Civil society – particularly the Control Arms coalition – played a pivotal role in imagining and campaigning for the 2013 Arms Trade Treaty (ATT), the first comprehensive global regulations on the trade and transfer in conventional weapons. In its signing statement on 3 June 2013, Australia said it looked forward to ‘continuing to work closely with … civil society and to building on our commitment today to the effective implementation of the Arms Trade Treaty (Kelly, 2013).’ Indeed, many states have publicly called for civil society to be engaged in ATT implementation process, particularly its monitoring. As we look forward to the ATT’s entry into force, civil society organizations are advocating for universalization, broad interpretation and application and rigorous implementation. After all, the treaty will remain merely words on a page if it is not operationalized into policies, procedures and practices.

To consider this ‘road forward’ for the ATT and civil society’s involvement in it, we have convened a conversation with three activists – from different organizations, different continents and differing points of view – who have been involved in the campaign for a robust treaty for many years. In the following interview, with special section editor Dr Matthew Bolton, they share their thoughts about the ATT’s future. Note that their responses here are in their personal capacity and may not necessarily be indicative of their organizations’ official positions.

**Bolton:** Thanks to all three of you for taking a moment from your busy lives of advocacy and activism to share some of your experiences and thoughts with us. Would you mind telling us a little about yourselves and your work?

**Guerra:** I am currently the coordinator for Latin America and the Caribbean for the International Campaign to Abolish Nuclear Weapons (ICAN). However, I have a long history of involvement with global disarmament campaigns. I have been a member of the International Campaign to Ban Landmines (ICBL), the Cluster Munition Coalition (CMC), the International Action Network on Small Arms (IANSA) and Control Arms. I am an academic member of the School of Social and Political Science of the National University of Mexico and a researcher on Mexico, Central America and the Caribbean for the Landmine and Cluster Munition Monitor. I am also a founding member of the Network for Human Security in Latin America and the Caribbean (SEHLAC Network).

**Sprague:** I am currently Programme Director for Amnesty International UK’s work on Military, Security and Policing. I lead on advocacy, policy and research work in the UK on various arms control issues, including the ATT.

**Guerra:** Indeed, many states have publicly called for civil society to be engaged in ATT implementation process, particularly its monitoring. As we look forward to the ATT’s entry into force, civil society organizations are advocating for universalization, broad interpretation and application and rigorous implementation. After all, the treaty will remain merely words on a page if it is not operationalized into policies, procedures and practices.

**Sprague:** With these various organizations, I have participated in international conferences related to the UN Programme of Action (PoA) on Small Arms and Light Weapons (SALW), the Nuclear Non-Proliferation Treaty (NPT), the Treaty of Tlatelolco, the Mine Ban Treaty, Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms (CIFTA), the Convention on Cluster Munitions and finally the ATT.
Acheson: I am the Director of Reaching Critical Will, the disarmament program of the Women’s International League for Peace and Freedom (WILPF).

Bolton: So what were your specific roles in the campaign for an ATT?

Sprague: I have worked on the ATT from a civil society perspective since its inception in the mid and late 1990s. I started as an intern at Saferworld and then worked for nearly a decade at Oxfam in their Conflict programme, prior to moving to Amnesty UK in 2006. I have been directly involved in developing the Control Arms campaign from its inception, as well as specific advocacy and lobbying work on the ATT. As part of this work, I helped lead on various technical issues relating to export controls, particularly focusing issues of scope within the treaty. However, I should say that my thoughts here are very much personal reflections on the ATT work over nearly 20 years and reflect no particularly organizational viewpoint.

Acheson: During the ATT negotiation process, I edited and published the daily ATT Monitor, a civil society-produced publication which provided reporting, analysis, and advocacy on the negotiations. This was published online and distributed through an email listserve, but also handed out in print form to state delegates, members of the press and NGO activists in the negotiation rooms.

I also led WILPF’s efforts to ensure the inclusion of a legally binding provision on preventing armed gender-based violence in the treaty. Today, WILPF is seeking to build the capacity of some of its National Sections to raise awareness about the treaty and ensure its effective implementation.

Guerra: During the ATT process I was accredited as a member of the Mexican delegation as a civil society representative. At the same time, I also collaborated in coordinating Control Arms’ Latin America advocacy and lobbying.

Bolton: The vast majority of the UN General Assembly (UNGA) has voted in favor of resolutions calling on member states to join the treaty. But there are still holdouts which are skeptical, notably several major arms exporting states and emerging military powers. What are the prospects for universalizing the ATT?

Guerra: Over half of the UN membership has signed the ATT and its entry into force is imminent – by late 2014 or early 2015, according to the current trends. Prospects for universalization of this instrument look positive when several members of the informal group of ‘friends’ of the ATT – states from the Caribbean, Latin America, West Africa, and the South Pacific that strived for a robust treaty – are undergoing legislative approval, which is likely to be completed in a matter of a few months.

When we think about universalization, numbers certainly matter, as the international regime being established could receive further legitimacy and political room to maneuver with more ratification. Nevertheless, there are qualitative aspects to be considered. It is true that important arms exporters such as the UK, France, and Germany have recently presented their instruments of ratification in New York, but it still looks unlikely that the heavyweights in the arms bazaar, namely, the US, Russia and China, will ratify or accede to the ATT any time soon. It also remains to be seen what will happen with countries like Egypt, Cuba or India, which were dissatisfied with the negotiation process and the resulting treaty, and whose voices are very influential in the NonAligned Movement.

Sprague: I think the constantly high number of votes at the UNGA in support of the ATT though various negotiation stages clearly demonstrates a strong desire by an overwhelming body of governments to bring the trade in conventional arms under more effective international control. This is a significant achievement in its own right. I think it’s also significant that we are likely to see entry into force (three months after the deposit of the 50th ratification) within two years of the ATT text being adopted at by the UNGA. For an arms control treaty, this is very rapid progress and supports the viewpoint that global norms will be created quickly. The challenge, as ever, will be to try to ensure that the ATT does actually change behavior of states involved in international arms transfers. We also have to make sure the ATT ends up as simply a ‘coalition of the willing’ that agree to implement rules they already supported. In other words, we want to avoid a situation in which there is a group of broadly compliant states, while states outside the Treaty continue to apply weak and ineffective controls and allowing irresponsible transfers. Some key states are likely to remain outside the ATT for some time, including Russia and China, both key global weapons producers and exporters and permanent members of the UN Security Council.

However, I would not want to overstate the challenge here. The arms trade is so interconnected globally that it will actually be hard for any state to not be affected by the ATT’s provisions, either through the global supply chain or through the actual logistics of the physical transfer process. States that are outside the Treaty will find it increasingly hard to manufacture, develop or transfer weapons across the globe without interconnecting with several ATT state parties that have obligations.
to implement the Treaty’s provisions on transit, transshipment, import and arms brokering.

**Bolton:** It strikes me that the ATT’s lengthy road to adoption in 2013 may have only been the first stage in an even longer journey. Implementing the treaty may prove more complex to navigate than negotiating it. What challenges can we expect to encounter as the ATT is put into action?

**Acheson:** Key implementation challenges will likely center around interpretation of the ATT’s core provisions. Some of the language is ambiguous or lacks legal precision. The treaty’s effectiveness will lie in whether its provisions are interpreted and formalized in the strongest way possible. The ATT has the potential to provide the groundwork for rigorous practices if governments, legislatures, export license officials, and civil society work together to ensure the highest possible standards for implementation.

**Sprague:** I have heard many criticisms levied at the ATT about how weak it is on implementation and enforcement provisions. I do not share many of these criticisms. As far as I am aware, the ATT is no different from any other similar body of international law, in that it is states themselves that are principally responsible for implementing it. If you actually read the operative provisions within the Treaty itself, many of its implementing provisions are mandatory. These not only relate to the core rules in the Criteria, but also to the mandatory risk assessments, the obligations to develop accountable and transparent national export control systems (including the necessary legislative powers), provisions to prevent diversion as well as international legal cooperation.

But, as Ray says, the biggest immediate challenge will be to ensure that the early adopters set clear high bar precedents and implement the treaty in the strictest and most comprehensive manner. This is particularly crucial in areas where the text is imperfect or allows scope of selective or differing interpretation.

**Guerra:** Generating common international standards on arms transfers will prove a major challenge that will take many years. This was widely acknowledged even before the ATT process was launched. There are many exporting countries with sound controls in place; some even more advanced than those in the ATT. But this is not the case in the majority of countries worst affected by violence, or those that are nexuses for the transit and transshipment of arms, parts and components, and munitions. Over the past 20 years there has been a development of regulations in Africa and Latin America, but they are particularly focused on small arms and light weapons. In many places it may be necessary to draft new policies from scratch.

Ultimately, effective implementation will require political will, commitment and learning from other processes (such as the PoA). Considerable financial resources will be necessary. This is not a minor matter, given the existing constraints in international funding for such projects and the reduction in the pool of donors.

**Bolton:** As I explore in my paper with Katelyn James in this special section, the ATT’s provisions established some potentially far-reaching norms. Assuming the treaty is implemented well, what sort of observable impacts do you think these ATT norms will have?

**Sprague:** The ATT was a clear recognition by the international community that international efforts to control the global arms trade were seriously deficient, with resultant consequences for humanity. The ATT established that all states had an obligation and a shared responsibility to strengthen regulation, control and oversight. That means that the international arms trade cannot simply continue in its current form. It cannot be business as usual for the world’s big arms exporting countries and regions. Ultimately, the ‘acid test’ of the ATT, with which history will judge its success, will be its ability to restrict the international trade in weapons and make tangible contributions towards the reduction of armed conflict, armed violence and the enhancement of peace, security and human rights.

In my own local context, by ratifying the ATT the UK has already strengthened and expanded its laws and controls on arms brokering, recognizing that the ATT required it to enhance its controls in the area. However, the UK (and other EU governments) cannot simply carry on existing export control practices. My own government – and many others in the EU – will in my view, have to work much harder at demonstrating how many of their recent and current arms export practices would be consistent with their obligations under the treaty. For example, it is hard to see, in the face of available evidence from governments’ export licensing reporting, how collective EU export practices to the Middle East and North Africa region could be compliant with obligations under the ATT, particularly in relation to human rights.

**Guerra:** The ATT confirmed the importance of paying attention to the humanitarian impact of SALW, not just ‘big’ weapons. As such, the ATT will complement the PoA in controlling illegal arms transfers, particularly in terms of the diversion of SALW and their ammunition, which are the main tools of armed violence in my region. It is important to note that the Latin America and Caribbean region has some of the highest levels of gun violence outside armed conflicts. But to make the most of the ATT’s inclusion of SALW in its scope there will need to be vigorous and renewed efforts to strengthen the PoA and the International Marking and Tracing
Instruments [a UN program defining standards for tracking weapons, to limit illicit transfers]. States should be aware that there is no contradiction between the two international instruments; quite the opposite, they are complementary. Implementation of the ATT must not lead to a reduction in the participation in and engagement with the PoA.

**Sprague:** I agree. I think it is important to see the ATT as a continuation of the process of establishing humanitarian and human rights-centered arms control and disarmament. I think the centrality of these principles within the ATT owes much to the existing norms already established under the Mine Ban Treaty and the Cluster Munitions Convention, which were clearly driven by the humanitarian imperative. I would argue that there is now a clear global norm establishing that the rights and protection of people should be at the forefront of any agreements in this or related fields. That is a fundamental change for how arms control and disarmament negotiations will be viewed in the future. Beyond the traditional defense, strategic security, economic and national interests or technical trade related issues that have dominated historically, it now ensures a whole range of additional stakeholders can play their full part in future developments. Arms control and disarmament policy making may now encompass human rights, international law, gender perspectives, sustainable development and even environmental considerations.

There are also important links that need to be established between implementation of the ATT and existing agreements outside the sphere of disarmament and arms control. I am thinking of institutions like the World Customs Organization and other international agreements relating to shipping and air transport.

**Bolton:** How might the manner in which the ATT was negotiated and adopted (through consensus-based diplomatic conferences but then through majority vote in the UNGA) influence future global policy making efforts? In other words, what are the implications of the ATT for future global policy negotiations, whether on disarmament and arms control or other issue areas?

**Acheson:** Persistent stalemates in UN disarmament and arms control bodies have resulted in most weapons-related treaties being negotiated outside of the UN over the past two decades. Outside processes have been quite successful in achieving progressive instruments with wide support and robust civil society engagement. The negotiation of the ATT under the rule of consensus during the diplomatic conferences was fraught with difficulty. But UNGA rules that allowed for voting enabled states to adopt a text with higher standards than would have otherwise been possible. There is benefit in having all countries have a voice in the negotiation of such instruments, which is one of the benefits of conducting negotiations within the UN. However, the role of consensus can be extremely damaging to a treaty text, especially in scenarios in which governments are politically invested in achieving an outcome. Consensus can mean that provisions are weakened to the lowest common denominator and can allow the substance of a treaty to become subordinate to the achievement of the treaty as a thing in itself.

**Sprague:** I would agree with my fellow commentators here regarding the dangers of consensus-based negotiations. I think the manner in which the ATT was adopted via UNGA vote will be seen as a milestone in how UN arms control agreements are negotiated in the future. It serves as a model of how consensus negotiations might work in future – no longer being held hostage to the veto of a tiny number of skeptical states.

Nevertheless, it is also hard to deny that the final negotiating conference – using a consensus process did significantly strengthen and improve the treaty text. It will be impossible to say the ATT negotiations lacked legitimacy or that the views of the most skeptical states were not aired or considered during the entirety of the seven years of ATT negotiations at the UN. The plain fact is those views were simply not widely held or supported and the overwhelming desire was to establish an ATT based on the highest possible standards. The sea change here is that while in the past those skeptical views would have prevented agreement or stagnated discussion, governments were ultimately prepared to vote on the basis of an overwhelming majority view. I think governments and civil society will have learned the lessons from the original failure of the July 2013 conference. In the build-up to that conference, it was clear that everyone was aware of the vote option and that several governments were prepared to vote to establish the ATT. But when the conference collapsed, it was immediately obvious that nobody had planned for how to move the discussion forward within the UN system. Prompted by that failure, there is now a clear model established within the UN process for how future agreements can be adopted.

**Guerra:** Just as the ATT process was influenced by the Oslo Process leading to the cluster munition ban, the ATT’s time framework, negotiation system, and selection of forum are beginning to influence other incipient processes. At the Second Conference on the Humanitarian Consequences of Nuclear Weapons held February 2014 in New York. In informal discussions began on a possible forum for negotiation of a nuclear ban treaty. Given the precedent set by the ATT, some people are beginning to consider whether we might be able to negotiate such an instrument through a UNGA-mandated process in New York.
Bolton: Thank you very much for participating in this conversation! It seems like we too often think of a treaty as an ‘event’ that ends once it is negotiated and enters into force. In fact, while we use the word ‘process’ to describe the negotiation of a treaty, we drop the word once it is inked and deposited with the Secretary General. But reflecting on your comments it is clear that the ‘process’ of the ATT continues – perhaps will never be complete. It will require ongoing civil society engagement to ensure it becomes the human security instrument it is touted to be.

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References

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