

Arms Trade Transparency in Conflict:

ATT Reporting on Arms Transfers to Ukraine

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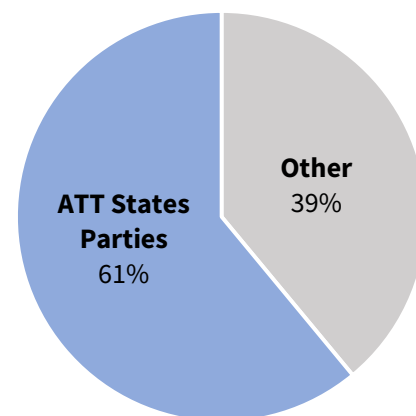
Baseline Assessment Project

Russia's full-scale invasion of Ukraine in February 2022 has spurred a dramatic global surge in arms transfers to Kyiv, raising important questions around transparency in the global arms trade. This policy paper explores how these questions have been addressed in the context of Arms Trade Treaty (ATT) annual reporting.

Less than a year after the invasion, Ukraine had already become the world's third-largest major arms importer.¹ Given the unprecedented volume of arms transfers to Ukraine, it is essential that governments have a clear picture of the type and quantity of weapons flowing into the region to facilitate accurate assessments of military capabilities and intentions, inform diplomatic initiatives, and enhance efforts to monitor weapons use and ensure accountability for human rights and international humanitarian law violations. Greater insight into international arms transfers to Ukraine will also have significant long-term benefits, including facilitating efforts to prevent and address arms diversion long after the fighting ends. Despite the inherent risks of such a large-scale military aid effort, some governments have expressed concerns about the consequences of disclosing the details of their arms exports to a country in the midst of an armed conflict—particularly one whose adversary has threatened to treat support for its military effort as an act of war. Moreover, the lack of transparency surrounding arms exports to Russia—which procures arms from opaque and illicit sources—may raise questions as to whether it is appropriate to reveal potentially sensitive information surrounding Ukraine's arms procurement.

Questions around arms trade transparency for transfers to Ukraine are particularly salient for ATT States Parties, not only because of their transparency commitments but also because of the outsized role they have played in supplying Ukraine with conventional arms following Russia's invasion. Twenty-six of the 29 countries that exported major arms to Ukraine in 2022, according to estimates from the Stockholm International Peace Research Institute (SIPRI), were ATT States Parties (notably absent from the list is the United States—the largest provider of arms to Ukraine).² Together, ATT States Parties accounted for 61 percent of all major arms exports to Ukraine in 2022.³

Global Share of Major Arms Exports to Ukraine, 2022



This paper examines the annual reporting practices of ATT States Parties that have provided arms transfers to Ukraine since the Russian invasion in order to:

- better understand their transparency efforts;
- assess the Ukraine war in Ukraine's overall impact on transparency and reporting in the ATT context; and
- identify good practices for balancing security concerns and transparency commitments in ATT annual reporting.

METHODOLOGY

This paper relies in part on a review of ATT annual reports and ATT annual report submission data as provided on the ATT Secretariat's website as of 17 August 2023.⁴ The authors acknowledge that the Secretariat's website may not necessarily reflect all the ATT annual reports provided to the Secretariat by that date.

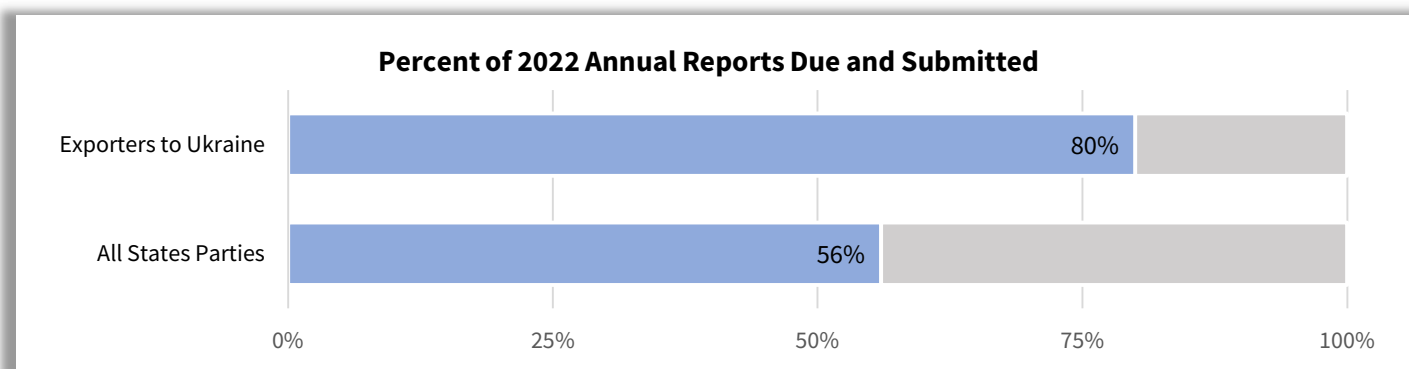
Unless otherwise indicated, the arms transfer data included in this paper are drawn from the trade registers and importer/exporter trend-indicator value (TIV) tables in SIPRI's Arms Transfer Database as of 17 August 2023.⁵ Because SIPRI's database does not include the transfer of small arms and light weapons, this analysis is limited to States Parties that are believed to have exported major conventional arms to Ukraine in 2022. As a result, this analysis may not capture all of Ukraine's arms suppliers in 2022. Additionally, because SIPRI's database includes licensed production arrangements and the supply of parts and components (neither of which States Parties are required to include in their ATT annual reports) and in some cases includes estimates, it is possible that some of the transfer data in SIPRI's database are inaccurate or reflect transfers that States Parties are not required to include in their annual reports.

Percentages are rounded to the nearest whole number.

ANALYSIS OF ATT ANNUAL REPORTS

REPORTING COMPLIANCE

All but one of the 26 States Parties identified by SIPRI as having exported major arms to Ukraine in 2022 are believed to have exported conventional arms covered under Article 2(1) of the ATT.⁶ To the extent the SIPRI data are accurate, these 25 States Parties were required, under Article 13(3) of the ATT, to report on these transfers to the ATT Secretariat in their 2022 annual reports.⁷ Twenty of these States Parties submitted 2022 annual reports as of 17 August 2023, according to the Secretariat's website, representing a higher rate of 2022 annual reporting compliance among Ukraine's arms suppliers (80 percent) than among States Parties generally (56 percent).⁸



The 2022 annual reports could provide valuable insights on a significant portion of Ukraine's arms imports. The 20 exporters that the ATT Secretariat's website showed as having submitted their 2022 annual reports as of 17 August 2023 accounted for 57 percent of Ukraine's major arms imports in 2022, according to SIPRI estimates. The Czech Republic, Germany, Poland, and the

United Kingdom were among the top five arms exporters to Ukraine in 2022, according to SIPRI, accounting for a combined total of 43 percent of its major arms imports. All four of these countries submitted 2022 ATT annual reports.

A quarter of States Parties that supplied Article 2(1) major arms to Ukraine have not fulfilled their 2022 ATT annual reporting requirement, and as such, insights into their arms transfers to Ukraine are not provided within the ATT context. According to SIPRI data, the five State Party exporters that have yet to submit their required 2022 reports (Croatia, Denmark, Estonia, France, and Luxembourg) accounted for four percent of the major arms exported to Ukraine in 2022.

PRIVATE REPORTING

Despite the potential sensitivities around disclosing information on arms transfers to Ukraine, there was not a particularly high rate of private reporting among States Parties that SIPRI identified as having exported Article 2(1) major arms to Ukraine in 2022. In fact, with only five of these States Parties electing to restrict public access to their reports (Finland, Greece, Latvia, Lithuania, and Slovenia), the private reporting rate among Ukraine's arms suppliers (25 percent) was slightly lower than this year's overall private reporting rate (26 percent).

Still, concerns around the release of Ukraine transfer data may have contributed to at least some of Ukraine's arms suppliers electing to report privately this year. This appears particularly likely with respect to Finland, Latvia, and Slovenia, which, until recently, have had long histories of reporting publicly. Finland and Slovenia both reported privately for the first time this year after seven consecutive years of public reporting, and in recent months Finnish officials have declined to disclose details of pending arms transfers to Ukraine "for operational reasons and in order to ensure the safe delivery of assistance."⁹ Additionally, Latvia, which had only ever submitted one private report in seven years of ATT annual reporting, with respect to its 2021 arms transfers, also chose to submit its 2022 report privately.

WITHHOLDING INFORMATION

A review of publicly available reports suggests that States Parties identified by SIPRI as having exported Article 2(1) major arms to Ukraine in 2022 were, on the whole, not much more likely to withhold information from their reports than were other States Parties. Of the 15 exporters that reported publicly, six (40 percent) indicated that some commercially sensitive and/or national security-related information was withheld from their reports (Australia, the Netherlands, Norway, Poland, Slovakia, and Sweden). This is only slightly higher than the percentage of all publicly reporting States Parties that indicated such information was withheld from their 2022 reports (39 percent).

However, some States Parties may have withheld information from their reports for the first time this year due to concerns regarding arms transfers to Ukraine. Two of Ukraine's arms suppliers (Poland and Slovakia) had never previously indicated that commercially sensitive and/or national security-related information was withheld from any of their public reports, but both indicated that such information was withheld from their 2022 reports.

States Parties took different approaches to withholding information on their arms exports to Ukraine. In at least three cases, States Parties appear to have withheld any mention of these transfers. Although the Republic of North Macedonia, Slovakia, and Sweden exported Article 2(1) major arms to Ukraine in 2022—at least according to SIPRI estimates—none of these three States Parties reported transferring any conventional arms to Ukraine in their 2022 annual reports. While

Slovakia and Sweden both indicated that some commercially sensitive and/or national security-related information was withheld from their reports, the Republic of North Macedonia did not. By contrast, 11 States Parties that exported Article 2(1) major arms to Ukraine in 2022, according to SIPRI, did include information on these transfers in their public 2022 reports.¹⁰

A fourth State Party, Norway, may have also withheld any mention of Ukraine-related transfers in its 2022 annual report, though it remains to be seen if that is the case. Norway's 2022 annual report does not include any information on its arms transfers to Ukraine. The report refers to an "attached white paper" on Norway's 2022 defense exports—a similar version of which was uploaded to the Secretariat's website as an attachment to Norway's 2021 annual report—which may contain information on additional transfers, including arms exports to Ukraine. It is unclear if this is the case, however, as the white paper was not yet available on the Secretariat's website as of 17 August 2023.

In at least two other cases, States Parties only partially withheld Ukraine-related transfer data from their reports. The first, Poland, included information in its report on major conventional arms and small arms and light weapons (SALW) exports to Ukraine while noting that its report does not include "donations" to Ukraine from its Ministry of National Defense. The second, the Netherlands, provided a partial accounting of the number of armored combat vehicles and large caliber artillery systems it exported to Ukraine but withheld the quantity of items transferred for the vast majority of its major and SALW exports to the country.

Good Practice for Withholding Information

The Netherlands' position on how transparently it would report on its arms transfers to Ukraine evolved over the course of the conflict. In an example of good practice, the Netherlands has offered regular, public explanations for its reporting practices in ATT meetings and other forums.

- In an intervention at the February 2023 CSP9 Working Group meetings, the Netherlands explained that it had taken the uncomfortable but necessary decision not to include exports to Ukraine in its annual report for national security reasons.¹¹ That was consistent with its policy at the time of providing only limited information on its arms transfers to the country due to operational and other concerns.
- The Netherlands Ministry of Defense later announced in May 2023 that it would publish more information about arms transfers to Ukraine moving forward, which it considered important to "maintain support and conduct a societal debate regarding military support to Ukraine" as well as "to send a signal to both Ukraine and Russia."¹² The Netherlands also informed States Parties of this policy shift at the May 2023 Working Group meetings, where "they discussed their new policy of providing more details about military support to Ukraine while limiting disclosure of specific quantities of goods transferred."¹³
- Further explanation was provided in the annual report itself. In cases where the Netherlands indicated that the quantity of items transferred was "not declared," it added a comment explaining that the "number of items cannot be disclosed due to national security interests."

CONCLUSION AND RECOMMENDATIONS

The war in Ukraine has not eroded the level of transparency in ATT reporting nearly as much as might have been expected. States Parties that exported Article 2(1) major arms to Ukraine in 2022 reported at a higher rate than, and reported privately or with information withheld at rates similar to, States Parties generally. Indeed, with several of Ukraine's arms suppliers providing clear indications as to the types of information they withheld from their reports—a relatively uncommon practice—we have in some ways seen a shift towards even greater transparency among some arms exporters.

However, the war in Ukraine has had some notable impacts on transparency in the context of ATT annual reporting. Since the invasion, several of Ukraine's arms suppliers have restricted public access or withheld information from their reports for the first time, with some governments explicitly indicating that information was withheld due to concerns around the release of potentially sensitive information regarding arms transfers to Ukraine.

Still, the past year of ATT annual reporting offers several examples of good practice for balancing transparency objectives against concerns around the release of potentially sensitive information. To ensure that sensitivities around arms transfers to Ukraine do not serve as unnecessary impediments to arms trade transparency, arms exporting States Parties with concerns around the release of Ukraine-related transfer data are encouraged to:

1

Continue to report publicly on annual arms exports and imports. Doing so provides valuable insights into global weapons flows—insights that are particularly important when the intended end-users are involved in an active armed conflict, which poses significant risks of diversion and civilian harm.

2

Consider withholding information on arms transfers to Ukraine as an alternative to non-reporting or reporting privately. This allows governments to mitigate concerns around the release of particularly sensitive Ukraine-related transfer data without restricting access to the remainder of the report, which may not contain sensitive information.

3

Exercise restraint and transparency when withholding information. Avoid withholding information critical to understanding the contours of a particular arms transfer (e.g., the importing State or the type of weapon exported) or omitting a transfer altogether, as this can defeat the purpose of reporting in the first place. Publicly indicate the type(s) of information withheld and the rationale for withholding it to assist other States and stakeholders in accounting for gaps in reporting data and understanding what States are, or are not, reporting on.

4

Periodically reassess whether it is still appropriate to withhold information or to keep reports private. If States determine that the conditions that initially prompted them to withhold information or report privately no longer apply, they should adopt a more transparent approach to preparing their subsequent reports and should consider updating their previously submitted reports to provide a public accounting of any previously withheld information.

Endnotes

¹ SIPRI, “Trends in International Arms Transfers, 2022,” March 2023, p. 10, <https://www.sipri.org/publications/2023/sipri-fact-sheets/trends-international-arms-transfers-2022>.

² Australia, Belgium, Canada, Croatia, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Portugal, the Republic of Korea, the Republic of North Macedonia, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom. SIPRI, “SIPRI Arms Transfers Database,” accessed 17 August 2023, <https://www.sipri.org/databases/armstransfers>.

³ Ibid.

⁴ ATT Secretariat, “Annual Reports,” accessed 17 August 2023, <https://thearmstradetreaty.org/annual-reports.html?templateId=209826>.

⁵ SIPRI, “SIPRI Arms Transfer Database.”

⁶ The one exception is the Republic of Korea. According to SIPRI estimates, the Republic of Korea’s only major arms exports to Ukraine in 2022 were chassis for 54 Krab self-propelled guns, exported via Poland. While the Krab howitzer is covered under Article 2(1) of the ATT, its chassis are not, and an exporting State Party would therefore not be required under the ATT to include these transfers in its annual report.

⁷ In some cases, information in SIPRI’s arms transfer database (including order and delivery dates, or the quantity ordered or delivered) is informed by estimates.

⁸ Australia, Belgium, Canada, Czech Republic, Finland, Germany, Greece, Italy, Latvia, Lithuania, the Netherlands, Norway, Poland, Portugal, Republic of North Macedonia, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

⁹ DW, “Ukraine updates: Wagner starts withdrawing from Bakhmut,” 25 May 2023, <https://www.dw.com/en/ukraine-updates-wagner-starts-withdrawing-from-bakhmut/a-65728823>.

¹⁰ Australia, Belgium, Canada, the Czech Republic, Germany, Italy, the Netherlands, Poland, Portugal, Spain, and the United Kingdom.

¹¹ Control Arms, “Summary Analysis Report,” p. 10, <http://controlarms.org/wp-content/uploads/2023/03/Feb-WGs-CSP9-Summary-Analysis.pdf>.

¹² Netherlands Ministry of Defense, “Defense to publish more information about deliveries to Ukraine,” 13 April 2023, <https://english.defensie.nl/latest/news/2023/04/13/defence-to-publish-more-information-about-deliveries-to-ukraine>.

¹³ Control Arms, “Summary Analysis Report,” p. 15, <https://reachingcriticalwill.org/images/documents/Disarmament-fora/att/csp9-prep/CA-summary-2.pdf>.

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