



The Arms Trade Treaty

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Author: Jon Lunn

Section International Affairs and Defence Section

A legally binding Arms Trade Treaty (ATT) was adopted by the UN General Assembly on 2 April 2013. It provides, for the first time, an international legal and regulatory framework for the arms trade based on respect for international law and human rights. The UK ratified the treaty on 2 April 2014. Primary legislation was not required for ratification but secondary legislation was amended and the UK's Consolidated Criteria, which are the basis upon which official decisions are made about whether to approve licence applications for arms exports, were updated. 50 ratifications are required for it to enter into force. That target was reached in September 2014. The treaty will enter into force on 24 December 2014.

The July 2012 UN Conference falls short at the last moment

The UN Conference in New York, at which the final text of the ATT was due to be agreed, took place on 2-27 July 2012. The UN Conference came tantalisingly close to reaching consensus on the substance of the treaty. However, the US Government [announced](#) that it needed more time to consider the text. [Amnesty International](#) also implicated Russia, China, Algeria, Egypt, Iran, North Korea and Syria. The outcome of the UN Conference was disappointing for its supporters, but they did not give up hope. In late 2012, the UN General Assembly convened a further UN Conference on 18-28 March 2013, at which efforts to agree a final text resumed.

The March 2013 Conference and adoption of the treaty by the UN General Assembly

As the March 2013 [Conference](#) began, governments supportive of the ATT emphasized that, if agreement could not be achieved at the second attempt, there was a real possibility that a treaty text might be taken to the General Assembly, where a two-thirds vote would be enough to secure its adoption. After ten days of tough negotiations, a revised text was put to the Conference. This time around, the US came on board. However, Iran, Syria and the Democratic People's Republic of Korea [refused to support the treaty](#) on the grounds that the treaty was flawed; in particular, they were critical of the fact that it did not ban arms exports to rebel groups. As a result, the text was taken to the General Assembly, where it was passed by 154 votes to three. 23 countries, including Russia and China, abstained.

The Committees on Arms Export Control has set out the main [changes](#) between the text on the table at the end of the July 2012 Conference and that which was adopted in April 2013:

- the agreed Treaty includes an Article relating to Ammunitions/Munitions (Article 3) requiring each State Party to establish and maintain a national control system to regulate the export of ammunition/munitions fired, launched or delivered by the conventional arms covered under Article 2(1);
- the agreed Treaty includes an Article relating to Parts and Components (Article 4) requiring each State Party to establish and maintain a national control system to

regulate the export of parts and components where export is in a form that provides the capability to assemble the conventional arms covered under Article 2(1);

- the agreed Treaty includes an additional requirement for respecting and ensuring respect for international humanitarian law in accordance with the Geneva Convention of 1949 and respecting human rights in accordance with the Charter of the United Nations and the Universal Declaration of Human Rights;
- the agreed Treaty includes an Article relating to Diversion (Article 11) which was not included in the draft text; and
- the agreed Treaty includes for the provision of a Secretariat to assist the State parties.

The treaty was [opened for signature](#) on 3 June 2013. The UK signed on that day and ratified it on 2 April 2014, following a ten-month ratification process. The treaty was laid before the UK Parliament as [Command Paper 8680](#) on 15 July 2013.

In the Explanatory Memorandum which accompanied the laying of the treaty, the Government stated that no primary legislation was required for ratification but acknowledged that secondary legislation under the *Export Control Act 2002* would have to be amended “to ensure consistency between the treaty’s scope and the UK’s existing controls on brokering of conventional arms when carried out by UK persons located overseas (i.e. “extra-territorial” brokering controls).” This was done under the [Export Control \(Amendment\) Order 2014](#), which was made on 18 March 2014, laid before Parliament on 19 March and which came into force on 9 April 2014.

A further hurdle that needed to be overcome before the UK could ratify the treaty was securing the authorisation of the Council of the EU (note: this is not the European Council; this is how the Council of Ministers is now described) that member states could ratify the treaty. This took place on 5 February 2014. The Council of the EU [authorised](#) member states to ratify the treaty on 3 March 2014.

The UK Government had also said that the ‘Consolidated EU and National Arms Export Licensing Criteria’ might require amendment in the light of the treaty. These Criteria are the basis upon which official decisions are made about whether to approve licence applications by UK-based companies and persons to export arms abroad. The operation of these Criteria have been subject to considerable criticism in the past, including by the [Committees on Arms Export Control](#) over arms exports approved to Middle Eastern and North African governments caught up in the ‘Arab Spring’. The Criteria have also been due for review to ensure that they are fully consistent with the wording of EU law. The government [published](#) the updated Consolidated Criteria on 25 March 2014. It takes the position that the amended version does not amount to a change in policy.

The treaty will come into force when there have been 50 ratifications. That target was reached in September 2014. The treaty will enter into force on 24 December 2014.

What is the significance of the Arms Trade Treaty? It provides, for the first time, an international legal and regulatory framework for the arms trade based on respect for international law and human rights. However, Russia and China, two of the world’s major arms exporting countries, have not yet signed the treaty. Another, the US, voted in favour and has signed the treaty – but there are doubts about whether the Senate will ever agree to ratify it. Considerable work remains to be done to bring the bulk of the international arms trade within the ambit of the treaty.