".³¹

Such is the current status of the indicators for Target 16.4.2 on the control of the illegal arms trade. Prior to the meeting in Bangkok, a proposed indicator "Percentage of firearms seized that have been registered and traced in accordance with international standards" had already been presented and during the event it was the subject of general agreement. The proposal introduced in Bangkok of using the "Percentage of small arms marked and recorded at the time of import in accordance with international standards" as an indicator was also accepted without any objections. Thus, these proposals were accepted by the IAEG, though they were still subject to additions.³² The group of interested parties also proposed the "Percentage of seized illicitly-manufactured or traded firearms that are traced in accordance with international standards" as an additional indicator.³³

While the proposed green indicators for Target 16.4.2 mentioned above have the approval of the UN Statistics Division,³⁴ the Rule of Law Unit of the United Nations Secretary General Office noted that these indicators do not cover all types of weapons. Therefore, it recommended that adjustments be made so as to craft a single indicator on firearms.³⁵

The IAEG-SDG process has not been free of criticism. According to the civil society organisations involved in the process, the scope of SDG16 is limited in comparison to the Agenda's purpose. They emphasise that the process of elaborating indicators "is not simply a technocratic process"³⁶ and affirm that too little attention is being given to this target, as the debate at the Bangkok meeting on SDG 16 was condensed into that on SDG17. Finally, they launched a call for the adoption of dynamic indicators that can be updated as the implementation of the Agenda advances.³⁷

It appears that we are coming close to the finalisation of a set of indicators for Target 16.4.2. Unfortunately, though, we run the risk of undermining the universal nature of the Agenda, as not all situations and actors have been assigned indicators. Not only countries that import arms or are affected by armed violence require indicators, but also those involved in other phases of arms transfers. The indicators also fail to cover all types of conventional arms. It is in this sense that the ATT, to which the Rule of Law Unit refers in its concept note on SDG16,³⁸ is a relevant source for the elaboration of complementary indicators that can fill this gap.

Therefore, Article 12, on Record keeping, Article 13 on Reporting, and Article 14 on Enforcement of the ATT should be taken into consideration. They can serve as a reference for proposing indicators on the creation, maintenance and updating of national records on the authorisation of transfers - at least exports - of all kinds of conventional weapons, or, failing this, small and light weapons; the presentation of minimal reports on regulatory measures for transfers; annual reports on transfers; and measures to support implementation, such as laws and regulations.

Target 16.4.2 and the ATT have the potential of being tools for building "positive peace", understood as "the presence of attitudes, institutions and structures which create and sustain peaceful societies". It "represents the capacity for a society to meet the needs of citizens, reduce the number of grievances that arise and resolve remaining disagreements without the use of violence".³⁹ Both processes arose from the recognition that poverty, inequality, armed violence and uncontrolled arms transfers are part of a vicious cycle. They therefore have the potential to fill existing gaps in human security. It is necessary to "[link] the benefits of promoting the norm of responsible international arms trading with the achievement of the MDGs and SDGs, mostly in terms of the treaty's potential contribution to reducing armed violence".⁴⁰

Cooperation on implementation will be fundamental. SDG17 on the strengthening of the means of implementation and the revitalisation of the global partnership for sustainable development offers a space for providing assistance on capacity-building; funding for development; the production and improvement of coherent strategies and public policies at the national level. This is another important point of convergence with the ATT. It is worth exploring the synergy that can be generated with Article 15 on International Cooperation and Article 16 on International Assistance.

The foundations have been established, but as of now, both processes only exist on paper. An ongoing show of commitment to implementation is needed from the United Nations Member States and the other parties responsible. Otherwise, they will be just another list of good wishes.

Possibilities for concerted action exist, resulting from decades of international work by governments, organisations and civil society, and the production and generation of knowledge. Such action is necessary to address the serious global existential challenges we are facing and put an end to the profound socio-political, economic, military and environmental consequences these challenges generate.

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