

# Disarmament Times

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News & Analysis | *Allison Pytlak and Elizabeth Kirkham*

## Arms Trade Treaty Approved

On 2 April 2013, a campaign that spanned two decades and a U.N. process that began seven years ago came to fruition when the Arms Trade Treaty (ATT) was adopted by states in the U.N. General Assembly, with 155 votes in favor, 22 abstentions, and three votes against (Iran, North Korea and Syria). Two months later, on 3 June, the ATT opened for signature, representing a remarkable victory for a broad coalition of progressive states, civil society advocates and responsible industry members, as well as for the presidents of the July 2012 and March 2013 Diplomatic Conferences at which the Treaty had been negotiated, Ambassador Roberto García Moritán of Argentina and Ambassador Peter Woolcott of Australia, respectively.

The adoption of the ATT is a significant accomplishment. As the first-ever global treaty to establish common standards for regulating the international trade in conventional arms, the ATT can be a force for good in international relations. Moreover, if fully implemented in letter and spirit, it has the potential to fulfil the aims of its proponents – to save lives and protect livelihoods.

### The Treaty Text

The ATT obliges states to establish or maintain national systems for international arms transfer control that include but are not limited to:

- A control list of conventional arms, as comprehensive as possible;
  - The Treaty covers battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles and missile launchers, and small arms and light weapons. (States are encouraged to control an even broader list of conventional arms, however.)
- A set of circumstances under which arms should never be transferred;
  - These include when arms transfers violate U.N. Security Council measures (such as embargoes), violate international agreements, or if a state has knowledge the arms would be used in the commission of genocide, crimes against humanity, war crimes or attacks against civilians.
- A national risk assessment process;
  - An appropriate authority will evaluate the risks that an arms export would contribute to or facilitate violations of international human rights or humanitarian law, terrorism offenses, international organized crime, and serious acts of gender-based violence or violence against women and children.
- Measures to prevent diversion of arms transfers, including an assessment of the risk that an export would be diverted;
- Measures to control import, transit, trans-shipment and brokering of conventional arms;
- A system for keeping records of international arms exports and imports and for reporting to the Secretariat on these activities and on steps taken to implement the Treaty.



UNHCR/A. Solumsmoen

### UNHCR Delivers Humanitarian Aid to Syrians

The U.N. refugee agency at the end of January completed a first delivery of winter emergency relief to the Azzas area of northern Syria, where thousands of internally displaced people are living in makeshift camps, as well as to the Kerama camp. See story pages 3-4.

While imperfect, the ATT nevertheless sets an important baseline for global action to control the conventional arms trade and represents a significant improvement on the draft text that was on the table at the end of the July 2012 ATT Diplomatic Conference. Overall, the Treaty benefits from greater clarity and has been strengthened in some key areas, including:

- Revision of clauses that would have subordinated the ATT to existing or future agreements, which would have allowed states to ignore the ATT when exporting arms as part of defense co-operation agreements.
- Insertion of a new article (11) on diversion, which requires states to take a range of measures to prevent diversion of arms transfers.
- Improved amendment provisions so that, instead of requiring consensus, decisions on amendment can be made by a ¾ majority at three-yearly intervals, from six years after the Treaty enters into force.
- Lowering of the threshold for entry into force from 65 state ratifications to 50.
- Deletion of an article on relations with states that have not ratified the Treaty, which raised the prospect that weaker controls could be applied to states that are not party to the Treaty than are applied to its members.

The export risk assessment (Article 7) has also been strengthened. Alongside requirements that states consider the effects weapons transfers are likely to have in re-

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# Arms Trade Treaty

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lation to human rights law, international humanitarian law and terrorism, there is now also a requirement to assess whether weapons are likely to be used as part of organized crime. Crucially, there is now also an explicit provision requiring states to consider the risk that exported weapons may be used to facilitate gender-based violence and violence against children. If states determine there is an “overriding risk” of any of these negative consequences, they should not authorize the transfer of weapons.

Despite considerable dislike for the term “overriding risk” it remains the threshold for decisions on whether to approve or deny weapons exports. Opposition to this concept arose principally amongst the major European Union arms exporting states who were concerned that inclusion of the term “overriding” could allow states to proceed with a transfer even if the transfer poses significant risk to international humanitarian or human rights law, if the transferring state considers other “overriding” circumstances (such as maintaining peace and security) to exist. However it became clear during the March 2013 negotiations that accepting this construction was to be a condition of U.S. support for the Treaty. Some states with well-developed export control systems have since said they intend to address this possible ambiguity by interpreting this to mean that arms exports should be refused if there is a *substantial* or *clear* risk of their facilitating violations of international human rights law and international humanitarian law, terrorism or organized crime, which they see as a stricter standard.

A similar situation pertains to states’ interpretation of the scope of the treaty; although only the seven U.N. categories of major conventional weapons and small arms and light weapons are listed, states are encouraged to apply the Treaty’s provisions to “the broadest range of conventional arms” (Article 5.3). Accordingly, it is to be expected that early ratifying states – and in particular significant arms exporters – will make clear that they intend to interpret the Treaty’s provisions broadly, thereby setting a high standard for implementation of the Treaty’s key operative provisions and encouraging other states to do likewise.

The Treaty’s treatment of ammunition and parts and components, while an improvement over earlier drafts, is still disappointing in several respects. Primary among them is the fact that Treaty provisions relating to import, transit/transshipment, brokering and diversion do not apply to ammunition and parts and com-

ponents. The Treaty improves upon the July 2012 text, however, where ammunition and parts and components were addressed in only two sub-paragraphs of an article addressing export issues. As it now stands, the ATT sets out ammunition and parts and components in separate articles which are then referenced at points throughout the treaty. In one of the most important substantive developments, ammunition and parts and components are now subject to the same export risk assessment (Article 7, as described above) as the conventional weapons themselves. This was not the case in the July 2012 text.

## Signature, Ratification and Entry into Force

The Treaty officially opened for signature on 3 June, during a full-day ceremony at the U.N., which was attended by several high-level dignitaries, including the U.N. Secretary General Ban Ki-moon. Among the statements delivered on that day, several governments indicated that their own interpretation and application of the Treaty’s provisions will go beyond what is explicitly written in the Treaty. For example:

- Ireland said it regarded the scope of the treaty as “wide;” Norway said the treaty will apply to “all conventional weapons;” while Uruguay said it too wanted a “broader scope.”
- Switzerland said it believed that the scope under Article 2 of the Treaty “implicitly” included gifts, loans and leases. (Article 2 defines the international trade in conventional weapons to include export, import, transit, trans-shipment, and brokering, which are collectively referred to as transfer.)
- New Zealand advised delegates that it would interpret the concept of “overriding risk” as a “substantial risk.”

Looking ahead, Mexico said the Treaty “should adapt to future situations” and Brazil said “there is room to strengthen” the Treaty in the future. Norway and New Zealand agreed that the Treaty could be “improved” and “strengthened.” Switzerland said it had always had “high expectations” of the Treaty and said that the “process is not finished,” rather, the Treaty has “simply entered a new phase to truly achieve its purposes.”

At time of writing, more than 70 governments have signed the ATT while many others – including the United States – have signalled their intention to do so in the very near future. The short time frame between the Treaty’s adoption and the opening for signature posed an administrative hurdle that prevented some governments from being able to sign on 3 June. Oth-

ers preferred to wait until the U.N. General Assembly High Level Opening in September so that heads of state could sign. It is widely expected that by the end of 2013, more than half of all U.N. Member States will have signed.

Fifty state signatories must ratify the Treaty to trigger its entry into force, which could happen as early as 2014. Over the coming period, the global civil society movement – coordinated by Control Arms, a global network of non-governmental organizations operating in more than 100 countries – will mobilize to encourage and assist signatory states to ratify the Treaty as swiftly as possible. This effort will include engaging with parliamentarians, as well as providing legal, policy and technical support and analysis.

## Challenges of Implementation

Of course the ATT will have little impact if it is not fully implemented by all states parties. It is clear, even at this early stage, that some state signatories will require assistance before ratifying the Treaty so that upon ratification they can fully implement it. Multilateral institutions, regional organizations and civil society will need to work together to address states’ specific needs and provide assistance. Coordination of effort will be vital, not least in the near-term, before entry into force and the establishment of the Secretariat to assist parties in implementing the Treaty.

It is also important to recognize that prior to the Treaty’s entry into force there can be no Conference of States Parties (which will be responsible for reviewing implementation of the Treaty, considering amendments, and other functions related to the operation of the Treaty). This means there will be no locus or forum for early ratifying states to discuss issues and questions relating to interpretation and implementation of the Treaty’s provisions. Opportunities will therefore need to be created for government experts to meet informally to discuss implementation issues – from the mechanics of reporting, to the interpretation of specific Treaty provisions – and to begin to develop and share good practices.

## Conclusion

The architects and supporters of a robust ATT pursued their goal with the intention of creating a dynamic and effective Treaty regime that will respond to trends and developments in the international trade in arms and address threats to international – and human – security. Achieving this outcome will require all stakeholders – including progressive states, international civil society, and responsible defense industry

With the [Arms Trade Treaty] the world has decided to finally put an end to the “free-for-all” nature of international weapons transfers. . . .

**The Treaty will provide an effective deterrent against excessive and destabilizing arms flows, particularly in conflict-prone regions. It will make it harder for weapons to be diverted into the illicit market, to reach warlords, pirates, terrorists and criminals, or to be used to commit grave human rights abuses or violations of international humanitarian law.**

Ban Ki-moon, U. N. Secretary General

members – to continue to work together so that the ATT becomes a reality on the ground, where it matters.

Enhanced transparency and accountability in the international trade in arms will also be a litmus test for the ATT. In this regard, there is a particular and important role for civil society in scrutinizing government action and holding governments accountable for their Treaty obligations. The establishment of a civil society-led monitoring regime is being considered, with the successful Landmine Monitor seen as a useful model.

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The full text of the Arms Trade Treaty, as well as information about implementation and ratifications is available at <http://www.un.org/disarmament/ATT/>

# War Has Devastating Consequences for Syria's Children



Sebastian Meyer/Getty Images for Save the Children

Domiz camp in Iraq, which was originally built for 10,000, has swelled to 40,000 Syrian refugees.

The atrocities taking place in Syria's conflict – now in its third year – are well publicized. With increasing frequency, videos emerge of purported executions and horrific violence taking place inside the country. The fighting drags on, with more than 93,000 dead, and the now-numerous groups in this conflict seemingly unwilling to compromise or give any concessions as the cycle of vengeance grows.

In early June, U.N. investigators issued a report concluding that war crimes were being committed in Syria on a regular basis, including bombing of civilians and the recruitment of child fighters, as well as forcing children to see or participate in macabre killings. The report also concluded that there were "reasonable grounds" to believe that chemical weapons have been used, although the commission could not establish which side in the conflict may have used the weapons. The chairman of the committee, Paulo Pinheiro, concluded: "Crimes that shock the conscience have become a daily reality."

The victims in this crisis are many times children; no Syrian, no matter how young, is spared. Since the conflict began, children have been killed, traumatized and deprived of basic needs. The conflict touches them in some cases even before birth as expectant mothers flee violence.

A recent study conducted by Bahçeşehir University in Turkey found that three in four Syrian children have lost a loved one. More than three million Syrian

children are in need of humanitarian assistance. The harm ranges from being out of school – not getting the education that is a cornerstone for later success – to being recruited into armed groups or targeted by violence directly. The health care infrastructure has been hard hit; the number of hospitals that can function continues to drop, and many mothers can no longer deliver their babies safely. Children are going without needed vaccines, and economic hardship, as well as the hazardous conditions, make accessing proper nutrition a daily struggle for many Syrian families.

There are now 1.6 million Syrian refugees, according to the U.N. Refugee Agency (UNHCR), with more streaming into neighboring countries every day. Jordan is home to almost 550,000 refugees, both in the massive Za'atari camp and in neighboring communities. Lebanon is over the 500,000 mark as well, as refugees live in crowded encampments or seek shelter in communities throughout the country. In Iraq, 151,000 refugees have gathered, mostly in the north, and UNHCR estimates that figure could reach 350,000 by the end of this year.

There are signs that the exodus from Syria is accelerating – of the 1.6 million refugees in neighboring countries, one million have fled this year alone. The fact that this already unmanageable crisis is worsening gives us a foreboding picture of what is to come as the population of Syria is forced to seek refuge in already taxed and over-

crowded neighboring states, which themselves are feeling profoundly destabilizing effects from both the economic demands of housing so many refugees and the battle between Syrian President Bashar al-Assad's government and its enemies in the country and the region.

But the statistics – staggering as they are – don't tell the full story. During a recent visit to Jordan, I spoke with a mother who traveled, seven months pregnant, across southern Syria. The risk of giving birth inside Syria was greater than that journey. Meanwhile in Lebanon, a colleague of mine talked with families who had taken shelter in an abandoned prison, where a father told her he had been a banker in Damascus before fleeing Syria. A toddler girl living in the same prison cried often, still in pain from a piece of shrapnel that was embedded in her leg.

Just weeks ago I traveled to Iraq, where I visited the Domiz refugee camp in the northwestern corner of the country near its Syrian border. The Kurdistan Regional Government and international non-governmental organizations are managing the camp, trying to provide shelter and meet the basic needs of 40,000 people in a space built for 10,000. Some families live in flimsy plastic tarps, and open sewage and trash add to their misery. Families told us of the need to escape as fighting worsened and their ability to earn a livelihood for their children vanished – of leaving Syria with only the belongings they could fit in

their car or even carry on foot. Some had spent almost a year living in this camp, the hardships of daily life there preferred over the unbearable realities in Syria.

The day-to-day miseries facing many families who are refugees or internally displaced in Syria pose dire health risks – lack of toilets and sewage systems increases the risk of diarrhea, which is the biggest killer of children globally. Vaccinations have been disrupted. Diseases like measles have increased. The World Health Organization recently warned that the risk of epidemic – from cholera, typhoid, hepatitis and other ailments – has risen substantially.

Children are also struggling to cope emotionally with their experiences, which have left many in a state of fear and uncertainty. In drawings, refugee children often fill pages with images of weapons, explosions, blood and innocent people being harmed. The psychological and social impacts on this generation of Syrian children are profound.

As long as the war continues, the unimaginable suffering of Syrians will as well. The conflict is so intense that aid cannot reach those whose need is greatest. Without peace, the already-dire humanitarian crisis will only worsen.

The message must be heard that denying children the right to humanitarian assistance is a violation of international humanitarian law. All sides must respect the fundamental rights of children, which have been egregiously violated. There is a great need for increased humanitarian access. The killing of those providing humanitarian assistance, cumbersome checkpoints, and fluid boundaries of battle all hamper the ability of international and civil society organization to deliver aid. The level of access pales in proportion to the enormous and growing needs of Syrians inside the country.

As the conflict drags on, one step that can be taken immediately is for donor nations to pledge – and fulfill all pledges – for aid to flow quickly and efficiently to these refugees. In January of this year, donors in Kuwait pledged \$1.5 billion dollars. The entirety of this amount must be delivered. On June 7, the United Nations called for \$5 billion in further spending – the largest appeal of its kind to date – a figure that reflects the magnitude of the crisis as it is now and as is projected to grow.

But funding alone is not enough. Parties to the conflict must respect international laws that govern conflict, as well as

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## Taking Forward Nuclear Disarmament Negotiations?

A new forum on disarmament has started its work in Geneva, an “open-ended working group” (OEWG) charged with “taking forward multilateral nuclear disarmament negotiations for the achievement and maintenance of a world without nuclear weapons.” Created through the adoption of U.N. General Assembly Resolution A/RES/67/56, it is a signal that many states, international organizations and members of civil society are running out of patience with the existing deadlocked machinery.

The working group held its first session 14-24 May in Geneva, with Ambassador Manuel B. Dengo of Costa Rica as chair, met again on 27 June to collect proposals drawn from the earlier meeting, and will reconvene from 19-30 August before reporting back to the General Assembly in October.

The first two weeks of the working group included a number of panels on topics such as evaluating existing commitments, looking at relevant international law and other disarmament treaties, examining the humanitarian impact approach to nuclear weapons, and discussing the role of parliamentarians. The panels also examined concrete proposals to move forward, such as a treaty banning nuclear weapons.

After each panel, delegations were encouraged to engage in an informal and open exchange of views. This has allowed for delegations to break away from prepared statements and is a much-needed shift, which along with the participation of civil society in the discussions, could lead to a more dynamic interplay of ideas.

Several members of civil society used the open-ended working group as an opportunity to discuss a treaty banning nuclear weapons, including the idea that negotiations of such a treaty could start in the near future, even without the participation of nuclear weapon possessing states, an idea that generated considerable debate.

These discussions revealed misunderstandings and misgivings on the part of some governmental delegations regarding a nuclear weapons treaty. Some delegations incorrectly referred to a treaty banning nuclear weapons as a “big bang” approach which attempts to address all aspects of nuclear weapons, such as the legality, stockpile destruction and verification in one document. Some seemed to believe that negotiating such a treaty would undermine existing nuclear Non-Proliferation Treaty obligations. To many in civil society, this thinking is contradictory. In fact, the absence of a clear prohibition on nuclear weapons makes it harder to implement a rational step-by-step process for either disarmament or non-proliferation.

The biggest question surrounding the open-ended working group is what can it actually do? There is clearly a need for a forum where discussions about nuclear disarmament can be held without becoming bogged down, like the Conference on Disarmament, by procedural issues. It is unclear what, if any, part the OEWG can play in that, particularly given that the five nuclear powers of the Security Council did not attend. While approximately 81 states participated in at least one of the meetings during the first session of the OEWG, Pakistan and India were the only nuclear-armed states that took part.

Clearly those who participated in the OEWG are frustrated with the lack of progress on disarmament, but views are divided on how to address it. Should there be a step-by-step approach, or, alternatively, negotiation of a treaty that would outlaw nuclear weapons? Whatever the outcome of the OEWG, it is obvious that continuing to wait for progress in the Conference on Disarmament has grown more and more intolerable for the majority of states. It is also clear that many states desire greater engagement with civil society on this topic. Whether the open discussions that marked the first two weeks of the OEWG can be translated into movement on action-oriented proposals remains to be seen.

It now seems advisable for states to make proposals that focus on what individual governments, or groups of like-minded states, can do vis-à-vis nuclear disarmament. Panels and interactive debates are interesting and have their place, but it is past time that discussions lead to something more concrete.

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*Homer A. Jack founded Disarmament Times in 1978.*

## The Crisis in Syria

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the Convention on the Rights of the Child, which Syria has ratified. All actors must cease to use explosive weapons in areas that are populated with civilians. Children under the age of 18 must not be recruited into armed groups, and those who have been conscripted must be released.

The conflict in Syria is not one the international community can afford to ignore. The humanitarian crisis will grow – likely not in the slow and painfully steady way we have seen for the past few years, but rapidly and dramatically. The effect this has on an entire generation of Syria’s children is immeasurable. They are direct targets of violence, witnesses to violence, and deprived of health care, education and loved ones as a result of violence. No matter how they are affected, their young lives are being upended by a bloody war that shows no signs of abating. We must do everything we can, and urgently, to mitigate the effects of this conflict on them and provide for their basic needs.

And, most important, we must find a path to peace in a country that once boasted high rates of school enrollment among children. Syria’s children have already endured more than any child should be asked to. There is no time to lose.

**Carolyn Miles** is president and CEO of Save the Children ([savethechildren.org](http://savethechildren.org)), which serves children and families in more than 120 countries globally. Read her blog at <http://loggingcarolynmiles.savethechildren.org/> or follow her on Twitter at @carolynsave

**In March**, Save the Children released the report *Childhood Under Fire*, about the conflict in Syria. You can read it at <http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/SYRIA-CHILDHOOD-UNDER-FIRE-REPORT-2013.PDF>

### Editor’s Note about aid in the region

Save the Children is working in Jordan, Lebanon, and Iraq – and inside Syria – to reach children. The organization provides educational support, creates child-friendly spaces where kids can express themselves and play in a safe environment, provides vouchers for families to purchase what they need, distributes hygiene kits and works to ensure that children are protected. As an NGO focused on the needs of children, Save the Children distributes its aid in an impartial manner, strictly based on need.

A number of other international and national civil society organizations are also providing aid in the region.

The U.N. is working to assist children in the region through its various agencies, including UNICEF, which is providing assistance for child health, nutrition, immunization, water and sanitation, as well as education and child protection, and UNHCR, which is providing assistance and coordinating response to the refugee crisis. The World Food Program is scaling up plans to provide food assistance to three million affected people by July and four million by October.

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