

Table of Contents

Preface	VII
List of Abbreviations	XV
Chapter 1. Introduction	1
A. Relevance	3
B. Methodology	4
Chapter 2. Regulation in International Legal Theory	7
A. Theoretical Approaches to International Regulation	8
I. Form-Based Theories	8
II. Interest-Based Theories	11
III. Value-Based Theories	14
1. Naturalism	14
2. Legitimacy	15
IV. Process-Based Theories	17
V. Critique	18
B. International Regulation Deconstructed	22
I. Origin	22
II. Obligation	24
1. Defining Obligation	25
2. ‘Soft’ Obligations and Informal Law-Making	27
3. Enforcement	31
III. Clarity	33
IV. Institutionalisation	36
V. Substance	41
C. Conclusions	43
Chapter 3. International Arms Trade Regulation before the ATT	45
A. Instruments from the Colonial Age	45
I. The 1890 Brussels Act	46
II. The 1906 Algeciras Act	47
B. Arms Trade Control in the League of Nations	48
I. General Framework	48
II. The 1919 St. Germain and 1925 Geneva Conventions	50
III. The League of Nations Arms Yearbooks	52
IV. The Geneva Disarmament Conference	53
V. Conclusions	54
C. The Cold War and Suppliers’ Agreements	54
I. The Tripartite Declaration Regarding Security in the Middle East	55
II. The US-USSR Conventional Arms Transfers Talks	55
III. The Coordinating Committee on Multilateral Export Controls	56
IV. The Wassenaar Arrangement on Export Controls	59
V. Conclusions	62
D. The Arms Trade in the United Nations Era	63
I. The Role of the UN Institutions in Arms Trade Regulation	63

1. UNGA and others	64
2. The Arms Embargo Practice of the UN Security Council	68
II. The United Nations Register of Conventional Arms (UNROCA).....	70
1. Content and Institutional Setup.....	71
2. Implementation and Regime Development.....	72
3. Calls for Reform	73
4. The UNROCA between Transparency and Proliferation Management	75
III. Humanitarian Instruments.....	76
1. The UN Convention on Certain Conventional Weapons (CCW).....	76
2. The Ottawa Convention on Anti-Personnel Mines and the Oslo Convention on Cluster Munitions.....	78
3. The Interwoven Fates of the CCW, Ottawa and Oslo Conventions.....	79
IV. The UN Small Arms Process	81
1. The UN Programme of Action on Small Arms and Light Weapons (PoA).....	83
2. The UN Firearms Protocol.....	86
V. Conclusions.....	87
E. Regional Conventional Arms Trade Control.....	88
I. Europe.....	89
1. European Union	89
2. Organisation for Security and Cooperation in Europe	94
II. Africa	97
1. ECOWAS Moratorium and ECOWAS Convention	97
2. The Central African Convention for the Control of Small Arms and Light Weapons	100
3. The Nairobi Declaration and Protocol (Great Lakes Region).....	101
III. Americas	102
IV. Asia and Pacific	104
V. Conclusions.....	104
F. The Arms Trade and General International Law	104
G. Conclusions.....	111
Chapter 4. The Arms Trade Treaty and International Regulation	115
A. The Birth of the Arms Trade Treaty.....	115
I. Campaigning for an Arms Trade Treaty	115
II. Towards an Arms Trade Treaty	117
III. Deciding on an Arms Trade Treaty – the UN GA Conference Process.....	118
B. The Arms Trade Treaty Regime – Overview	120
I. Object and Purpose	120
II. Scope.....	123
III. Transfer Controls	125
1. Article 6 ATT – Prohibitions	126
2. Article 7 ATT – Export Assessment	131
3. Articles 8 to 10 ATT – Other Forms of Transfers.....	133
4. Article 11 – Diversion.....	134
IV. Implementation and Enforcement.....	135
V. Transparency and Cooperation	136
VI. Institutional Setup	137

1. The ATT Treaty Organs.....	137
2. The ATT Conference of States Parties.....	138
C. Analysis.....	142
I. Origin.....	142
1. The ATT Negotiations between ‘Old‘ and ‘New’ Diplomacy.....	142
2. Consensus or No Consensus?	144
3. Conclusions.....	146
II. Obligation	147
1. Operative Provisions.....	147
2. Enforcement and its Others.....	151
3. Conclusions.....	156
III. Clarity	156
1. Scope and Definitions	157
2. Lacking Clarity	160
3. Coherence	166
4. Conclusions.....	172
IV. Institutionalisation	173
1. The Conference of States Parties	174
2. The ATT Secretariat	176
3. Dispute Settlement	177
4. Regime Development.....	180
5. Conclusions.....	182
V. Substance	183
1. State Interest.....	184
2. Human Interest.....	187
3. Humanity Interest.....	193
D. Conclusions.....	197
Chapter 5. The ATT and the International Legal Order.....	205
A. International Law in Transformation	206
I. A Legal Order for the International Community?.....	206
II. International Law in Decay?.....	209
B. The Arms Trade Treaty and Transformative Processes in International Law.....	210
I. Formalisation or Informalisation?.....	211
1. Formality in International Law	211
2. The Arms Trade Treaty between Formalism and Informality.....	214
II. Democratic Cosmopolitanism or State-Centricism?	216
1. International Law between Cosmopolitanism and Anti-Pluralism.....	217
2. The Arms Trade Treaty between Inclusivity and State Consent.....	219
III. Coherence or Fragmentation?	222
IV. Strengthening or Erosion of International Values?	226
1. Substantivisation of International Law	226
2. Whose Values? – Morality in International Law and Normative Bias.....	230
3. Finding Common Ground	231
C. Conclusions	234
Chapter 6. Concluding Remarks.....	237

Annex: Deutsche Zusammenfassung	243
A. Einführung	243
B. Theoretische Grundlagen	245
C. Historischer Überblick	247
D. Die Regulierung des internationalen Handels mit konventionellen Waffen durch den Arms Trade Treaty	250
I. Entstehungsgeschichte des Arms Trade Treaty	251
II. Überblick über den Inhalt des Arms Trade Treaty	252
III. Analyse	254
1. Ursprung (<i>origin</i>)	254
2. Pflichtengehalt (<i>obligation</i>)	255
3. Regulatorische Klarheit (<i>clarity</i>)	255
4. Institutionalisierung (<i>institutionalisation</i>)	257
5. Materiell-wertmäßiger Gehalt (<i>substance</i>)	257
E. Der Arms Trade Treaty und die internationale Rechtsordnung	259
F. Zusammenfassende Schlussbetrachtung	260
References	263