

The UN Arms Trade Treaty: arms export controls, the human security agenda and the lessons of history

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The UN-led process aimed at negotiating an arms trade treaty (ATT), formally launched in 2006, reached the end of its mandate on 27 July 2012 after a four-week negotiating conference. The conference had been tasked with reaching consensus on an international treaty to establish the 'highest possible common international standards for the transfer of conventional arms'.¹ Such a task was always going to be hard to achieve, but it was widely assumed that there was broad acceptance of a draft treaty text that was circulated on the penultimate day of the conference. However, on the final day the United States declared that the text needed further work and they proposed convening another conference to conclude negotiations.² Russia, North Korea, Cuba and Venezuela supported the US position. At the time of writing it is unclear whether the next stage in the ATT process will be a vote on the adoption of the draft treaty text in the General Assembly in December 2012, an additional round of UN negotiations or something else entirely.

The ATT process brought together all UN member states in an attempt to negotiate binding standards in the field of arms export controls.³ Arms export controls are intended to control the movement of conventional weapons and related equipment from one state to another.⁴ By definition, such efforts can be discriminatory in nature, since one state can determine whether or not an arms export should take place and therefore potentially deny another state access to the weapons it wants. This article locates the ATT negotiations in the broader history of multilateral efforts to agree on common rules and regulations in the field of arms export controls. It highlights five key observations that can contribute to an understanding of the challenge of successfully concluding an ATT in the summer of 2012.

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¹ UN General Assembly Resolution 64/48, 'The arms trade treaty', 2 Dec. 2009.

² US State Department, 'Arms trade treaty conference', press release, 27 July 2012, <http://www.state.gov/t/pa/prs/ps/2012/07/195622.htm>, accessed 14 Aug. 2012.

³ The term 'export controls' is commonly used to describe the control of cross-border movements of security-related items. However, the international debate and associated activity have moved on from the traditional focus on controlling exports to encompass a wider range of activities, including the control of transit, trans-shipment and brokering. This article uses the term 'export controls' to cover all such activities.

⁴ Ian Davis, *The regulation of arms and dual-use exports: Germany, Sweden and the UK* (Oxford: Oxford University Press, 2002), p. xiv.

First, the historical record indicates that multilateral efforts to regulate international arms transfers are far more likely to succeed when they occur either as predominantly supplier-only initiatives or as forms of hegemonic imposition. The ATT negotiations were therefore particularly challenging because they gave all 193 UN member states a voice in the process. Further, negotiations took place under the close attention of NGOs campaigning for an ATT and the US domestic gun lobby that opposed the ATT because they viewed it as a step towards tighter domestic gun controls.

Second, fusing experience from export control regimes and arms control agreements helped to bring together a coalition of progressive states from both the global North and the global South. The fact that some negotiators used experience from export control regimes and others from arms control and disarmament instruments made negotiating an ATT particularly challenging. However, only by drawing upon both approaches did it seem possible to overcome the contradictions involved in negotiating a potentially discriminatory instrument on a universal basis. All previous efforts have failed.

Third, the ATT's attempt to further extend human security concepts into the field of arms export controls served as an important focus for many states from the global North and South, as well as campaigning NGOs. Despite the strength of academic critiques of human security as a 'fuzzy' concept, it has been successfully deployed in the conclusion of prohibitions on landmines and cluster munitions, and has also influenced thinking among several groups of states with regard to arms export controls. However, the fact that the human security concept is not universally accepted by all states, and is regarded with particular suspicion by several major and emerging suppliers and importing states, meant that it would have been a landmark achievement in the UN to conclude an ATT which placed human security implications at the centre of arms export decision-making.

Fourth, the timing of the process, and in particular the negotiating conference, proved to be crucial. In the longer view, it could be argued that the ATT is indicative of a historical period in which the willingness and ability of western actors actively to promote liberal models of global governance is being curtailed as a result of both the reorientation of their own priorities and the growing assertiveness of newly emerging powers such as the BRIC states.⁵ At the same time, the failure to agree a treaty text by 27 July 2012 probably owed much to more immediate factors such as the forthcoming US presidential election.

Finally, the United States remained an outlier in the negotiations, adopting positions that were often at odds with many western allies and progressive states but also supporting many of the elements of the ATT that were opposed by sceptical states. For example, the US position on the issue of banning arms transfers to non-state actors showed that US state security concerns would be accommodated even when they were in conflict with the state security concerns of many states around the world. Overall, the ATT process underlined the fact that, despite the increasing assertiveness of the BRICs and other emerging powers, the

⁵ Brazil, Russia, India and China.

US remains the predominant force in discussions on multilateral arms transfer controls.

The next section of the article explores multilateral efforts to control international arms exports from the late nineteenth century until the end of the Cold War, in particular during the interwar period. This is followed by a discussion of post-Cold War initiatives to regulate international arms transfers, focusing on the way in which human security concerns have been central to recent campaigns to ban landmines and cluster munitions, and to strengthen arms export controls, particularly with regard to small arms and light weapons (SALW). The article then describes the evolution of the ATT and the principal actors, proposals and contentious issues that emerged during the negotiations. It outlines the key elements of a maximalist treaty that incorporates state and human security principles and a wide scope of items covered, which is being sought by a coalition of NGOs and progressive states, and the positions of states that were sceptical towards some or all aspects of this agenda. The article concludes by considering future options for the ATT process and for the NGO campaign that has been a key driver towards an ATT. The conclusion also reflects more generally on where the failure to reach agreement leaves the human security project in the field of arms control and arms export regulation.

Pre-1990 attempts to negotiate international agreements on arms exports

Up until the end of the Cold War the 1890 Brussels Act was the only ratified broad-based international treaty providing for the regulation of aspects of the conventional arms trade (although it should be noted that it was a treaty principally aimed at curbing the slave trade). The late nineteenth century was largely characterized by a *laissez-faire* approach to arms transfers between the major powers,⁶ but a series of colonial initiatives to control the supply of modern firearms to indigenous populations were also taken at the time.⁷ Humanitarians campaigned to restrict a trade deemed to be arming Arab slave traders and fomenting internecine conflict among tribes, while European governments sought restrictions that would permit them to reward allies but also maintain a qualitative military advantage over both slave traders and indigenous populations. The arms clauses of the 1890 Brussels Act perfectly illustrate this tendency. Negotiations were made easier by the fact that it was effectively an agreement between major powers that were both the principal firearms suppliers and the principal authorities exercising control over the import

⁶ Edward A. Kolodziej, *Making and marketing arms: the French experience and its implications for the international system* (Princeton, NJ: Princeton University Press, 1987), p. 28; Keith Krause and Mary K. MacDonald, 'Regulating arms sales through World War II', in Richard D. Burns, ed., *Encyclopedia of arms control and disarmament* (New York: Scribner's, 1992), pp. 707–24.

⁷ See e.g. Tim R. Moreman, 'The arms trade and the North-West Frontier Pathan tribes, 1890–1914', *Journal of Imperial and Commonwealth History* 22: 2, 1994, pp. 187–216; Doug Munro and Stewart Firth, 'German labour policy and the partition of the western Pacific: the view from Samoa', *Journal of Pacific History* 25: 1, June 1990, pp. 85–102; Jonathan A. Grant, *Rulers, guns and money: the global arms trade in the age of imperialism* (Cambridge, MA, and London: Harvard University Press, 2007); Sue Miers, 'Notes on the arms trade and government policy in southern Africa between 1870 and 1890', *Journal of African History* 12: 4, 1971, pp. 571–7.

of firearms in the targeted regions. In one respect at least, therefore, the perennial division between the 'haves' and the 'have nots' that makes arms transfer agreements so difficult was not present during the negotiations. However, in reality, agreement was possible only because imperial power meant that the indigenous populations and the Arab slave traders targeted by the agreement were excluded from the negotiations.

The 1919 St Germain Convention for the control of the trade in arms and ammunition was one of a number of treaties signed during the interwar period seeking to regulate the conventional arms trade. The agreement was motivated in large part by Allied security concerns that surplus weapons stocks could cascade down to 'problem actors',⁸ although moral criticism of the role of arms traders in fomenting the First World War was also prominent in the backdrop to negotiations. A key innovation of the St Germain Convention was the commitment by signatories to license arms exports. Although the text was agreed by all the major arms suppliers of the period, as well as a number of other states such as Venezuela, Peru, China and Thailand, it never entered into force. This was principally because the United States refused to ratify the convention, having different security and economic interests from the major European powers, which were most interested in concluding a treaty. The US was particularly concerned by the convention's prohibition on arms sales to non-signatories in Latin America and the impact this could have on the US defence industrial base. Despite the fact that the agreement did not enter into force, the major European powers and Japan remained interested in restricting destabilizing exports to areas of colonial influence and therefore informally committed themselves to operating special restrictions on exports to most of Africa, the Arabian peninsula and parts of the Ottoman empire.⁹

Further negotiations on the regulation of international arms transfers led to the Geneva Traffic Convention of 1925. Although the agreement removed the discrimination against non-signatories contained in the St Germain Convention, the presence among the negotiators of a significant group of recipient states meant that both the negotiations and the ratification process were undermined by the sovereign concerns of importers regarding security of supply. Even proposals to introduce a system of export licensing were viewed as an imposition too far. As the Greek delegate complained, such a system would mean that 'a condominium of the great States will be set up over the small non-producing State . . . They will be at their mercy; they will be subjected to such economic and political conditions as may be imposed on them'.¹⁰ In the end the major powers forced a text through the negotiations. While 18 states signed the convention, and several others (including China, Venezuela and Egypt) ratified it unconditionally,¹¹ it never came

⁸ For an illustration of the scale of the problem, see Anthony B. Chan, *Arming the Chinese: the western armaments trade in warlord China, 1920–1928*, 2nd edn (Vancouver: University of British Columbia Press, 2010), p. 61.

⁹ David R. Stone, 'Imperialism and sovereignty: the League of Nations drive to control the global arms trade', *Journal of Contemporary History* 35: 2, 2000, p. 218.

¹⁰ Quoted in Stone, 'Imperialism and sovereignty', p. 223.

¹¹ Neil Cooper, 'Arms trade treaties and the lessons of history', submission to Committees on Arms Export Controls, in Committees on Arms Export Controls, *First Joint Report, Scrutiny of Arms Exports (2012): UK Strategic Export Controls Annual Report 2010, Quarterly Reports for July to December 2010 and January to September 2011*,

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into force because of its potential impact upon non-producers. Although the 1919 and 1925 conventions did not enter into force, the discussions did coincide with the creation by the majority of arms-producing countries of the first arms export licensing systems. Prior to the 1920s, with the exception of imports in areas of colonial influence, the private manufacture and export of military equipment to sovereign states was largely unregulated.¹²

In 1934 the United States became a leading advocate for the global regulation of the arms trade when it put forward a draft convention governing the manufacture and trade in arms at the League of Nations Disarmament Conference. The proposal covered naval armaments, aerial armaments, and arms and ammunition designed and intended for non-military use (e.g. sporting rifles and ammunition). It represented a break with the notion that there should be stricter controls for particular regions of the world, and also included an international supervisory body empowered to investigate complaints brought by one state party against another.¹³ The US shift partly reflected foreign policy concerns about unregulated transfers to conflicts in Latin America, but it also dovetailed with a wave of domestic criticism of the role played by arms companies in the lead-up to the First World War.¹⁴ In April 1935 the Disarmament Conference adopted the draft articles proposed by the United States, but the deteriorating security environment in Europe ultimately put an end to any possibility of an international agreement.¹⁵

The Cold War was characterized by the establishment of export control regimes—such as the Coordinating Committee for Multilateral Export Controls (COCOM)—to prevent interbloc arms transfers, but also witnessed a virtual free-for-all in terms of intrabloc arms transfers.¹⁶ One rare attempt to introduce some kind of constraint was the 1950 Tripartite Declaration by France, the United Kingdom and the United States, which aimed to regulate defence sales to the Middle East and was given substance through the creation of the top secret Near Eastern Arms Control Committee (NEACC) as a forum for consultation between these three states (and, from December 1955, Italy). Although NEACC continued meeting well into the 1960s, it effectively became little more than a diplomatic ritual after British, French and US security priorities diverged, first as a result of the strategic decision by the French to support Israel with major arms

the Government's Review of arms exports to the Middle East and North Africa, and wider arms control issues (London: House of Commons, July 2012).

¹² Stone, 'Imperialism and sovereignty', p. 216.

¹³ 'League of Nations. Conference for the Reduction and Limitation of Armaments. Draft Articles for the Regulation and Control of the Manufacture of and Trade in Arms and the Establishment of a Permanent Disarmament Commission. Proposal submitted by the American Delegation', 500.A15 A Gen.Com (Arms)/63, Box 2429, From 500.A15A4 General Committee/1020 To 500.A15A4 General Committee (Arms)/159A, RG 59 General Records of the Department of State, Central Decimal File 19301939, US National Archives at College Park, MD.

¹⁴ 500.A15A4, General Committee/915, 'The Secretary of State to the American Delegate', Washington DC, 24 May 1934, in *Foreign Relations of the United States 1934*, vol. 1 (Washington DC: United States Government Printing Office, 1951), p. 69.

¹⁵ David G. Anderson, 'The international arms trade: regulating conventional arms transfers in the aftermath of the Gulf War', *American University International Law Review* 7: 4, 1992, p. 764.

¹⁶ COCOM was formed in 1949 by the Western allies to manage an embargo on transfers of arms and related technologies to the Eastern bloc. It was disbanded in 1994.

exports and second as a result of the Suez Crisis. Nevertheless, the creation of the agreement and its initial relative success were probably due to the fact that it operated essentially as a forum for discussion in which states were merely required to take into account the views of other members, rather than as an agreement that imposed mandatory obligations on the parties. In addition, at the start of the 1950s it was possible for the members to operate as a relatively effective supplier cartel, a situation rapidly undermined by the emergence of alternative suppliers in the mid-1950s.

A number of lessons can be drawn from this brief review of previous attempts to establish global regulations for international arms transfers. First, the only initiatives actually to be implemented were the Brussels Act, COCOM, and the Tripartite Declaration. These were made possible because they were concluded between limited groups of supplier states and because the objects of discrimination (respectively, indigenous populations and Arab slave traders, the Eastern bloc, and the Middle Eastern states) had neither a presence at the negotiating table nor the power to prevent the agreements. In different ways, these initiatives were hegemonic impositions. Similarly, despite the presence of a number of importers, the St Germain Convention was effectively a postwar agreement concluded in the interests of the major powers. It failed largely because of the diverging security priorities of the United States and other major powers. This protected non-signatories from the discrimination implied in the agreement.

Despite an attempt in 1925 to produce a more inclusive agreement involving suppliers, non-producers and importers, both the negotiations and the ratification process floundered in the face of the sovereign security concerns of the importing states. This would suggest that the difficulties in the path of any attempt to produce an arms trade regime—a challenge in the best of circumstances—are even greater in conditions where arms recipients have, or indirectly acquire, meaningful agency. Second, while in its own highly flawed way the 1890 Brussels Act represented a Victorian version of a human security initiative, the fact that it proved possible to conclude owed much to the relative congruence between the contemporary framing of great power security concerns and the paternalistic goals of norm entrepreneurs. Arms trade agreements do not have to be grand moral projects—in essence, the Tripartite Declaration aimed merely to maintain a balance of power in the Middle East—but when they are, the lesson of history is that they are more likely to succeed when the security subjectivities of policy-makers and ethical ideals of campaigners are complementary.

The post-Cold War period: introducing human security into arms export controls

The 1990s witnessed several UN efforts to strengthen the regulation and increase the transparency of international arms transfers. These efforts were primarily driven by state security concerns such as ‘maintaining international peace and security’ and ‘reducing regional and international tensions’, although they also included

elements that might be understood as reflecting human security concerns. For example, the 1991 'P5 guidelines for conventional arms transfers' and the 1996 'UN guidelines for international arms transfers' provided recommendations for preventing illicit trafficking and also called upon states to consider other factors—including the promotion of social and economic development, the peaceful resolution of regional conflicts, and efforts to prevent bribery and corruption—before authorizing arms transfers.¹⁷ However, these standards remained declarations and lacked mechanisms of review and enforcement. The UN Register on Conventional Arms (UN Register) was conceived as a confidence-building measure to encourage states to help 'prevent excessive and destabilizing accumulation of arms', requiring UN member states to provide information annually on their imports and exports of seven categories of major conventional weapons.¹⁸ It has made a significant contribution to increasing transparency in international arms transfers, but has a mixed record with regard to state participation.¹⁹

The post-Cold War period also saw a sustained effort to create export control regimes that could bridge the East–West divide, with state security concerns as their primary motivations. In particular, the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies of 1995 was an evolution of COCOM, formed on a broader and less adversarial basis while attempting to replicate some of its benefits. The Wassenaar Arrangement was established to promote 'transparency and greater responsibility in transfers of conventional arms and dual-use goods and technologies, thus preventing destabilizing accumulations'.²⁰ Participating states develop lists of items to be controlled and guidelines for transfers and licensing, exchange information on exports to non-participating states, and discuss policies on particular regions or destinations. A mix of political and technical considerations determines membership, but its participants are primarily major producers of conventional arms and dual-use items.²¹

The years following the end of the Cold War also saw the introduction of human security principles into the field of arms export controls. This reflects a similar, though more pronounced, trend in the field of conventional arms control, which has been heavily influenced by the campaigning efforts of NGOs

¹⁷ 'Guidelines for international arms transfers in the context of General Assembly Resolution 46/36H of 6 December 1991', UN General Assembly, report of the Disarmament Commission, General Assembly, 22 May 1996, A/51/42.

¹⁸ UN General Assembly Resolution 46/36L, 'Transparency in armaments', 6 Dec. 1991. The seven categories of the UN Register are: battle tanks; armoured combat vehicles; large-calibre artillery; combat aircraft; attack helicopters; warships; missiles and missile launchers.

¹⁹ Paul Holtom, Lucie Béraud-Sudreau and Henning Weber, *Reporting to the United Nations Register of Conventional Arms*, SIPRI factsheet (Stockholm: Stockholm International Peace Research Institute, May 2011).

²⁰ Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, Guidelines and Procedures, including the Initial Elements (as amended and updated December 2003 and July 2004), Wassenaar Arrangement Secretariat, Vienna, July 2004, http://www.wassenaar.org/2003Plenary/initial_elements2003.htm, accessed 14 Aug. 2012.

²¹ The Wassenaar Arrangement currently has 41 participating states, including most members of NATO and most former members of the Warsaw Treaty Organization. See Wassenaar Arrangement, 'Introduction', <http://www.wassenaar.org/introduction>, accessed 14 Aug. 2012.

and sympathetic states.²² The human security concept emphasizes the human as the primary referent of security policy, disrupting the traditional priority given to the interests of the state. Adoption of the concept is therefore considered by supporters to represent a radical and transformative move.²³ Commentators have highlighted both the vagueness of the human security concept and the multiplicity of definitions: for example, the disparity between human security conceived as freedom from fear and as freedom from want.²⁴ Despite such conceptual difficulties, many NGOs have actively referenced human security language and principles in a wide range of campaigns. Similarly, a number of states have both declared their commitment to human security in general, and referenced human security principles when declaring support for post-Cold War weapons bans or action on aspects of the conventional arms trade.²⁵ In the field of conventional arms controls these efforts have led to the banning of entire categories of conventional weapons on humanitarian grounds. Key examples include the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Antipersonnel Mines (the Ottawa Treaty, 1997) and the Convention on Cluster Munitions (the Oslo Convention, 2008).

There are a number of international and regional best-practice arms export control documents that emphasize the need to prevent armed conflict and violations of international humanitarian law.²⁶ Key examples include standards adopted by the European Union (EU) and the Organization for Security and Co-operation in Europe (OSCE).²⁷ The EU and its member states have gone the furthest in integrating human security principles into declared policy. Building upon the 1996 UN guidelines, the 1998 EU Code of Conduct of Arms Exports (EU Code) included language on preventing exports of arms that might prolong armed conflicts or be used to violate human rights. The EU Code was replaced by the 2008 EU Common Position defining common rules governing control of exports of military technology and equipment, which introduced a number of new elements, including an obligation to prevent exports of military technology or equipment where there is a clear risk that they might be used in the commis-

²² John Borrie and Vanessa Martin Randin, eds, *Disarmament as humanitarian action: from perspective to action* (Geneva and New York: United Nations Institute for Disarmament Research (UNIDIR), 2006); John Borrie, *Unacceptable harm: a history of how the treaty to ban cluster munitions was won* (Geneva and New York: UNIDIR, 2009).

²³ Ramesh Thakur and William Maley, 'The Ottawa Convention on landmines: a landmark humanitarian treaty in arms control?', *Global Governance* 5: 3, 1999, pp. 273–302; Jody Williams, Stephen D. Goose and Mary Wareham, eds, *Banning landmines: disarmament, citizen diplomacy and human security* (Plymouth, UK: Rowman & Littlefield, 2008); Denise Garcia, *Disarmament diplomacy and human security: regimes, norms and moral progress in international relations* (London: Routledge, 2012).

²⁴ Roland Paris, 'Human security: paradigm shift or hot air?', *International Security* 26: 2, 2001, pp. 87–102; Human Security Report Project, *Human Security Report 2009/2010: the causes of peace and the shrinking costs of war* (New York: Oxford University Press, 2011).

²⁵ For example, the group of like-minded states of the Human Security Network (1999) and the Geneva Declaration on Armed Violence and Development (2006), <http://www.genevadeclaration.org/the-geneva-declaration.html>, accessed 14 Aug. 2012.

²⁶ International Committee of the Red Cross, *Arms transfer decisions: applying international humanitarian law criteria* (Geneva, June 2007), p. 4.

²⁷ Organization for Security and Co-operation in Europe, Forum for Security Co-operation, 'Principles governing conventional arms transfers', DOC.FSC/3/96, 25 Nov. 1993.

sion of serious violations of international humanitarian law.²⁸ EU member states are obliged not only to share information with other EU member states on their authorizations and exports of conventional arms, ammunition and military equipment, but also to circulate details of export licences and produce publicly available reports on their arms exports. NGOs campaigning for European states to tighten their export controls and better reflect human security concerns in their policies pushed for human security concerns to be reflected in the EU Code. The initiative was given further impetus by the UK government and welcomed by sections of the European defence industry, which saw it as an important step towards reducing administrative burdens by facilitating cross-border cooperation and streamlining export efforts.²⁹

NGO campaigning and human security principles also drove international action in respect of SALW, much of which bridged the divide between the issues of arms control and export control. The main outcome of these efforts was the 2001 UN Programme of Action on SALW (PoA).³⁰ The PoA outlined a range of measures for states to undertake to tackle the illicit trade in SALW which, among other things, ‘undermines respect for international humanitarian law [and] impedes the provision of humanitarian assistance to victims of armed conflict’.³¹ The measures included stockpile management, marking, destruction and export controls.

Despite these successes, critics of the human security concept have argued that its apparent adoption in the fields of conventional arms control and export controls represents more of a continuation of previous trends than a shift in direction. For conventional arms control, action on discrete categories of weapons (e.g. landmines and cluster munitions) was possible only because enough states no longer regarded them as core elements of the new western way of warfare or central to defence industrial interests. In this way, the ‘humanitarian arms control’ agenda actually represents an accommodation with militarism. As for export controls, the attempt to restrict transfers to terrorists, rebel groups and rogue states has legitimized selective discrimination according to the interests of suppliers rather than the impartial application of standards on human rights, corruption and development.³² Even within the EU, exports are still authorized in cases where state security interests have trumped human security concerns.³³ In

²⁸ Council of the European Union, ‘European Union Code of Conduct on Arms Exports’, 8675/2/98 Rev 2, 5 June 1998; Council Common Position 2008/944/CFSP, 8 Dec. 2008, defining common rules governing control of exports of military technology and equipment, *Official Journal of the European Union* L335, 8 Dec. 2008.

²⁹ Sibylle Bauer, ‘The EU Code of Conduct on Arms Exports: much accomplished, much to be done’, in Karin Haglund, ed., *Arms trade: final report from the 2nd ecumenical conference in Gothenburg* (Sundbyberg: Christian Council of Sweden, 2007), pp. 32–3.

³⁰ United Nations, Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, A/CONF.192/15, 20 July 2001.

³¹ United Nations, Programme of Action.

³² Neil Cooper, ‘Humanitarian arms control and processes of securitisation: moving weapons along the security continuum’, in *Contemporary Security Policy* 32: 1, April 2011, pp. 134–58; Nikola Hynek, ‘Humanitarian arms control, symbiotic functionalism and the concept of middlepowerhood’, *Central European Journal of International and Security Studies* 1: 2, 2007, pp. 132–55; Anna Stavrianakis, *Taking aim at the arms trade: NGOs, global civil society and the world military order* (London: Zed Books, 2010).

³³ Helen Close and Roy Isbister, *Good conduct? Ten years of the EU Code of Conduct on Arms Exports* (London:

short, rather than representing a bottom-up expression of civil society power that has challenged the state monopoly on military security decisions, human security in export controls, it has been argued, is better viewed as an agenda produced from below but accommodated 'within the logic of militarism from above'.³⁴

Regardless of whether it represents a continuation of previous trends or a shift in direction, it is clear that the expansion of arms control and export control agendas to include both state security and human security concerns is far from universally accepted. Both the Ottawa and Oslo Conventions were negotiated outside the UN framework owing to opposition from producers and users of such weapons, particularly China, India, Pakistan, Russia and the United States.³⁵ Meanwhile, a significant group of arms exporters—including China and Russia—are generally disdainful of any attempt to apply human security concerns to arms export decision-making. One clear indication of this is Chinese and Russian opposition to the imposition of arms embargoes on Sudan, Burma (Myanmar), Zimbabwe and, most recently, Syria.³⁶ In each case China and Russia have rejected western calls for the imposition of sanctions in response to humanitarian concerns as an intrusion into sovereign affairs and have dismissed human security claims as a Trojan horse for the pursuit of the West's security interests at the expense of their own.

Both these arguments point in a broadly similar direction—namely, that any ATT to emerge from negotiations would be likely to be limited by the economic and state security priorities of hegemonic powers. Therefore, attempts to produce a universal treaty that really places human security at its centre, or at least one that includes the majority of major arms exporters as states parties, would be extremely difficult to agree upon and realize without a substantial shift in the fundamental security assumptions held by key states.

Towards an arms trade treaty

The ATT initiative emerged from a civil society campaign to promote a human security agenda for the regulation of international arms transfers through the Nobel Peace Laureates' International Code of Conduct on Arms Transfers, which was published in 1997.³⁷ That Code of Conduct was developed into the

Saferworld, June 2008); An Vranckx, Frank Slijper and Roy Isbister, eds, *Lessons from MENA: appraising EU transfers of military and security equipment to the Middle East and North Africa* (Ghent: Academia Press, Nov. 2011); Mark Bromley, *The review of the EU Common Position on Arms Exports: prospects for strengthened controls*, Non-Proliferation Papers no. 7 (EU Non-Proliferation Consortium, Jan. 2012).

³⁴ Mandy Turner, Neil Cooper and Michael Pugh, 'Institutionalised and co-opted: why human security has lost its way', in David Chandler and Nikola Hynek, eds, *Critical perspectives on human security: rethinking emancipation and power in international relations* (London: Routledge, 2010), p. 87.

³⁵ See Borrie, *Unacceptable harm*.

³⁶ Paul Holtom and Noel Kelly, 'Appendix 12A: multilateral arms embargoes', in *SIPRI Yearbook 2009: armaments, disarmament and international security* (Oxford: Oxford University Press, 2009), p. 484; 'Russia to veto Syria arms embargo—envoy', Ria Novosti, 1 Feb. 2012, <http://en.rian.ru/russia/20120201/171072768.html>, accessed 14 Aug. 2012.

³⁷ Nobel Peace Laureates' International Code of Conduct on Arms Transfers, May 1997, http://www.wagingpeace.org/articles/1997/05/00_nobel-code-conduct.htm, accessed 14 Aug. 2012.

2001 Framework Convention on International Arms Transfers, which called on 'governments to adhere to their commitments on international human rights and humanitarian law when considering applications for export licences'.³⁸ Between 2001 and 2003 the campaigners, influenced by the successful civil society campaigns for humanitarian arms control conventions on landmines and cluster munitions, changed their goal from a framework convention to a treaty. In October 2003 Amnesty International, Oxfam and the International Action Network on Small Arms launched the Control Arms campaign calling for a 'maximalist' ATT.³⁹ Such a treaty would: (a) require states not to authorize arms transfers that could have negative humanitarian impacts or be diverted to unauthorized end-users or the illicit arms trade; and (b) be comprehensive in terms of activities and the conventional arms, ammunition, military equipment and technology covered.

As with the civil society campaigns that promoted the landmines and cluster munitions conventions and the PoA, the Control Arms campaign persuaded a large number of states to promote the call for a maximalist ATT, while lobbying others to support it.⁴⁰ Early supporters of the initiative included states in sub-Saharan Africa, Latin America and the Caribbean. At the outset, many of these states were motivated by a mixture of human and state security concerns, particularly a desire to prevent illicit transfers of SALW and related ammunition to criminal gangs and armed groups operating on their national territory.⁴¹ Many of these states saw the ATT process as a way to recover from what they saw as a failure of the UN PoA to address these issues adequately.

Finland was an early European supporter of a maximalist ATT. At the time Finland's credentials as a champion of the link between controls on conventional arms and human security were being questioned by some owing to its failure to sign the Ottawa Convention.⁴² The campaign received a significant boost in September 2004 when the UK became the first permanent member of the UN Security Council to back the ATT initiative.⁴³ The UK presented the ATT not only as a means of promoting human security principles but also as a mechanism for promoting standards adopted within existing export control regimes at the global level. EU member states subsequently voiced their support for the ATT process in October 2005.⁴⁴ The ATT initiative was compatible with existing EU commitments to promote the criteria enshrined in the EU Code and to strengthen

³⁸ Framework Convention on International Arms Transfers, <http://graduateinstitute.ch/faculty/clapham/marks-lexicon/NGOarmsframeworkconvention.pdf>, accessed 14 Aug. 2012.

³⁹ Control Arms, <http://www.controlarms.org>, accessed 14 Aug. 2012.

⁴⁰ Stefan Brem and Ken Rutherford, 'Walking together or a divided agenda? Comparing landmines and small arms campaigns', *Security Dialogue* 32: 2, 2001, pp. 169–86.

⁴¹ Paul Holtom, *Prohibiting arms transfers to non-state actors and the arms trade treaty* (Geneva: UNIDIR Resources, Ideas for Peace and Security, forthcoming 2012).

⁴² 'Finland', *Landmine Monitor Report 2004: towards a mine-free world* (New York: International Campaign to Ban Landmines), <http://www.the-monitor.org/index.php/publications/display?url=lm/2004/finland.html>, accessed 14 Aug. 2012.

⁴³ 'Britain backs arms treaty calls', BBC News, 30 Sept. 2004, http://news.bbc.co.uk/2/hi/uk_news/politics/3704322.stm, accessed 14 Aug. 2012.

⁴⁴ Council of the European Union, 'EU Council conclusions on an international treaty on the arms trade', 2678th General Affairs Council meeting, Luxembourg, 3 Oct. 2005.

export controls in third countries.⁴⁵ The pan-European Aerospace and Defence Industries association (ASD) later came to support the ATT process, viewing the ATT as an instrument for levelling the playing field globally.⁴⁶ However, there were few signs of support among arms producers in other parts of the world.

During the summer of 2006, Australia, Costa Rica, Finland, Japan, Kenya and the UK circulated a draft resolution, entitled ‘Towards an arms trade treaty’, among the members of the UN General Assembly First Committee.⁴⁷ It requested that the secretary-general ‘seek the views of Member States on the feasibility, scope and draft parameters for a comprehensive, legally binding instrument establishing common international standards for the import, export and transfer of conventional arms’. The resolution was co-sponsored by 77 states and 153 voted in favour, with only the United States voting against.⁴⁸ Similar levels of support were shown for ATT-related UN General Assembly resolutions in 2008, 2009 and 2011.

More than 100 states submitted their views to the secretary-general in 2007.⁴⁹ These submissions, along with discussions in the UN Group of Governmental Experts and Open-ended Working Group that took place during 2008–2009, revealed differences of opinion over many aspects of an ATT.⁵⁰ One of the main dividing lines was between states that were interested in a human security instrument and those which would accept only a treaty based on state security interests. However, in December 2009 the UN General Assembly adopted Resolution 64/48 by 151 votes (only Zimbabwe opposed it), calling for a four-week long UN Conference on the Arms Trade Treaty in 2012 tasked with elaborating ‘a legally binding instrument on the highest possible common international standards for the transfer of conventional arms’.⁵¹ Five weeks of Preparatory Committee meetings were held during 2010–12 in order to prepare for the conference.

The vision of a ‘maximalist’ ATT was consistently opposed by a small number of states—Cuba, Iran, North Korea, Pakistan, Syria, Venezuela and Zimbabwe—whose views reflected their concerns at being targeted for sanctions with regards to arms imports, and their rejection of the human security agenda and its application to arms export controls. A second group of states also pushed back against the human security agenda. This group included China, Egypt, India and Russia, as well as many members of the Association of Southeast Asian Nations, the

⁴⁵ Paul Holtom and Ivana Mičić, *European Union arms export control outreach activities in Eastern and South Eastern Europe*, Non-Proliferation Papers no. 14 (EU Non-Proliferation Consortium, April 2012).

⁴⁶ Aerospace and Defence Industries Association of Europe, ‘Europe’s defence industry support strong, enforceable UN arms trade treaty’, press release, 11 Feb. 2010, http://www.asd-europe.org/site/fileadmin/user_upload/news/ATT_Press_Release_11_Feb_2010.pdf, accessed 14 Aug. 2012.

⁴⁷ ‘United Nations conference aimed at strengthening global effort against illicit small arms trade ends without agreement on final document’, UN press release doc. DC/3037, 7 July 2006.

⁴⁸ UN General Assembly Resolution 61/89, ‘Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms’, 11 Sept. 2006.

⁴⁹ Report of the Secretary-General, ‘Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms’, UN doc. A/62/278, 17 Aug. 2007 and addendum reports issued on 24 Sept. 2007, 19 Oct. 2007, 27 Nov. 2007 and 15 Feb. 2008. See also S. Parker, *Analysis of states’ views on an arms trade treaty* (Geneva: UNIDIR, Oct. 2007).

⁵⁰ Elli Kytömäki, *Promoting discussion on an arms trade treaty*, final report of an EU–UNIDIR project (Geneva: UNIDIR, 2010), pp. 41–2.

⁵¹ UN General Assembly Resolution 64/48, ‘The arms trade treaty’.

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Collective Security Treaty Organization and the League of Arab States. This group included a number of established and emerging arms exporters, who were concerned that the treaty would affect their ability to access technology to develop indigenous arms industries or restrict opportunities for arms exports. However, as it became clearer that a negotiating conference would take place, the sceptical states engaged with proceedings in order to try to ensure that the result would be a treaty with limited criteria and scope that would not significantly limit their ability to export or import arms and military equipment. In July 2011 the five permanent members of the UN Security Council (P5) issued a statement in which they expressed support for a treaty that would be 'simple, short and easy to implement'.⁵² The change in the Chinese and Russian position also dampened maximalist hopes for a comprehensive human security ATT.

The United States has made the most dramatic shift in position during the ATT process. Under the administration of President George W. Bush it strongly opposed the initiation of the process, voting against the General Assembly resolutions in 2006 and 2008. Following the 2008 presidential election, the US reviewed its position and voted in favour of the 2009 UN General Assembly resolution. At the same time, it exacted a high price for its support, demanding that negotiations be held 'on the basis of consensus'. The US supported the inclusion of certain human security concerns in the treaty but wanted state security interests to be paramount.

Seeking consensus at the ATT negotiating conference

The ATT negotiating conference opened on 2 July 2012 at the UN headquarters in New York. Proceedings were delayed by arguments about the status of the occupied Palestinian territories.⁵³ Maximalist states and NGOs had concerns that the outcome of the conference would be a weak treaty, as it appeared that the demands of the sceptical states were being accommodated. Reflecting these concerns, at the end of the third week 74 states issued a statement calling for a robust treaty to promote human security.⁵⁴

Discussions at the negotiating conference showed that there appeared to be a broad acceptance by states of the need to agree a treaty to regulate the conventional arms trade and contribute to efforts to combat the illicit arms trade. However, states remained divided on the main objectives of an ATT, in particular between states seeking an instrument with a state security rationale and those promoting a

⁵² 'P5 statement at the third preparatory committee on an arms trade treaty', 12 July 2011, <http://www.un.org/disarmament/convarms/ATTPrepCom/Documents/Statements-MS/PrepCom3/2011-July-12/2011-July-12-Joint-P5-E.pdf>, accessed 14 Aug. 2012.

⁵³ On the first day of the conference the Palestinian Authority demanded full state rights, backed by Egypt. It agreed to be an observer state, but only after delaying proceedings for two days. 'Arms trade talks open after spat over Palestinian status', Deutsche Welle, 4 July 2012, <http://www.dw.de/dw/article/0,,16071068,00.html>, accessed 14 Aug. 2012.

⁵⁴ For the full list of the states that supported this statement, see <http://speakout.controlarms.org/wordpress/wp-content/uploads/2012/07/common-statement-as-delivered-20-July-updated-7-22.pdf>, accessed 14 Aug. 2012.

treaty that reflected and included human security concerns. A second important dividing line was between states that viewed the ATT as an arms control instrument and those that saw it as an attempt to raise standards in arms export controls. In different ways, both of these divisions lay at the heart of two contentious issues during the negotiating conference: (a) putting human security into prohibitions and criteria for arms transfers; and (b) the scope of the items covered.

Putting human security into prohibitions and criteria for arms transfers

Attempts to reach agreement on the elements of the treaty that would define when an arms export should be denied illustrated the division between states seeking to promote the human security agenda and those asserting the primacy of state security interests.

The final draft treaty text obliged states to block any exports of arms within the scope of the treaty that would violate UN arms embargoes or relevant international obligations.⁵⁵ It also included an obligation on states to assess the various state and human security risks of a proposed export before issuing an authorization, such as whether the export could 'be used to commit or facilitate a serious violation of international humanitarian law' or 'international human rights law'. However, in a reflection of state security concerns, the text also called on states to 'assess whether the proposed export would contribute to or undermine peace and security'.⁵⁶ It also opened the possibility for the exporting and importing states to undertake measures to mitigate such risks and allow an export to take place. After taking all these factors into account, a state would be obliged to block the export if there were an 'overriding risk' of the violation taking place. States were also obliged to 'consider taking feasible measures' to avoid other negative human or state security consequences associated with the export, including on issues relating to gender-based violence, corruption and development.

For maximalists, the introduction of language on mitigation measures and 'promot[ing] peace and security' during the negotiating process represented potentially significant loopholes for evading human security considerations. It was seen as an attempt to meet US concerns that the treaty would prevent it from exporting arms when national security interests were at stake. However, the mitigation measures were also regarded by non-producer states as a means to build confidence between states parties, reflecting the influence of principles contained in arms control agreements.

While the sceptical states appeared to accept the mitigation measures proposal more readily than the maximalists, they rejected the inclusion of human security considerations and pushed for additional guarantees that state security considerations would have primacy. For example, reportedly at India's insistence, a clause was inserted in the final draft treaty text to ensure that the 'treaty shall not be cited as grounds for voiding contractual obligations'.⁵⁷

⁵⁵ 'The draft of the Arms Trade Treaty', UN Doc. A/CONF.217/CRP.1, 26 July 2012, article 3.

⁵⁶ 'The draft of the Arms Trade Treaty', article 4.

⁵⁷ 'The draft of the Arms Trade Treaty', article 5(2).

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The idea of banning transfers to non-state actors that had not been authorized to receive arms by the state in which they were located had a broad group of supporters among both maximalist and sceptical states. Proponents included the BRIC states, Turkey, the African Group, the Caribbean Community and Common Market, the *Economic Community of West African States* and a number of other states from the global South. Such language has been strongly opposed by the United States in other settings, in particular in discussions relating to the PoA.⁵⁸ While the United States never mentioned the issue explicitly during public negotiations, its central concern is its desire to retain the ability to supply arms to non-state actors to defend themselves against armed violence committed by repressive state forces or where its own state security interests are seen to be at stake.⁵⁹ The draft treaty made no mention of the issue.

Defining the scope of the items to be covered

Discussions on the scope of an ATT covered both the range of activities and the range of items that states would be expected to control under an ATT. The most controversial discussions related to the items to be covered. These discussions were influenced by a number of states concerned that the provision of detailed information on arms transfers would have implications for national security or lead to an increased administrative burden being placed on states.

The maximalists could be divided into two groups on the issue of scope of items. Some states approached the issue through an export control lens and pushed for a comprehensive list of items including all conventional arms, ammunition, munitions, other military equipment, internal security and riot control equipment and technology included in the Wassenaar Arrangement's Munitions List. Others used the UN Register as their point of reference but added SALW, ammunition, and parts and components. However, there were disagreements between maximalists from Europe and from the global South over the issue of whether the scope should include technology transfers, with states citing concerns about the potential negative impact on developing countries, the challenge of controlling technology transfers and reporting concerns.

Sceptical states called for the scope to be limited to the seven categories of the UN Register—ignoring the fact that many of them did not report to the UN Register and that several of them had export control lists that were already much broader than the items it covered. However, during the negotiating conference a group of sceptical states including China and India stated that they would be willing to compromise and include SALW in the scope of an ATT (the so-called '7 + 1 formula') so long as concerns in other areas were met.

The most strongly contested issue related to the inclusion of ammunition and munitions. Many states from Africa, Latin America and the Caribbean regarded the

⁵⁸ Holtom, *Prohibiting arms transfers to non-state actors*.

⁵⁹ Owen Greene, Elizabeth Kirkham and Charlotte Watson, *Developing international norms to restrict SALW transfers to non-state actors* (London: Biting the Bullet Project, Jan. 2006), p. 2.

inclusion of ammunition as an 'essential' element of an ATT to address domestic arms control problems and both state and human security concerns. Although none of the sceptical states accepted the inclusion of ammunition, most attention focused on the position of the United States. Prior to the conference, the United States had identified reporting or marking ammunition as a 'red line'.⁶⁰ During the conference, US negotiators stated that 'ammunition is a fundamentally different commodity than everything else we have discussed including within the scope of an ATT' and strongly objected to its inclusion within the scope of the treaty.⁶¹ Two possible reasons have been given for the US position. First, the inclusion of ammunition would help the US gun lobby, particularly the National Rifle Association, to misrepresent the treaty and use it as a fundraising tool in the buildup to the 2012 presidential election; and second, there would be technical problems associated with the monitoring and reporting on ammunition transfers.⁶²

In the end, the treaty text defined 'conventional arms' as the seven categories of the UN Register and SALW 'at a minimum'. The influence of the export control approach was limited to a requirement for states to establish national control lists. However, the final draft treaty text tried to 'fix' the gap between states on the issues of ammunition and parts and components by inserting references to establishing and maintaining a national system to regulate the export of ammunition and parts and components, with certain prohibitions and risk assessments to be applied.

Conclusion

This article was completed in the immediate aftermath of the ATT negotiating conference and it is likely to be some time before the full implications of events in New York can be digested. The conclusions are therefore provisional and merely aim to set out different ways of understanding the failure to conclude a treaty and what this implies for the next steps in the ATT process. At the moment it would appear that three options are available to policy-makers and NGOs:

- 1 Make minor amendments to the draft ATT published on 26 July 2012 and table it for a vote in the UN General Assembly in late 2012. It appears that this course of action is preferred by the Control Arms coalition and the 90 states cited in a statement presented on the final day of the conference by Mexico, but opposed by the United States and Russia.⁶³

⁶⁰ US Department of State, Bureau of International Security and Nonproliferation, 'Elements of an arms trade treaty', 4 June 2010, <http://www.state.gov/t/isn/rls/fs/148314.htm>, accessed 14 Aug. 2012.

⁶¹ Julian Pecquet, 'Obama administration: UN arms trade treaty shouldn't regulate ammunition', *The Hill*, 10 July 2012, <http://thehill.com/blogs/global-affairs/un-treaties/236969-us-says-un-arms-trade-treaty-shouldnt-cover-ammunition>, accessed 14 Aug. 2012.

⁶² Colby Goodman, 'Why is the United States opposing small arms ammunition in an ATT?', *The Arms Trade Insider*, 1 March 2011, <http://armstradeinsider.com/2011/03/01/why-the-united-states-is-obstinate-on-small-arms-ammunition-in-an-att>, accessed 14 Aug. 2012.

⁶³ Control Arms, 'Battle for an arms trade treaty continues as governments opt to delay final deal', press release, 27 July 2012, <http://www.controlarms.org/battle-continues>; 'El gobierno de México lamenta que conferencia diplomática de la ONU haya aplazado la adopción del Tratado sobre el Comercio de Armas (ATT)', Foreign Ministry of Mexico press release, 28 Jul. 2012, <http://saladeprensa.sre.gob.mx/index.php/es/>

- 2 Convene another UN negotiating conference to consider the draft ATT further. The United States, in its final intervention on the last day of the negotiating conference, stated that this is its preferred course of action and that such negotiations should be on the basis of consensus.⁶⁴ Owing to UN funding issues, such a conference might not be possible until 2014–15.
- 3 Take the process outside the UN framework, strengthen the human security references in the draft ATT and include ammunition in its scope.⁶⁵ This approach would require a state to take a leadership role in hosting and pressing for an agreement, as well as accepting that the process would not include all UN member states.

Whichever course is taken, maximalist states and NGOs support using the draft ATT of 26 July 2012 in some form as the basis for a future ATT.

While the outcome in New York might well prove to be only a temporary setback, the resistance from some UN member states to agree to an ATT incorporating effective human security provisions raises a number of points both about the further expansion of the concept in the field of arms export controls and about the relative power of different actors to shape the structures of global governance in the aftermath of the wars in Iraq and Afghanistan and the global economic crisis.

First, the ATT negotiations appear to underline a rather depressing lesson from previous attempts to develop international regimes governing the arms trade, from the 1890 Brussels Act through to the EU Common Position—namely, that attempts to create binding standards have a much better chance of success when they are negotiated either predominantly among suppliers or when the inherent contradiction between universality (or extensive membership) and discrimination at the heart of export regimes can be resolved through the simple expedient of hegemonic imposition. However, as noted repeatedly above, the proponents of a maximalist ATT were not only arms suppliers and there was a genuine coalition of states from the global North and South, supported by NGOs. Processes of campaigning and negotiating over initiatives such as an ATT can help bring about changes in dominant security frameworks, and one of the lessons of even the apparent failures such as the St Germain and Geneva Traffic Conventions is that they still had important legacy effects. For example, both conventions influenced the subsequent adoption by many states of national export licensing systems discussed in the negotiations of these treaties. It is possible that the ATT negotiations will produce similar legacy effects irrespective of if or when an ATT enters into force.

Second, the fact that the ATT process had its roots in the humanitarian arms control agenda did go some way towards overcoming the contradiction inherent in negotiating a potentially discriminatory instrument on a multilateral basis. In

comunicados/1652–219, both accessed 14 Aug. 2012.

⁶⁴ US Department of State, 'Arms trade treaty conference', press statement, 27 July 2012, <http://www.state.gov/r/pa/prs/ps/2012/07/195622.htm>, accessed 14 Aug. 2012.

⁶⁵ 'One more push in the UN or shall we do it right?', Geneva Academy of International Humanitarian Law and Human Rights, Arms Trade Treaty legal blog, 28 July 2012, <http://armstradetreaty.blogspot.se/>, accessed 14 Aug. 2012.

particular, it helped to build a broad coalition of states and NGOs in support of the process. However, attempting to merge the human security arms control agenda with concepts and mechanisms drawn from the field of export control regimes raised additional tensions and disagreements, particularly with regard to the overall purpose of the instrument and the range of items and activities that should be covered. States in West Africa that had been strong supporters of the ATT initiative reacted strongly to the fact that the draft ATT did not include a prohibition on transfers to non-state actors and the fact that ammunition was not included in the scope of the ATT but was rather an item that exporters would have to regulate. The draft ATT's emphasis on arms export issues raised concerns for those states that had hoped that the ATT could be an instrument for addressing domestic arms control concerns.

Third, there was considerable pushback against the human security framework and a reassertion of the primacy of state security, not only from Russia and China but also from a number of other states in Asia, eastern Europe and the Middle East. Thus, the ATT clearly demonstrated the challenge of universalizing the human security agenda in the arms export control sphere. While the draft ATT did indeed oblige states to consider and apply human security criteria before authorizing arms exports, it also legitimized a hierarchy in which state security considerations could be used to justify arms transfers that carried a risk of misuse by end-users or diversion to illicit arms markets. Therefore, the draft ATT represented a limited success for advocates of the human security agenda in the fields of both arms control and export control, as they came up against the dominant conceptions of state security and sovereignty held by many policy-makers.

Fourth, the promotion of earlier post-Cold War initiatives on international arms transfers were underpinned by support from key western states that possessed both the will and the material and soft power necessary to cajole other states into agreements that were expressions not only of liberal internationalism but also of a hegemonic internationalism.⁶⁶ However, the crisis of western capitalism and the strategic debacles in Iraq and Afghanistan have eroded both the material and cultural power of western states and societies, while China and emerging powers are offering counter-narratives. Moreover, in the field of arms exports, one consequence of the global economic crisis has been to encourage western states to focus even more on the promotion of arms exports and the streamlining of export licensing processes to promote jobs and redress trading deficits.⁶⁷ There are obvious tensions in both actively promoting arms exports around the world *and* promoting a human security approach to their control.

In addition, the western approaches to the conflicts in Libya and Syria have seen acquiescence in transfers of arms and military equipment to non-state actors by

⁶⁶ Fred Halliday, 'Three concepts of internationalism', *International Affairs* 64: 2, Spring 1988, pp. 187–98.

⁶⁷ Neil Cooper, 'On the post-Cold War arms trade paradox: humanitarian arms control, NGOs and the strategic complexes of the liberal peace', in Jackie Smith and Ernesto Verdeja, eds, *Globalization, peacebuilding and social movements* (Syracuse, NY: Syracuse University Press, forthcoming 2012); Paul Holtom, Mark Bromley, Pieter D. Wezeman and Siemon T. Wezeman, 'International arms transfers', in *SIPRI Yearbook 2012: armaments, disarmament and international security* (Oxford: Oxford University Press, 2012), pp. 261–73.

allies in the Middle East in place of ‘boots on the ground’ interventions.⁶⁸ These factors prompt the question whether the ATT campaign has become an initiative ‘out of its time’, one that might have had success in the 1990s but not in current circumstances. It is certainly the case that many proponents of an ATT have argued that the right moment for a treaty would not come again for a long time.⁶⁹ This raises questions about the potential for maximalists to maintain momentum and push for the adoption of strong treaty language at the General Assembly in late 2012 or during a future negotiating conference.

Finally, while the negotiating process bore witness to the increasing confidence of emerging powers and states in the global South, it also underlined the unique role that the United States continues to play—at least as a veto power—on the international stage. Many of the concessions and compromises made by maximalist states—particularly on criteria and scope—were made in order to accommodate US concerns. And yet the United States was the first country to break cover on the final day and clearly indicate that it would oppose the adoption of the draft ATT. A sympathetic reading of these events would argue that the United States did not have time to assess the legal implications of the text fully, particularly in view of its position as the world’s number one arms exporter and its complex interagency export licensing system. A less sympathetic, though probably more accurate, reading would conclude that the United States did not have the political will to see the process through and caved into the pressures of the domestic gun lobby just months before a presidential election.⁷⁰ As in 1919, therefore, the United States is likely to be viewed as both the key state preventing agreement and also the one that needs to be included for the ATT to have an impact on international arms transfers. In this respect, it is worth recalling that although the United States eventually ratified a revised convention and actively promoted a new convention in the 1930s, the former failed because of the hostility of importers and the latter fell because the international environment was no longer conducive to cooperative international action.

Of course, there are substantial differences between the 1930s and the current era, and the past is not necessarily a reliable guide to the future. A large number of states are rhetorically committed to a version of the treaty that is not far from the draft presented in July, one that the United States could probably sign if President Obama is re-elected in November 2012. In theory, future action on an ATT should, therefore, prove to be a case of history reversed. However, while the factors militating against agreement on an ATT are different in quality and

⁶⁸ ‘Syrian rebels get influx of arms with Gulf neighbors’ money, U.S. coordination’, *Washington Post*, 15 May 2012; ‘Libya: AU condemns French arms drop to Libyan rebels’, BBC News, 30 June 2011, <http://www.bbc.co.uk/news/world-africa-13970412>, accessed 14 Aug. 2012.

⁶⁹ Nick Hopkins, ‘Draft arms trade treaty condemned’, *Guardian*, 25 July 2012.

⁷⁰ On Thursday 26 July 2012, 51 senators wrote to President Obama and Secretary of State Clinton emphasizing ‘grave concern about the dangers posed by the United Nations’ arms trade treaty’. The letter concluded by strongly encouraging the administration to block consensus if the treaty did not explicitly recognize the legitimacy of lawful activities associated with firearms. The consequences would have been that the US Senate would not ratify the ATT. Letter addressed to President Barack Obama and Secretary of State Hillary Clinton from Senator Jerry Moran and Senator Jon Tester, 26 July 2012, http://moran.senate.gov/public/index.cfm/files/serve?File_id=9cd86202-9498-47ca-8b8d-534bf60b52f7, accessed 14 Aug. 2012.

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kind from those prevailing in the 1930s, campaigners and maximalist states will nevertheless have to overcome significant obstacles if they are to ensure that their vision of a broad-based 'human security' ATT does not fall by the wayside in a case of history rhyming rather than reversing.