

The Biden Administration's Conventional Arms Transfer Policy Should Not Be Handcuffed by the Arms Trade Treaty

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KEY TAKEAWAYS

The Biden Administration is reviewing its Conventional Arms Transfer Policy and is considering a new relationship with the Arms Trade Treaty (ATT).

The ATT would take questions of policy associated with arms exports and transform them into matters of law, thus binding the U.S. to the ATT's undefined standards.

The ATT is a failure that aids dictatorships and serves only as a legal cudgel against democratic nations and the policies that its activist supporters dislike.

The Biden Administration is reviewing its Conventional Arms Transfer Policy (CATP), which governs the export of U.S. conventional weapons. In August, a State Department official stated that the CATP review would determine “the proper relationship of the United States to the Arms Trade Treaty.”¹

Incorporating the Arms Trade Treaty (ATT) in a revised CATP would be a grave error. The ATT would raise serious barriers to the conduct of U.S. foreign policy because, as a treaty, the ATT would be binding on the U.S. The ATT would take questions associated with arms exports, which pose difficult issues of policy, and transform them into matters of law.

The track record of the ATT demonstrates that most of its members do not take it seriously and that it is used solely to constrain the U.S.'s democratic allies.

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The U.S. should continue to have a CATP that allows policymakers to weigh all relevant factors, not be handcuffed by the ATT.

The Biden Administration's CATP Review

The Biden Administration has announced that it is reviewing the CATP that it inherited from the Trump Administration. The State Department is reportedly seeking “more robust” oversight of weapons sales that gives greater weight to human rights concerns.

It has become a standard practice for an incoming administration to review the U.S.'s CATP. Despite this, the U.S.'s CATP and the actual pattern of U.S. arms sales change little between administrations. For example, the Obama Administration's CATP set out 10 goals for arms transfers, including “[e]nsuring that arms transfers do not contribute to human rights violations or violations of international humanitarian law.” Importantly, the Obama CATP made it clear that the criteria drawn from these goals are all important and must be held in “balance.”²

The Trump Administration was often charged with revolutionizing the U.S. CATP to promote U.S. exports.³ Nonetheless, the Trump CATP was more explicit about its human rights criteria than the Obama CATP (for example, requiring the U.S. to consider risks posed by “violations of international humanitarian law, terrorism, mass atrocities, or transnational organized crime”). It included a similarly wide range of other criteria, and it, too, was predicated on the understanding that arms exports must “account” for many considerations.⁴ In fact, the U.S. CATP has not changed fundamentally since the Clinton Administration.⁵

The Trump Administration's vaunted export push amounted, in practice, to updating the list of exportable weapons, hiring more staff, and providing more finance for potential buyers.⁶ Whatever might be said in criticism of these steps, they were not revolutionary. The Trump Administration's decision to allow the export of armed drones has not been altered by the Biden Administration.⁷ Nor were the arms export records of the Trump and Obama Administrations very different in practice. It was the Obama Administration that, in October 2016, faced down bipartisan opposition in the Senate to its authorization of \$1 billion in tank sales to Saudi Arabia.⁸

Any review of the U.S.'s CATP will raise the question of the status of the ATT, which the Obama Administration signed in January 2017 and which the Trump Administration “unsigned” on April 26, 2019.⁹ In August 2021, a State Department official stated that the U.S. has “long supported strong and effective national controls on the international transfer of conventional

arms”; that “the Arms Trade Treaty is an important tool for promoting those controls internationally”; and that the CATP review would determine “the proper relationship of the United States to the Arms Trade Treaty.”¹⁰ This has led to concerns that the Biden Administration is preparing to rejoin the ATT, or to otherwise incorporate it into its revised CATP.

Problems With the Arms Trade Treaty

The ATT poses a wide range of problems. Four of these problems are particularly significant in the context of the CATP.

1. The ATT Is Precisely What It Claims to Be—a Treaty. The ATT is, as the Obama Administration recognized by transmitting it for the advice and consent of the Senate, a treaty. This means that, should the U.S. ratify and implement it, the U.S. will be bound to uphold it, for in the U.S., unlike in many other countries, a treaty that has been ratified and properly implemented is binding law. The ATT is, first and foremost, a legal instrument.

The problem with this—as both the Obama and Trump Administrations made clear—is that the CATP seeks to balance many factors through the exercise of judgment. Reality does not allow the U.S. to work only with angels. Deciding how to act in a fallen world is rarely easy: It is a matter for judgment, and that judgment will sometimes err.

But by virtue of its status as a treaty, the ATT would take difficult policy questions, which are shaded with grey, and transform them into legal ones, colored in black and white.¹¹ It will tend to substitute legal decisions for policy judgments. As such, it would reduce the flexibility of the U.S. export control system. In practice, it will also be a stick that the factions that exist inside every administration will use to beat each other, in the knowledge that, if they get the lawyers on their side, they will have won the argument against the policy they oppose.

The U.S. does not always get its arms export decisions right. But there is a vast difference between the U.S.’s traditional CATP, which is based on balancing many factors, and the ATT, which sets out legal criteria. A black-and-white legal answer in a grey world is less subtle and more prone to error than a flexible system that considers each case in light of many criteria. It is a mistake to reduce such matters of judgment to a matter of law.

2. The ATT’s Human Rights Standards Are on an Undefined Conveyor Belt. After a preamble, most treaties begin with definitions of the terms used in the treaty. The ATT contains no such definitions, because if it had sought to define its terms, it would never have been negotiated. The ATT is vague, not through carelessness, but by design.

This problem is particularly serious because of the ATT's human rights standards. In Articles 6 and 7, the ATT sets out human rights standards that parties to the treaty are committed to apply to their arms exports.¹² Because the ATT does not define these standards, their meaning will change over time—pulling the states parties along with them like a conveyor belt. It is one thing for the U.S. to have human rights standards that are subject to its own definition in its own CATP. It is quite another for the U.S. to bind itself by law to *undefined* standards that it cannot control.

3. The ATT's Human Rights Standards Are Binding Law. When considered with the fact that the ATT is a treaty, and hence, legally binding, the ATT's undefined human rights standards pose a further problem. The U.S. rightly includes human rights criteria in its CATP. But at times in its history, the U.S. has also rightly ignored such criteria.

If the ATT had existed in 1942, the U.S. could not have extended Lend-Lease aid to Stalin, who used the trucks the U.S. provided to deport almost 100,000 people from the nation of Georgia to Siberia.¹³ But aiding Stalin against Hitler was nonetheless the correct policy. If the ATT had existed in 1950, the U.S. could not have aided South Korea, which was a brutal military dictatorship, when it was attacked by the North. But aiding South Korea against North Korea was the correct, and, in fact, the humane, policy to follow.

The ATT's error—and the error of many of its supporters—is to consider solely the harm arms exports can do, while ignoring the harm those exports can prevent or combat. Human rights are an important consideration in assessing arms exports, but no consideration, not even human rights, can override all the others, because foreign policy is frequently a matter of siding with the bad against the even worse. There is no reason to glory in that, but it is a fact. Binding the U.S. by treaty to ignore this fact would be a mistake.

4. The ATT Requires Signatories to Cooperate with Foreign Import Controls. If a U.S. exporter seeks to sell arms to a foreign government or in a foreign nation, it is not enough to secure export approval from the U.S. The exporter must also receive import permission from the importing nation and must follow that nation's import procedures. The ATT codifies this in Article 11, which requires that states parties involved in the transfer of conventional arms “shall take measures to prevent their diversion” to unauthorized individuals or for unauthorized uses.¹⁴ In other words, under the ATT, the U.S. would be required by treaty to work in cooperation with the import controls of foreign nations.

In most circumstances, the U.S. should cooperate with the import controls of foreign nations. But dictatorships have import controls too. If the

U.S. bound itself to respect foreign import controls by treaty, it would be legally dubious for the U.S. to arm anyone resisting a tyranny. For example, the treaty would make it legally very difficult for the U.S. to arm, as Obama did, the opponents of the Assad regime in Syria.¹⁵ In fact, opponents of Obama's policy argued that he was likely violating the ATT.¹⁶ Every U.S. President since Harry Truman has armed resistance fighters. The ATT would thus raise serious barriers to U.S. foreign policy as it has been carried out, on a bipartisan basis, since the start of the Cold War. It would also, in practice, put the U.S. on the side of dictators and their human rights violations.¹⁷

Of course, the U.S. could simply ignore the ATT and arm the dictators' opponents—but that would very likely be a violation of a treaty the U.S. had bound itself to uphold. Moreover, if the U.S. can do this, then so can every other signatory. Anyone who argues that the ATT is an “an important tool” for promoting export controls in other nations is not in a good position to argue that the U.S. can also break the treaty, or interpret its way out of its obligations, at its convenience.

War in Yemen Does Not Necessitate a New CATP—Or the ATT

In practice, much of the pressure for a revised CATP stems from the war in Yemen.¹⁸ The Biden Administration has already decided to proceed with a major arms sale to the United Arab Emirates and a portion of another sale to Saudi Arabia, while withholding \$130 million in U.S. military assistance to Egypt.¹⁹ This reduces the controversial U.S. sales to the remainder of the Saudi deal, a deal that ironically originated under the Obama Administration.²⁰

The right or wrongs of the Saudi deal and the war in Yemen are beyond the scope of this paper. But if the Biden Administration believes the remainder of the Saudi deal is not in the U.S. interest because of the Yemeni war, the Administration is free to cancel it: A new CATP is not necessary.

More broadly, if the Obama and Trump Administrations got the Saudi decision wrong, it was not because the CATP ignored human rights criteria: It was because the decision was difficult. Adopting a new CATP with new human rights provisions would not make future decisions any easier. Incorporating the ATT into a new CATP would merely make it even harder for the U.S. to make hard calls correctly by transforming them from policy judgments to legal issues.

The correct response to the Yemeni war—if the U.S. made poor decisions as part of it—is to try to make better decisions in the future. The Obama and

Trump CATP provide an ample basis for such decisions. What the opponents of the war in Yemen want is not simply a different set of policies. They want a decision-making system that guarantees the policy outcomes they prefer.²¹ But that is not a system: It is a straitjacket.

No Evidence the ATT Works

The State Department is on the record as stating its belief that “the Arms Trade Treaty is an important tool for promoting those [export] controls internationally.”²² If the State Department is possessed of evidence to this effect, it should produce that evidence, for there is no proof that the ATT actually works as the State Department asserts. The sole achievement of the ATT has come in Western Europe, where it has been the basis for a series of campaigns (and in the U.K., legal challenges) against governments for their arms sales to Saudi Arabia, again because of the war in Yemen.²³

But Sweden and Britain do not have inadequate export controls: The issue is that many activists dislike the policies that nations have followed as a result of the operation of their export control systems. Such opposition is the activists’ right, but the ATT was, in theory, supposed to promote the creation of a system for assessing arms exports, not to dictate the *result* of that assessment. The activist campaigns simply demonstrate that the point of the ATT, in practice, is to serve as a legal cudgel against policies the activists oppose.

The ATT was supposedly demanded by African nations, which retailed the comforting myth that Africa’s problems stem not from Africa’s own misgovernment, but from the misdeeds of others.²⁴ Yet eight years after the completion of the ATT, while African nations on occasion still talk a good game, they do nothing. An example is Nigeria, whose president, Muhammadu Buhari, called to the U.N. General Assembly on September 24 “for the worldwide application of the Arms Trade Treaty to codify accountability in conventional arms trade.”²⁵ If President Buhari believes such action is needed, he should explain why Nigeria has failed to submit four of the six reports required by the treaty.²⁶

Africa is not alone in its disinterest. The ATT requires nations to submit an annual report on their compliance. The latest annual reports were due on May 31, but of the 110 reports due, only 59 (56 percent) have been submitted.²⁷ An assessment of the reports that were submitted in 2016, conducted by supporters of the treaty, found that only 1.6 percent of the information was verifiably accurate.²⁸ ATT states parties (and other nations associated with the treaty) are required to support the treaty financially, but only 85 of the 153 (56 percent) have paid their bills.²⁹

If nearly half of the ATT's states parties will not pay their bills, or even submit a report (much less an *accurate* report), there is no reason to believe that they are doing the harder job of establishing effective export control systems. The ATT is a failure, and it will remain a failure for the simple reason that most of its states parties are too incompetent or too evil to do what the treaty requires of them. The ATT constrains only the law-abiding democracies that have the competence to control their exports. These countries are the true the targets of the activists.

What the U.S. Should Do

In response to these concerns, the United States should:

- Refuse to alter the current U.S. relationship with the ATT. It is not in the U.S. interest to rejoin the ATT or to make any changes in its current relationship with the ATT. The ATT would change the character of the U.S. CATP, depriving it of its flexibility and substituting black-and-white legal judgments for policy decisions. It would, in practice, put the U.S. on the side of dictators by making it hard to arm resistance movements, and it would bind the U.S. to uphold standards the ATT does not define and the U.S. does not control. The ATT is a failure for reasons that have nothing to do with the U.S., and the U.S. cannot make it a success.
- Make no significant changes to the U.S. CATP. The demand for a revised CATP stems from the war in Yemen. But the CATP of both the Obama and the Trump Administrations offer ample grounds for changing U.S. policy on arms sales to Saudi Arabia. The problem is not that the CATP of either administration was wrong; the problem is that the activists dislike the policy that the CATP produced. That is no reason to change the U.S. CATP. The Biden Administration's review has begun, and it must produce a result, but that result should make no significant changes to the essentials of the U.S. CATP as it has existed since the Clinton Administration.

Conclusion

In part because of its own vagueness, and in part because of the activist agenda behind it, the ATT is slowly morphing into a disarmament treaty. That is not what it was intended to be, but it is now commonplace for

supposedly responsible observers to describe the ATT as one of a number of “disarmament treaties.”³⁰ This illustrates one of the core problems with the ATT, which is that, because its interpretation and implementation will be driven by the activists that brought it into being, its meaning will slowly shift in the directions they desire.

There has never been any realistic chance that the Senate will ratify the ATT.³¹ In this context, altering the U.S. relationship with the ATT would impose substantive constraints on the U.S. CATP but produce no compensating benefits. The ATT commits the cardinal error of being solely concerned with the wrongs of the democratic world, while ignoring the fact, amply attested by history, that the U.S. must sometimes aid bad regimes to prevent even worse evils from triumphing. In practice, the ATT would serve only as a cudgel for activists inside and outside every U.S. administration to attack policies they oppose.

The ATT is simply not a serious international instrument. It is used by activists to oppose a few policies in democratic nations, while too many of its signatories ignore it. Dictatorships either scorn it or—like China—use it to signal their own virtue and bash the U.S.³² Treaties are too important to the U.S., under the Constitution and to U.S. diplomacy, for the U.S. to lend its support to failures that exist only to constrain democracies and enable dictatorships.³³ Those who claim to support international institutions should be profoundly wary of enabling and encouraging such failures by making gestures that will only have the practical effect of making the responsible conduct of U.S. foreign policy more difficult. Support for the ATT is not a path to improving international institutions. It is a way to ensure their irrelevance.

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Endnotes

1. U.S. Department of State, Statement of William Mahl Zahn to the Seventh Conference of States Parties to the Arms Trade Treaty, August 30, 2021–September 2, 2021, [https://thearmstradetreaty.org/hyper-images/file/USA%20-%20Treaty%20Universalization%20CSP7%20\(for%20posting\)/USA%20-%20Treaty%20Universalization%20CSP7%20\(for%20posting\).pdf](https://thearmstradetreaty.org/hyper-images/file/USA%20-%20Treaty%20Universalization%20CSP7%20(for%20posting)/USA%20-%20Treaty%20Universalization%20CSP7%20(for%20posting).pdf) (accessed October 13, 2021).
2. News release, “Presidential Policy Directive: United States Conventional Arms Transfer Policy,” White House, January 15, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/01/15/presidential-policy-directive-united-states-conventional-arms-transfer-p> (accessed October 13, 2021).
3. Joe Gould, “Trump Advances ‘Buy American’ Arms Sales Plan,” *DefenseNews*, July 16, 2018, <https://www.defensenews.com/digital-show-dailies/farnborough/2018/07/16/trump-advances-buy-america-arms-sales-plans/> (accessed October 13, 2021).
4. White House, “National Security Presidential Memorandum on United States Conventional Arms Transfer Policy,” April 19, 2018, <https://www.govinfo.gov/content/pkg/DCPD-201800254/pdf/DCPD-201800254.pdf> (accessed October 13, 2021).
5. White House, “Criteria for Decisionmaking on U.S. Arms Exports,” February 17, 1995, <https://irp.fas.org/offdocs/pdd34.htm> (accessed October 13, 2021).
6. Aaron Mehta, “Here’s How the Trump Administration Plans to Increase American Weapon Sales Abroad,” *DefenseNews*, November 8, 2018, <https://www.defensenews.com/industry/2018/11/08/heres-how-the-trump-administration-plans-to-increase-american-weapon-sales-abroad/> (accessed October 13, 2021).
7. Mike Stone, “Exclusive: Biden Wants to Keep Trump Policy that Boosted Armed Drone Exports—Sources,” Reuters, March 25, 2021, <https://www.reuters.com/article/us-usa-biden-drones/exclusive-biden-wants-to-keep-trump-policy-that-boosted-armed-drone-exports-sources-idUSKBN2BHICA> (accessed October 18, 2021).
8. Jeff Abramson, “Obama Acts on Arms Exports,” Arms Control Association, January/February 2017, <https://www.armscontrol.org/act/2017-01/news/obama-acts-arms-exports> (accessed October 13, 2021).
9. Ted R. Bromund, “Key Steps for the U.S. After the Unsigning of the Arms Trade Treaty,” Heritage Foundation *Issue Brief* No. 4963, May 22, 2019, <https://www.heritage.org/global-politics/report/key-steps-the-us-after-the-unsigning-the-arms-trade-treaty>.
10. Statement by William Mahl Zahn.
11. In fact, one of the crucial failures in U.S. policy toward Syria after 2011 was precisely that U.S. officials only wanted to deal with an “ideologically pure” opposition to the Assad regime. Tara McKelvey, “Arming Syrian Rebels: Where the U.S. Went Wrong,” BBC, October 10, 2015, <https://www.bbc.com/news/magazine-33997408> (accessed October 13, 2021).
12. United Nations, “The Arms Trade Treaty,” 2014, Articles 6 and 7, <https://www.thearmstradetreaty.org/hyper-images/file/TheArmsTradeTreaty1/TheArmsTradeTreaty.pdf> (accessed October 13, 2021).
13. Tournon Sophie, “The Deportation of Muslims from Georgia,” Mass Violence and Resistance Research Network, February 25, 2019, <https://www.sciencespo.fr/mass-violence-war-massacre-resistance/en/document/deportation-muslims-georgia.html> (accessed October 13, 2021).
14. United Nations, “The Arms Trade Treaty,” Article 11.
15. Mark Mazzetti, Adam Goldman, and Michael S. Schmidt, “Behind the Sudden Death of a \$1 Billion Secret C.I.A. War in Syria,” *New York Times*, August 2, 2017, <https://www.nytimes.com/2017/08/02/world/middleeast/cia-syria-rebel-arm-train-trump.html> (accessed October 13, 2021). The Obama Administration’s actions in Syria were in violation of the ATT. See Ted R. Bromund, “Top 11 Areas for Congressional Action on the U.N. Arms Trade Treaty in 2015,” Heritage Foundation *Issue Brief* No. 4323, December 19, 2014, <https://www.heritage.org/trade/report/top-11-areas-congressional-action-the-un-arms-trade-treaty-2015>.
16. Nate Smith, “It’s Official! United States Signs U.N. Arms Trade Treaty,” Amnesty International, September 25, 2013, <https://www.amnestyusa.org/its-official-united-states-signs-u-n-arms-trade-treaty/> (accessed October 21, 2021); Abby Zeith, “The Arming of Syrian Rebels: Does It Breach the Arms Trade Treaty?” Just Security, October 13, 2014, <https://www.justsecurity.org/16298/arming-syrian-rebels-breach-arms-trade-treaty/> (accessed October 21, 2021); and Ryan Scoville, “Syria and the Arms Trade Treaty,” Marquette University Law School Faculty Blog, February 3, 2014, <https://law.marquette.edu/facultyblog/2014/02/syria-and-the-arms-trade-treaty/> (accessed October 19, 2021).
17. For China’s use of this clause as a weapon against the U.S., see Rachel Zhang, “Stop Arms Sales to ‘Non-State’ Actors, China Urges U.N. Treaty Partners, in Likely Rebuke of U.S.,” *South China Morning Post*, September 1, 2021, <https://www.scmp.com/news/china/diplomacy/article/3147166/stop-arms-sales-non-state-actors-china-urges-un-treaty> (accessed October 13, 2021).
18. Mike Stone and Patricia Zengerle, “Exclusive: Biden Plans Shift in Arms Policy to Add Weight to Human Rights Concerns,” Reuters, August 4, 2021, <https://www.reuters.com/world/us/exclusive-biden-plans-shift-arms-export-policy-favor-human-rights-sources-2021-08-04/> (accessed October 13, 2021).
19. Chyrine Mezher, “Why Biden White House Lifted Arms Sales Freeze to UAE, KSA,” *Breaking Defense*, April 23, 2021, <https://breakingdefense.com/2021/04/why-biden-white-house-lifted-arms-sales-freeze-to-uae-ksa/> (accessed October 25, 2021), and Alana Mitias, “Egyptian Military Aid Suspension Turns Up Short,” Center for International Policy, October 2021, <https://securityassistance.org/publications/egyptian-military-aid-suspension-turns-up-short/> (accessed October 13, 2021).

20. Andrea Shalal, "U.S. Approves \$1.29 Billion Sale of Smart Bombs to Saudi Arabia," Reuters, November 16, 2015, <https://www.reuters.com/article/us-saudi-usa-arms/u-s-approves-1-29-billion-sale-of-smart-bombs-to-saudi-arabia-idUSKCN0T51NC20151116> (accessed October 13, 2021).
21. Jordan Cohen, "Curbing Dangerous U.S. Arms Sales: House NDAA Is a Win for Oversight, Accountability," *Breaking Defense*, October 1, 2021, <https://breakingdefense.com/2021/10/curbing-dangerous-us-arms-sales-house-ndaa-is-a-win-for-oversight-accountability/> (accessed October 18, 2021).
22. Statement by William Mahl Zahn.
23. Dan Sabbagh and Bethan McKernan, "U.K. Arms Sales to Saudi Arabia Unlawful, Court of Appeal Declares," *The Guardian*, June 20, 2019, <https://www.theguardian.com/law/2019/jun/20/uk-arms-sales-to-saudi-arabia-for-use-in-yemen-declared-unlawful> (accessed October 18, 2021), and David Wearing, "Sweden's Stopped Selling Arms to Saudi Arabia. Why Can't the U.K. Follow Suit?," *The Guardian*, March 12, 2015, <https://www.theguardian.com/commentisfree/2015/mar/12/sweden-stopped-selling-arms-to-saudi-arabia> (accessed October 13, 2021).
24. Guy Lamb, "African States and the ATT Negotiations," Arms Control Association, August 2012, <https://www.armscontrol.org/act/2012-08/african-states-att-negotiations> (accessed October 13, 2021), and Ted R. Bromund, "The Annual Arms Trade Treaty Conference Sputters to a Close," Heritage Foundation *Commentary*, September 4, 2018, <https://www.heritage.org/global-politics/commentary/the-annual-arms-trade-treaty-conference-sputters-close>.
25. "Coups Eroding Democratic Gains of West Africa, Buhari Tells World Leaders at UNGA," The Cable, September 24, 2021, <https://www.thecable.ng/coups-eroding-democratic-gains-of-west-africa-buhari-tells-world-leaders-at-unga> (accessed October 13, 2021).
26. Moreover, even the two reports Nigeria has submitted are not available to the public. Arms Trade Treaty Secretariat, "Initial Reports," October 5, 2021, <https://thearmstradetreaty.org/initial-reports.html?templateId=209839> (accessed October 18, 2021), and Arms Trade Treaty Secretariat, "Annual Reports," September 13, 2021, <https://thearmstradetreaty.org/annual-reports.html?templateId=209826> (accessed October 13, 2021).
27. Arms Trade Treaty Secretariat, "Annual Reports."
28. Ted R. Bromund, "The Failure of Conventional Arms Reporting Under the Arms Trade Treaty," Heritage Foundation *Commentary*, August 24, 2018, <https://www.heritage.org/trade/commentary/the-failure-conventional-arms-reporting-under-the-arms-trade-treaty>.
29. Arms Trade Treaty Secretariat, "Status of Contributions to ATT Budgets," August 30, 2021, https://thearmstradetreaty.org/hyper-images/file/2021%2008%2030%20-%20ATT_Budgets_ReceivedContributions_Overview/2021%2008%2030%20-%20ATT_Budgets_ReceivedContributions_Overview.pdf (accessed October 13, 2021).
30. Permanent Mission of the Federal Republic of Germany to the United Nations, "Disarmament Treaties," 2021, <https://new-york-un.diplo.de/un-en/whatwedo/arms-trade-treaty/977206> (accessed October 13, 2021).
31. Most recently, 37 Senators signaled their opposition to the ATT. See Letter of Senator John Kennedy et al. to President Joe Biden, September 28, 2021, https://www.kennedy.senate.gov/public/_cache/files/0/9/09195279-5b42-4765-a6a0-46cca3a6f2e2/FEBDC563080D564BBCBED0C9FC24FOA9.admin-un-arms-trade-treaty-letter.pdf (accessed October 13, 2021).
32. Zhang, "Stop Arms Sales to 'Non-State' Actors."
33. U.S. concerns about instruments like the ATT go back as far as 1919, when the U.S. refused to ratify the Convention for the Control of the Trade in Arms and Ammunition, on the correct grounds that the Convention was a British effort to constrain Indian independence movements. See Mary S. Barton, *Counterterrorism Between the Wars: An International History, 1919–1937* (Oxford, U.K.: Oxford University Press, 2020).