
Germany and the Arms Trade Treaty

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Introduction

The following paper will argue that Germany should stay in the Arms Trade Treaty and contribute to its proliferation. After an introduction into the treaty, I will present a cost-benefit analysis of Germany's participation in the treaty which underpins my argument.

Introduction to the Arms Trade Treaty (ATT)

The idea of creating a comprehensive treaty regulating the international trade with conventional weapons was first introduced by a group of Nobel laureates in the 1990s in the light of the violent armed conflicts in Yugoslavia and West Africa and formally introduced into the United Nations (UN) General Assembly in 2006 as part of resolution 61/89, which asked for the views of UN member states on this issue.^①

The motivation behind the Arms Trade Treaty was the perception that unregulated and irresponsible arms transfers intensify and prolong conflicts, lead to regional instability, human rights abuses, and have a negative impact on the social and economic development of affected countries.^{②③} This does not only apply to illegal black-market transactions, as studies have highlighted the relative importance of the diversion and misappropriation of officially authorized transfers in that regard.^④ By promoting responsibility, transparency, and accountability in the global arms trade and thereby stopping potential harmful weapon sales, the ATT aims to address and mitigate those negative consequences. Furthermore, it intends to create a safer environment for the United Nations and other organizations to carry out humanitarian assistance, peacekeeping, post-conflict peacebuilding, and to attain globally agreed development goals.^⑤

The core component of the ATT requires that signatory states establish and maintain an effective national control system for the export, import, transit, and transshipment of conventional arms covered by the ATT; exports of related ammunition and components used for assembling conventional arms; and

① Peter Woolcott, "The Arms Trade Treaty," *United Nations Audiovisual Library of International Law*, 2014, https://legal.un.org/avl/pdf/ha/att/att_e.pdf (accessed June 23, 2021).

② "Arms Trade Treaty Implementation Toolkit," *United Nations Office for Disarmament Affairs*, August 21, 2015, 2013, <https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2015/08/2015-08-21-Toolkit-Module-1.pdf> (accessed June 23, 2021).

③ "Arms Trade," *United Nations Office for Disarmament Affairs*, 2021. <https://www.un.org/disarmament/convarms/att/> (accessed June 23, 2021).

④ Owen J Greene and Nicholas Marsh, *Small Arms, Crime and Conflict: Global Governance and the Threat of Armed Violence* (London: Routledge, 2012).

⑤ "Arms Trade Treaty Implementation Toolkit," *United Nations Office for Disarmament Affairs*.

brokering activities related to such controlled items. The established control list should then be made available to other state actors.^① Signatory countries must perform a national export assessment when conducting arms sales, which thoroughly evaluates the risk of potentially adverse consequences for security, peace, and human rights. If such an assessment determines that there is an overriding risk that the exported arms will be used to commit or facilitate any serious violations of international human rights, war crimes, genocide, crimes against humanity or grave breaches of the Geneva Conventions of 1949, the arms transfer shall be denied.^{②③} The ATT does not limit or restrict the types or quantities of arms that states can buy, sell or possess, and there are no implications for the signatory countries' domestic gun control laws.^④ The ATT was adopted by the United Nations General Assembly in 2013 as a resolution after a 154 to 3 vote with 23 countries abstaining. The treaty was opposed by Iran, North Korea and Syria.^⑤ After the UN vote, the ATT opened for signatures and formally entered into force on 24th December 2014. As of present, 110 states have acceded to the ATT, including many of the world's leading arms producers such as the United Kingdom, France, China and Germany.^⑥ The United States and Russia, two major arms producers and traders, are notably absent and have not signed the ATT.

Benefits of the Arms Trade Treaty for Germany

As the fourth-largest arms producer worldwide with a market share of over 5.5%, the Arms Trade Treaty is very relevant for Germany. Many prestigious companies in the defense industry such as Rheinmetall and Heckler & Koch are located there, and the defense industry contributes a sizeable share to the country's economy. Despite the economic relevance of the arms industry, however, many Germans are not quite comfortable with Germany's role in the global arms trade. According to a recent survey, around 83% of all citizens oppose arms exports, fearing that the weapons could be used to violate human rights.^⑦ The perception of the issue is also partially shaped by the historic role Germany played during the two world wars. Since then, Germany has committed itself to a foreign policy that aspires to promote peace and human rights. Nevertheless, the arms trade remains relevant for its economic and political benefits, with weapon transactions being used to foster and strengthen bilateral relations between Germany and other countries. Signing on to the Arms Trade Treaty provides Germany with the opportunity to demonstrate that, despite

① Daryl G. Kimball, "The Arms Trade Treaty at a Glance," *Arms Control Association*, August 2017, https://www.armscontrol.org/factsheets/arms_trade_treaty (accessed June 23, 2021).

② "The Arms Trade Treaty," *United Nations*, 2013, https://thearmstradetreaty.org/hyper-images/file/ATT_English/ATT_English.pdf?templateId=137253 (accessed June 23, 2021).

③ Kimball, "The Arms Trade Treaty at a Glance."

④ Ibid.

⑤ Woolcott, "Historical Context of the Arms Trade Treaty."

⑥ "Treaty Status," *Arms Trade Treaty*, 2018, <https://thearmstradetreaty.org/treaty-status.html?templateId=209883> (accessed June 23, 2021).

⑦ Charlotte Kehne, "83 Prozent Der Bevölkerung Sagen NEIN Zum Waffenexport," *Ohne Rüstung Leben*, February 2, 2016. <https://www.ohne-ruestung-leben.de/nachrichten/article/83-prozent-gegen-waffenexporte-33.html> (accessed June 23, 2021).

its leading role as an arms producer, it is committed to preventing its weapons from being abused to commit crimes. The audience of this effort is domestic as well as international, and the rules of the ATT provide a clear framework for it. While not explicitly required, there is an ongoing discussion in German government circles regarding whether arms exports should be limited to other ATT signatories as a signal of commitment to the cause and a way to promote the ATT. However, it would be unrealistic to block exports to its NATO partner, the United States, which has not ratified the ATT. As a nation committed to a more peaceful world, Germany appreciates the positive mission of the ATT in reducing armed conflicts globally. The ATT also benefits the safety of German troops involved in peacekeeping efforts abroad in places such as Afghanistan or Mali, who could be targeted in attacks using illegally trafficked weapons.

Costs of the Arms Trade Treaty for Germany

The costs of the Arms Trade Treaty for Germany include costs incurred to implement, maintain, and promote the screening procedures stipulated in the treaty, as well as costs incurred due to lost revenue if exports are blocked. The costs of the first category are partially publicized and according to the German Foreign Ministry, the federal government donates 3.5 million euros per year to the UN donor facility, the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR). Furthermore, Germany was instrumental in helping to set up the Voluntary Trust Fund in 2016, which helps countries implement the ATT. With almost 1.5 million euros per annum, Germany is the Fund's second-largest donor.^① The lost revenue due to blocked exports is difficult to estimate. Germany did in fact block multiple potentially lucrative weapon shipments to Saudi Arabia and Turkey since the establishment of the ATT for fear of human rights violations, but in these cases other political considerations played a role as well.

Suggestions for Germany's Stance on the Arms Control Treaty

In light of the cost-benefit calculation of the ATT for Germany, I would suggest that Germany should stay committed to the treaty. The treaty provides Germany the opportunity to demonstrate that, despite being the world's fourth-largest arms producer, it is a responsible actor committed to protecting human rights. Similarly, I suggest that Germany should stay invested in the treaty's proliferation. A common criticism of the ATT is that it lacks teeth and could be considered a paper tiger. This is justified by the countless loopholes in the treaty by which countries can circumnavigate its provisions if they wish to do so. Countries can withhold information on arms sales for commercial or national security reasons, as has been done by Sweden, Australia, and Italy among others. Additionally, there is some ambiguity regarding dual-use goods or "training goods" which can be exploited. While an amendment of the treaty to make it more

^① "Putting an End to Unregulated Arms Trading around the World," *German Federal Foreign Office*, December 14, 2018, <https://www.auswaertiges-amt.de/en/aussenpolitik/themen/aussenwirtschaft/-/2171732> (accessed June 23, 2021).

sweeping is unrealistic considering international opposition, Germany should nevertheless try to use its soft power and friendly relations with other countries to emphasize adherence to the key provision within the community of signatories. At the same time, Germany should continue to live up to the spirit of the treaty, maintain the required transparency, and block arms exports when necessary.

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