



UNIDIR

Meeting Summary

**Examining Common Regional Understandings
to Strengthen End Use/r Control Systems
to Prevent Arms Diversion**

**Regional Consultative Meeting
Nairobi, Kenya
6–7 October 2016**

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The United Nations Institute for Disarmament Research (UNIDIR)—an autonomous institute within the United Nations—conducts research on disarmament and security. UNIDIR is based in Geneva, Switzerland, the centre for bilateral and multilateral disarmament and non-proliferation negotiations, and home of the Conference on Disarmament. The Institute explores current issues pertaining to the variety of existing and future armaments, as well as global diplomacy and local tensions and conflicts. Working with researchers, diplomats, government officials, NGOs and other institutions since 1980, UNIDIR acts as a bridge between the research community and governments. UNIDIR's activities are funded by contributions from governments and donor foundations.

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This meeting summary paper was drafted by Paul Holtom, with research support from Hardy Giezendanner. This project is managed by Himayu Shiotani.

Acronyms and abbreviations

ATT	Arms Trade Treaty
AU	African Union
CSP1	First Conference of States Parties to the Arms Trade Treaty
CSP2	Second Conference of States Parties to the Arms Trade Treaty
DVC	Delivery Verification Certificate
ECCAS	Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components that Can be Used for their Manufacture, Repair or Assembly
ECOWAS	Economic Community of West African States
ECOWAS Convention	Economic Community of West African States Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials
EUC	End user certificate
EUS	End use/r statements
MoD	Ministry of Defence
MoS	Ministry of Security
Nairobi Protocol	The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and Horn of Africa
RECSA	Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States
SADC Protocol	South African Development Community Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community
SALW	Small Arms and Light Weapons
UN PoA	United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
UNIDIR	United Nations Institute for Disarmament Research
UNSCAR	United Nations Trust Facility Supporting Cooperation on Arms Regulation

Executive summary

This paper provides a summary of the discussions that took place during a two-day regional consultative meeting organized by the United Nations Institute for Disarmament Research (UNIDIR) at the United Nations Office at Nairobi, Kenya, on 6–7 October 2016. The meeting was organized as part of the UNIDIR project, “Tackling Diversion (Phase II): Promoting Regional Dialogue to Enhance Common Understanding and Cooperation to Strengthen End Use/r Control Systems”, which is supported by the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR). The meeting benefited from participation by seven States from the African region as well as specialized organizations such as Conflict Armament Research, the International Peace Support Training Centre (IPSTC) and the Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA). The overall goal of this project is to provide a platform to facilitate a global, inclusive dialogue that examines and identifies possible options and avenues within and beyond existing global, regional and subregional instruments to strengthen end use/r control systems for the prevention of diversion of arms and ammunition.

This summary paper outlines the issues addressed and discussions held during the meeting. The paper consists of four parts: The first part introduces the project and its overall objective, as well as the purpose of the sub/regional consultative meeting series. Part two introduces the key issues for end use/r control systems in Africa, as identified by participants in the meeting, focusing on:

- Competing interests and limited cooperation within importing States between various government agencies and between regional and subregional governance bodies.
- Maintaining a system that manages imported arms, including resources and procedures to: mark weapons; keep accessible records of weapons holdings; oversee distribution and use within national borders; and ensure responsible disposal of imported arms.
- Operational-level constraints, such as inadequate resources and capacity to deal with the scale of the challenge and limited experience and intelligence to inform measures to address diversion risks;
- Decisions to re-transfer arms without seeking authorization from the original exporting State;
- The political consequences of identifying diversion risks in a “friendly State”; and
- Effective cooperation and communication during the transfer process between arms suppliers, transit States and importing States.

The third part of the paper provides three case studies of national end user control systems: to regulate arms exports; to regulate arms imports; and to regulate arms imports in a State subject to a UN arms embargo. This part also includes a summary of the responses by seven African States to the UNIDIR survey for examining options for cooperation to strengthen end use/r control systems. The fourth part of the paper summarizes the rich discussion in the group on the potential for using existing sub/regional and international frameworks, instruments and approaches for strengthening end use/r control systems in the African region. The group noted the importance of a solid legal framework to implement commitments made in subregional, regional and international instruments to address diversion, as well as the challenges faced in enforcing national legislation. In this regard, it was agreed that networks of relevant stakeholders

are useful for exchanging information and knowledge on effective implementation of national end use/r control systems. The group recognized the benefits of utilizing existing definitions and guidelines for the development of sub/regional and international guidance on effective end use/r control systems and measures to prevent diversion, but also stressed the need for African States to be able to “domesticate” such guidance.

1. Introduction

The diversion of authorized conventional arms transfers, including those of small arms, poses a persistent problem for security at the global, regional, subregional and national levels, and lies at the heart of the illicit proliferation of arms.¹ Evidence from diversion cases suggests that differences between national end use/r control systems (in particular the content, format and use of end use/r documentation), as well as the lack of shared understanding of definitions and information among relevant stakeholders, pose a challenge to tackling diversion. UNIDIR's research has identified several ways in which inadequate end use/r control systems have been evaded to divert arms to unauthorized end users, including:

- End use/r documentation is not authenticated by exporting States, and forgeries are used to acquire export licences to divert arms;
- End use/r documentation is not verified by exporting States, with information missing or which should prompt the exporting State to conduct a thorough investigation of the proposed transfer;
- Importing States lack the procedures for oversight and control of arms imports;
- Constraints at the operational level to regulate arms transfers and detect and interdict the attempted diversion of arms;
- States that host significant transit and transshipment hubs lack capacity to effectively manage risks to prevent diversion;
- Non-State end users in importing States with limited post-delivery monitoring and controls are considered a diversion risk;
- Assurances on end use or re-export are ignored by the importing State, adherence to assurances is not monitored by the exporting State and actions are not taken when reports of violations are presented to the exporting State and international community; and
- High-ranking officials in importing States are willing to provide authentic end use/r documentation to facilitate diversion to embargoed entities either en route or by undertaking an unauthorized re-export after taking delivery of arms and ammunition, for financial or strategic gains.

States in multilateral forums have repeatedly called for the examination of the harmonization of end use/r control systems to improve their role in preventing diversion. Despite these repeated international calls, a comprehensive and inclusive discussion at the global level has not yet been convened to consider possible ways and approaches to strengthen shared understandings and promote alignment in end use/r control systems. UNIDIR responded in 2015 with the project "Examining Options and Models for Harmonization of End User/r Control Systems" (Phase I), with support from the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR). Phase I of this project identified key aspects of end use/r control systems that could be examined by States to establish shared understandings that inform, legitimate and motivate dialogue and collective action in strengthening end use/r controls, including enhancing international cooperation, and where possible, working towards alignment in key terms and standards. A key

¹ For the purpose of this meeting summary paper, "arms" is used to cover all conventional arms, including small arms and light weapons (SALW), as well as ammunition.

element of this stage of the project included global distribution of a UNIDIR survey for examining options for cooperation to strengthen end use/r control systems (UNIDIR survey), which has collected information on national practices, challenges and options for multilateral processes from 48 UN Member States.² A comprehensive study was released by UNIDIR in early February 2016.³ The key findings have been shared at various meetings, including:

- A side event during the First Conference of States Parties to the Arms Trade Treaty (ATT) in Cancún in August 2015;
- A side event during the meeting of the UN General Assembly First Committee in New York in October 2015;
- The Fifth Consultative Meeting of the European Union (EU) Non-Proliferation Consortium in Brussels in July 2016; and
- A UNIDIR round-table discussion event in the margins of the Second Conference of States Parties to the ATT in Geneva in August 2016.

Regional consultative meetings

The overall objective of this project is to enhance the knowledge and capacity of policymakers and practitioners to identify frameworks, procedures and practical measures aimed at developing shared understanding, strengthening national end use/r control systems and facilitating cooperation at sub/regional and global levels as a means of promoting dialogue between States conducive to mitigating risks of arms diversion.

Building on the key recommendations from the first phase, Phase II (2016) consists of a **series of three regional consultative meetings** with the aim of engaging with regions and States that are not participating in existing export control regimes—i.e. States in Africa, the Caribbean and Asia—in order to promote a comprehensive approach to strengthening end use/r controls to prevent diversion. The sub/regional consultative meetings have several connected objectives:

- Review efforts, initiatives and international and sub/regional frameworks and instruments that strengthen cooperation and align end use/r control systems;
- Identify the key areas that would enhance cooperation and strengthen end use/r control systems;
- Explore the feasibility and desirability of different options for a sub/regional or global approach to strengthening end use/r control systems; and
- Consider challenges and opportunities for a sub/regional or global framework for strengthening end use/r control systems.

In achieving these objectives, the project will contribute to the overall goal of consolidating sub/regional shared understandings of desired and feasible methods and approaches to enhance

2 The UNIDIR survey was circulated to all UN Member States during Phase I of the project in summer 2015. Forty-one Member States—including major importing and exporting States across the world—provided a completed survey to UNIDIR. UNIDIR recirculated the survey in 2016 to States in regions and subregions that will participate in the regional and subregional consultative meetings as part of Phase II of the project. As of 7 October 2016, a total of 48 responses to the survey (2015–2016) had been received.

3 P. Holtom, H. Giezendanner and H. Shiotani, *Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion*, Geneva, UNIDIR, 2016. Further information on Phase I of the project is available at: bit.ly/2ifQO8j.

cooperation and strengthen end use/r control systems at the sub/regional and global levels. The regional consultative meetings in turn will help establish:

- Enhanced regional common understanding of potential approaches, procedures and practices, as well as roles and responsibilities of national actors involved in strengthening end use/r controls to mitigate the risk of diversion;
- Increased awareness and dialogue between stakeholders among those States that are not participating in existing export control regimes, on methods and processes to strengthen cooperation and alignment of end use/r control systems; and
- Improved regional understanding of practical steps States could take to undertake a sub/regional and/or global dialogue and process to strengthen end use/r control systems at the sub/regional and/or global levels.

The project will contribute to practical and effective implementation of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN PoA) and the ATT, as well as relevant sub/regional instruments.

African consultative meeting, 6–7 October 2016

The second of the series of UNIDIR sub/regional consultative meetings was convened at the United Nations Office at Nairobi, Kenya, on 6–7 October 2016.⁴ This regional seminar sought to bring together a cross section of African States, with not only geographical representation—i.e. participants from each of the subregions that have a SALW instrument—but also a balance of States that have export, transit and import profiles. In addition, the group included States that have been subject to UN arms embargoes. The meeting benefited from the participation of seven States from the African region, namely: Algeria, Burkina Faso, Ghana, Mauritius, Somalia, South Africa and the United Republic of Tanzania. The meeting brought together representatives from national arms transfer control authorities, presidential advisers and representatives of diplomatic missions located in Nairobi. In addition, experts from specialized organizations such as Conflict Armament Research, the International Peace Support Training Centre (IPSTC) and the Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA) participated in the meeting. The overall guiding question for this regional consultative meeting was:

How can States enhance shared understandings and cooperation to strengthen their national end use/r control systems in a practical manner in order to mitigate the risk of diversion to unauthorized end users and/or end uses?

2. Key issues for end use/r control systems in the African region

The group considered a wide range of issues that constrain the ability of end use/r control systems to prevent the diversion of arms. The discussion covered the politics and praxis of the

⁴ The first of the series of UNIDIR sub/regional consultative meetings was organized in partnership with the Caribbean Community Implementation Agency for Crime and Security (CARICOM IMPACS), in Port of Spain, Trinidad and Tobago, on 21–22 September 2016. For more information on the first consultative meeting, see bit.ly/2cA28cS.

regulation of arms exports, imports, transit and brokering to prevent diversion, focusing on the following issues:

- Competing interests and limited cooperation within importing States with regard to:
 - Relations between the central government and sub/regional governance bodies;
 - Relations between relevant government ministries and agencies with regard to regulating arms transfers and preventing diversion.
- Maintaining a system that manages imported arms, including resources and procedures to: mark weapons; keep accessible records of weapons holdings; oversee distribution and use within national borders; and ensure responsible disposal of imported arms.
- Operational-level constraints, such as inadequate resources and capacity to deal with the scale of the challenge and limited experience and intelligence to inform measures to address diversion risks;
- Decisions to re-transfer arms without seeking authorization from the original exporting State;
- The political consequences of identifying diversion risks in a “friendly State”;⁵
- Effective cooperation and communication during the transfer process between arms suppliers, transit States and importing States.

Participants highlighted several challenges faced by African States seeking to manage arms that have been supplied to armed actors located within their national borders. First, participants acknowledged that there can be competing interests within their States that serve as a barrier to effective end use/r control systems. For example, subnational security forces in a State do not always communicate their arms acquisitions to the relevant central government authorities. This can result in situations in which a national government does not have a full inventory of all weapons located within the national territory. It was also noted that a State could centralize procedures for importing arms and have effective management at the point of entry, but could lose such “control”—or at least “oversight” could become limited—when arms are provided to subnational security forces that might seek to gain income by either selling or renting arms to other armed actors within the State or across national borders. A second dimension of this challenge was noted with regard to the competing interests of different government ministries or agencies. At the extreme end of this spectrum, imported arms could be used against political factions within the government or the State. In other cases, it was noted that certain ministries might be in favour of granting permission for an export or transit shipment of arms to a “friendly State”, while other ministries or agencies might consider that the risk of diversion and misuse is too significant to permit such authorization.

Participants raised the issue of operational-level constraints to the identification and prevention of diversion. The group noted the lack of adequate human and material resources to monitor borders, perform marking and record-keeping and gather intelligence on potential diversion risks. In some cases, international cooperation and assistance has been provided to support efforts to address these challenges. However, participants stated that the scale of the problem remains significant at the national level and there are concerns that the international assistance and cooperation available does not adequately support the establishment of the required

⁵ Several participants in the Group used the term “friendly State” to indicate an ally or neighbouring State with which it sought to maintain good neighbourly relations.

sustainable end use/r control system. On the issue of intelligence to inform risk assessments before authorizing an export licence or granting permission for a shipment to transit through national territory, participants noted that open source intelligence can often be insufficient. The group noted that open source intelligence does not always provide the level of detail necessary to determine whether arms are being supplied to an end user in the importing State that has a good record with regard to arms management. For example, it could be the case that while the armed forces of the importing State have good arms management procedures, the police force could have a reputation for facilitating diversion. For this reason, it was noted that national intelligence services and diplomatic representations in other countries can be invaluable sources of information—if adequately resourced. At the same time, it was recognized that while capacity-building programmes can be established to tackle such challenges, political decisions can still be made that facilitate diversion and undermine seemingly robust end use/r control systems.

The group discussed the way in which importing States understand ownership of imported arms and national decisions on the most appropriate form of disposal for surplus arms or the supply of imported arms to end users without informing the original exporting State of a change in possession. Participants noted that State officials in Africa continue to provide authentic end use/r documentation to acquire arms and then divert these arms to embargoed entities or other unauthorized end users (e.g. insurgents, rebels and criminals) in neighbouring States for financial gain or ideological motivations.⁶ Yet this was only one of the reasons discussed by the group as to why some States might not respect non-re-export assurances provided in end user certificates (EUCs). The group considered a case of an “honest mistake” in which a State official could “forget” an assurance not to re-export imported arms, when called upon to donate arms and ammunition to help a neighbouring State that is fighting against insurgent forces. As soon as the arms change hands, the group agreed that the original supplier should be informed, but also noted that this does not always happen in practice. Therefore, the group emphasized that unauthorized re-export can also be the result of “forgetfulness” and not malicious intent alone.

The group discussed the importance for African States of better communication and cooperation during the shipment of arms. In this regard, the need for the exporting and importing States to be able to identify transit States in advance of a shipment leaving or arriving at their national borders was stressed. It was noted that cooperation with the arms and shipping industries is particularly important for facilitating and quickly expediting legitimate arms transfers. Participants explained that even transfers authorized by exporting and importing States can be held up by procedures for issuing a transit or conveyance permit if information is not provided in a timely manner by shipping agents located in the transit State. The group noted that military institutions in some importing States do not want to reveal information in advance about their procurement. This can create a problem for communication along the transfer chain, which in turn can impede the smooth passage of a legitimate shipment. In addition, the group discussed the challenges posed by container shipments and concerns over mislabelling and efforts to use transit States to facilitate arms supplies to parties to conflict.

Participants also considered that government agencies and ministries of African States that are infrequently engaged in the international arms trade might not be fully cognisant of the changing dynamics and challenges of the trade and diversion practices. For example, it was noted that

6 UN experts have documented this practice in relation to several arms embargoes in Africa, including the supply of arms to the Revolutionary United Front in Sierra Leone. See, for example: Security Council, *Report of the Panel of Experts appointed pursuant to Security Council resolution 1306 (2000), paragraph 19, in relation to Sierra Leone*, UN document S/2000/1195, 20 December 2000, para. 254.

entities that had previously only engaged in facilitating arms deals are now acquiring their own stock for sale and therefore becoming arms dealers. Participants considered the implications of an arms company in the global North establishing production facilities and subsidiaries in Africa to circumvent export controls in other parts of the world. At the same time, it was noted that this might increase the export control burden on African States, as such companies might need to continue to comply with standards established in the global North. In addition, it was noted that more attention should be paid to accessories for conventional arms, as well as military equipment more broadly, if States are interested in addressing diversion of military equipment that contributes to regional instability and conflict.

3. End use/r control systems in the African region

The group's deliberations on end use/r control systems in Africa benefited from the information provided by seven African States in their responses to the UNIDIR survey on end use/r control systems, which are summarized in section 3.1. Three participants also provided an overview of elements of their national end use/r control systems, with presentations on:

- An African State's export control system;
- An African State's import control system;
- An embargoed African State's import control system.

An African State's export control system

The first case study consisted of an overview of an African State's inter-agency system for oversight of international arms transfers (export, conveyance/transit and brokering).⁷ This State is an atypical African State with regard to its arms production capacity, membership of arms control and non-proliferation regimes and experiences and resources for regulating international arms transfers. At the top of the inter-agency system is a committee that brings together relevant ministers to decide on whether to authorize or deny a proposed transfer of conventional arms and military equipment. To support the day-to-day work of the committee, a secretariat is tasked with undertaking the technical and administrative functions of the committee, including gathering information to inform the committee's decisions. All decisions are taken on a case-by-case basis in accordance with the State's overall objectives for arms export policy. Overall, the system is intended to provide "oversight" rather than "control" of arms industry activities within the parameters established by national law.

The presentation provided information on some of the practical elements of the system. There are government regulations that provide information on the common elements that are expected to be included in EUCs. The State can attach additional conditions for some authorizations, such as the confirmation of a delivery received by an importer and post-delivery cooperation, including inspections. At the same time, this State is also conscious of the challenges in monitoring the implementation of assurances on re-export and post-delivery cooperation.

⁷ This system only applies to international transfers of conventional arms and military equipment. This section does not deal with the international transfer of firearms for this African State.

An African State's import control system

The second case study provides an insight into a West African State's import control system. In this State, only the President can authorize arms imports. Authority is delegated to the permanent secretary of the High Authority on Arms Imports Control and Their Use for all imports, the Ministry of Security (MoS) for civilian arms imports and the Ministry of Defence (MoD) for government arms imports. The system includes quarterly meetings of relevant agencies/ministries such as defence, foreign affairs and security, as well as aviation and transport agencies. This State is also currently developing a national law to implement the ATT, which is expected to define transit, transshipment, import and export and regulation measures.

The government can issue two documents to support an application for an arms import: an import authorization and/or an EUC.⁸ The State provides templates of both documents, with the list of elements contained in both documents outlined in Table 1 below. The import authorization and the EUC must be signed by the relevant minister and permanent secretary. If the document does not carry the signatures of both the minister and the permanent secretary, then it is not a legitimate document issued by the government of this State. In addition, this African State is a State Party to the Economic Community of West African States Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (ECOWAS Convention)⁹ and therefore an exemption certificate from the ECOWAS Secretariat is also required before SALW intended for the MoD can be imported.

For civilian arms imports—e.g. a private security company or a dealer—an application must be submitted to the MoS for consideration, detailing the type and volume of arms to be imported, before the relevant documentation can be provided regarding the proposed imports. If the MoS authorizes the import, it requests an import authorization document from the Prime Minister's Office. The permanent secretary is responsible for providing a signed import authorization document to the Prime Minister's Office, which is then passed on to the MoS. The minister signs the document and records its number, before providing the document to the applicant. The list of issued documents is kept by both the government and the importer. For civilian arms imports, the MoS also checks to ensure that the arms documented in the "import authorization" match the arms that have been imported. If there is not a match, then sanctions are imposed for "illicit trafficking". Sanctions consist of a three-month ban, a six-month ban or permission permanently rescinded to import arms.

For government end users, a similar process takes place but with applications made to the MoD and an application also made to the ECOWAS Secretariat for a certificate of exemption.

8 The provision of an EUC is not mandatory in all cases and is only provided if requested by the supplier.

9 The ECOWAS Convention was signed in Abuja (Nigeria) on 14 June 2006 and entered into force on 29 September 2009. The text of the Convention is available at: www.poa-iss.org/RegionalOrganizations/ECOWAS/ECOWAS%20Convention%202006.pdf.

Table 1. Elements in the template import authorization and EUC

Import authorization elements	EUC elements
Official letterhead of the relevant ministry, including phone and fax numbers	Official letterhead of the relevant ministry, including phone and fax numbers
Number in the national register for import authorizations	Number in the national register for EUCs
Complete name of relevant minister authorized to sign	
Importer details (e.g. full name, complete address and authorization to commercially operate)	Name and address of the importer and end user of the arms and ammunition
Exporter/manufacturer details (i.e. complete address and manufacturer)	Name of the exporter or manufacturer
Intermediary details (i.e. full name, complete address of brokers and other intermediaries)	Identity (name) and address(es) of broker(s) and intermediaries
	Description of end use
Description of the goods being imported	Description of items
Quantity of the goods being imported: <ul style="list-style-type: none"> • Quantity per good • Total quantity of the goods being imported 	Quantity of arms
Value of the goods being imported: <ul style="list-style-type: none"> • Value per unit/good • Total value of the goods being imported 	Value of arms
Comments on: <ul style="list-style-type: none"> • Description • Quantity (per good/total) • Value (per unit/total) 	
Routing details <ul style="list-style-type: none"> • Points of departure • Means of transport • Transit points • Point of entry 	Exporting State and possible points of transit
Country of final destination	Final destination
Assurance on no re-export without authorization by the exporting State and manufacturer	Assurance on no re-export without prior written authorization by government of the exporting State
Compliance of the subject import with ATT, in particular Article 6	Assurance of compliance with ATT, in particular Article 6
Guarantee that the MoS will provide evidence of delivery	
Date of issuance of the import authorization	Certification that this governmental declaration is in accordance with national law, signature by the permanent secretary and date
Signatures <ul style="list-style-type: none"> • Permanent secretary • Minister of security 	Signature by the relevant minister and date
Period of validity (i.e. one year validity)	

An embargoed African State's import control system

The third national case study concerns a State that is seeking to re-establish an end use/r control system following a long period of conflict for which it has been subject to a UN arms embargo. Recently, there has been a partial lifting of the embargo, with conditions introduced requiring exporting States and/or the embargoed State to notify the UN Sanctions Committee of authorizations and actual transfers. In order to comply with the terms of the partial lifting of the embargo, this State has established a national coordinating authority. The national coordinating authority communicates with the UN Security Council on authorizations and actual imports, and seeks to manage the import and subsequent distribution of imported arms. The authority is responsible for the storage of arms immediately after import, which should all be delivered to the capital of the State and stored in an armoury to be marked and recorded. Army units and police forces in the State can then submit written requests to receive arms and ammunition, providing information not only on their requirements but also where the items will be stored. The State is confident that the process for import, marking and record-keeping functions effectively. However, concerns remain regarding oversight and management of imported arms after distribution to army and police units located outside the capital. Therefore, the national government is seeking to roll out to other parts of the State the management system that has been piloted in the capital.

At the same time, the group was informed that States that provide peacekeeping forces for the peacekeeping mission in this State are providing arms to subnational security forces or militia without informing the Security Council or national government. Managing these donations is therefore an issue that is not yet under national government control, and such practices undermine the nascent efforts to establish a national end user control system that provides oversight and accountability for the State and the international community.

3.1 UNIDIR survey on end use/r control systems: results for States in Africa

Seven African States have provided information on their end use/r control systems in their responses to the UNIDIR survey on examining options for cooperation to strengthen end use/r control systems in 2015 and 2016, as well as in their reports on implementation of the UN PoA, their initial reports on implementation of the ATT, and their completed ATT Baseline Assessment Surveys. This subsection provides an overview of end use/r control systems in Africa, using information provided by seven African States by 7 October 2016 in response to the UNIDIR survey in 2015 (Burkina Faso, Mali and three African States that requested their names to be withheld) and 2016 (Somalia and South Africa). Information from these seven completed and returned surveys is presented below to help identify areas where systems already appear to be aligned at the subregional level, or where there are national examples of good practice that merit further consideration at the subregional level.

End use/r documentation requested by export licensing authorities

Of the seven African States that responded to the UNIDIR survey by 7 October 2016, three indicated that when they consider authorizing the export of conventional arms, including SALW, they require the applicant to submit end use/r documentation to the relevant national authorities as part of the application process. One State specified that when it considers authorizing an export of conventional arms, including SALW, it applies the provisions contained in the ECOWAS Convention. The other two respondent States provide to the applicant a template or checklist

of elements that must be included in end use/r documentation. The content of, and requested details to be contained in, such documentation include the key elements indicated in UNIDIR's 2015 study.¹⁰ Of the four other respondent States, three noted that they do not export arms, and the fourth indicated that it does not currently have either domestic legislation or a national system to control arms exports.

One respondent stated that it is willing to accept electronic copies of end use/r documentation. All three States that require end use/r documentation before authorizing an arms export licence require an original hard copy of the end use/r documentation to be submitted with the application for an export authorization.

These three respondent States keep records of end use/r documentation submitted by applicants for export authorization. Two of these States require applicants to keep such records. One of these States requires applicants to keep records for a minimum of five years; this respondent noted that the government is currently considering whether to extend this record-keeping period.

End use/r documentation provided by importer and end user/s

Of the seven African States that have thus far responded to the UNIDIR Survey, five issue end use/r documentation to the relevant national authorities in the exporting State to support an application for authorization to export arms, for use by their State end users. Three of these five States, as well as two other respondent States (a total of five States), use end use/r documentation provided by the exporting States when importing conventional arms for State end use/rs. Of the three ECOWAS Member States that responded to the UNIDIR Survey, two respondents also noted the required issuance of a certificate of authorization or exemption in accordance with the provisions of the ECOWAS Convention, without further specifying the content of, or details contained in, such documentation. Four States also use end use/r documentation which they have developed on a national basis. The end use/r documentation developed by these States includes most of the essential elements and details of items, end use and end user recommended in relevant international and regional guidelines and standards.¹¹ Graph 1 provides an overview of the global responses to the UNIDIR survey with the results from the African region.

All four States that provide end use/r documentation include a statement that the declared end user will be the ultimate recipient of the conventional arms being exported, as well as a declaration by the importer/end user not to divert or relocate the conventional arms to another destination or location in the importing State. Two States also include a statement that the importer/end user will provide to the relevant authorities in the exporting State, upon request, written confirmation of the arrival of the arms at the intended final destination (e.g. a delivery verification certificate (DVC)).¹² Three of these four States do not include in their end use/r

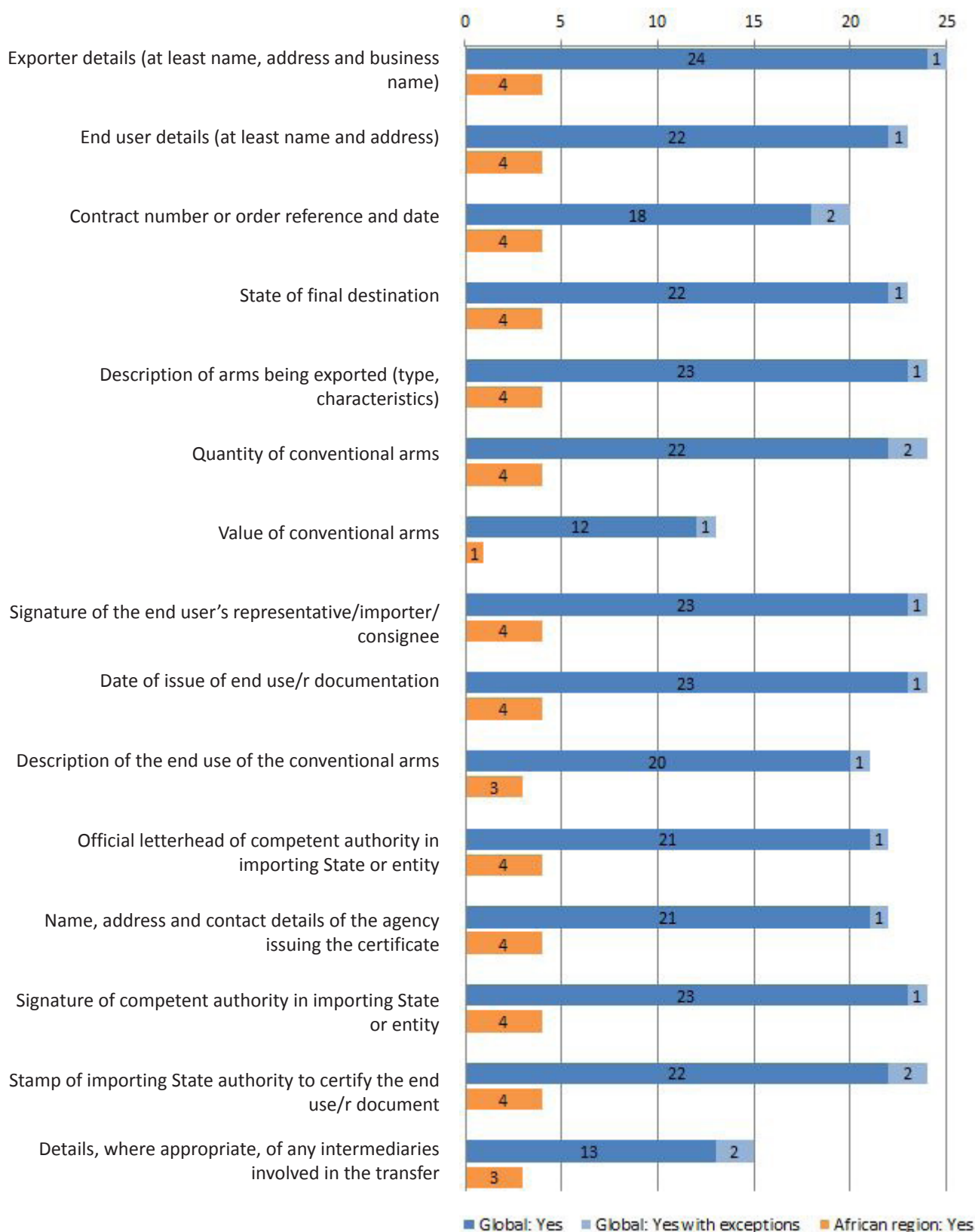
10 P. Holtom, H. Giezendanner and H. Shiotani, *Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion*, Geneva, UNIDIR, 2016, pp. 44–48.

11 Three States do not include in their end use/r documentation the value of the arms being imported. One of these States noted that it does not always include the value of the arms being imported, as they are sometimes donated by another State. One State does not include in its end use/r documentation a description of the end use of the arms.

12 For one of these two States, providing written confirmation of the arrival of the arms at the intended destination to the Security Council is a requirement under the current sanctions regime.

documentation a provision to allow on-site verification by the exporting State's competent authority. One of these four States has a joint verification team, consisting of national and international experts, which twice a year conducts monitoring on all arms and ammunition held by the national security and defence forces.

Graph 1. UNIDIR survey results (2015–2016):
 Details contained in end use/r documentation issued by importing States



Four of the seven African States that responded to the UNIDIR survey certify end use/r documentation that is to be provided to the relevant national authorities in the exporting State to support an application for authorization to export arms for use by non-State end users (e.g. private security companies).

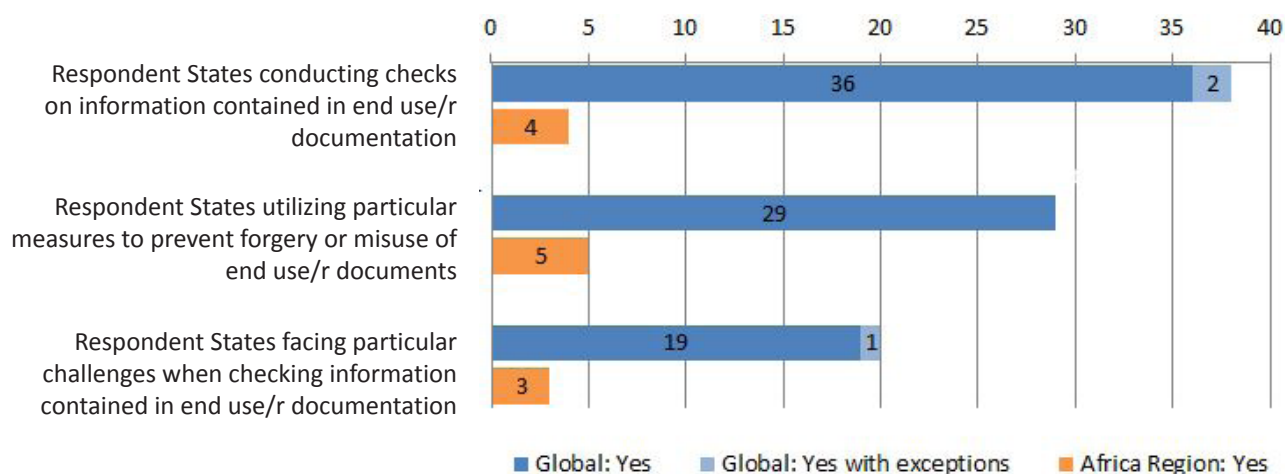
Three of these African respondent States keep records of end use/r documentation issued and certified for use in applications for authorizations to export conventional arms. Five require non-State entities that import conventional arms, including SALW, to keep records of their end use/r documentation.

Use of end use/r documentation by competent authorities

Four of the seven African respondents conduct checks on the information contained in end use/r documentation (see Graph 2). Of the other three respondent States, one noted that while no such checks are conducted currently, the national law is being reformed with such provisions expected to be included in the new legislation and/or regulations. Five States utilize measures to prevent the forgery or misuse of end use/r documentation, including:

- Use of documentation templates for “import authorization” or “final destination certificates” (“certificate de destination finale”) and end use certificates (“certificat d’utilisation finale”), which have been developed by the competent national authority in the importing State;
- The people authorized to sign the end use/r documentation are known and have been granted this authority by a Presidential decree;
- Limiting the number of officials within the competent national authority that are authorized to sign end use/r documentation;
- Providing the specimen signature to foreign diplomatic missions located in the importing State through diplomatic channels.

Graph 2. UNIDIR survey results (2015–2016): Use of end use/r documentation by competent authorities



Three States noted in their responses to the UNIDIR survey that they faced challenges when checking information contained in end use/r documentation. Two of these States did not specify the types of challenges they faced. The third State explained that the government currently does not have access to certain areas of the country due to the security situation, and therefore is not able to freely check information contained in end use/r documentation.

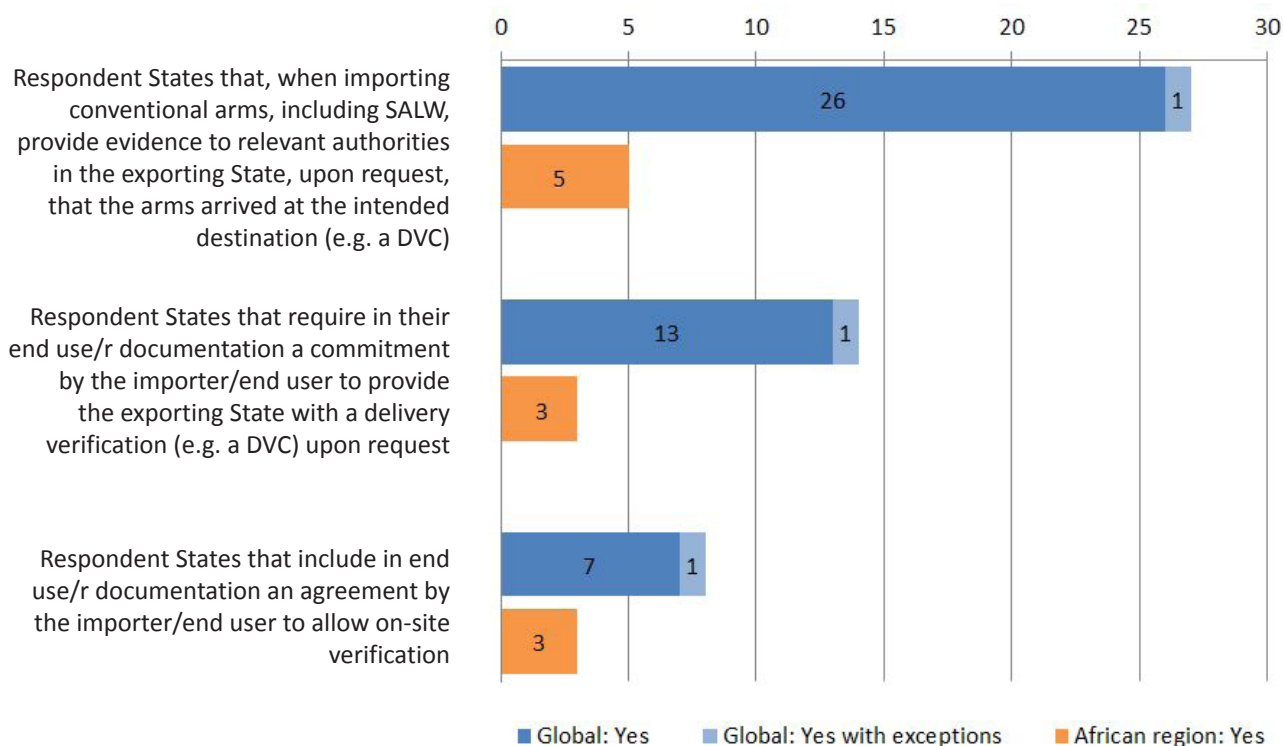
Post-delivery cooperation

Graph 3 shows that five of the seven African respondents provide evidence of delivery upon request to the relevant authorities in the exporting State, when importing arms, including evidence that the arms arrived at the intended destination (e.g. a DVC).¹³ In their most recent reports on implementation of the UN PoA, three of these five States also reported that when importing SALW, they grant the right to the exporting State to conduct a physical check at the point of delivery.

Another African State noted that it provides evidence of delivery of arms to the relevant authorities in the exporting State, while noting that there is no need to provide evidence of delivery of ammunition.

Three African respondents include in their end use/r documentation a commitment to provide to the relevant authorities in the exporting State confirmation of arrival at the intended final destination (e.g. a DVC). The same States also include in their end use/r documentation template or checklist an agreement by the importer/end user to allow on-site verification by the exporting State's competent authority.

Graph 3. UNIDIR survey results (2015–2016):
Post-delivery cooperation



¹³ Three of the four States do so upon request. For one of the four States, providing evidence of delivery (e.g. a DVC) to the Security Council is a requirement under the current sanction regime.

International cooperation and information exchange

All seven respondent States provide information on the ministry or government agency that has been designated the competent national authority to certify and authenticate end use/r documentation, where applicable. Similarly, all seven States provide information on the ministry or government agency that issues end use/r documentation. Four of the seven respondents would be willing to provide information to other States on entities authorized to certify and authenticate end use/r documentation, while one State would be willing to do so with exceptions. Another State would be willing to provide information to other States on entities authorized to certify end use/r documentation noting, however, that a different entity is authorized to authenticate and verify end use/r documentation. Five out of the seven African respondents would be willing to exchange information on or share existing templates or checklists with other States.¹⁴

4. Assessing the utility of existing international and regional frameworks, instruments and approaches

The group noted that there are several regional instruments in Africa that contain provisions for an effective end use/r control system (See Table 2). Participants also discussed the challenges that African States face in domesticating these instruments, given some of the challenges outlined in section 2. In addition, it was also noted that African States have commitments contained in various politically and legally binding international instruments, namely the ATT and UN PoA. The group noted that in several cases there are not only differences in the binding nature of the agreements, but also questions as to whether some of them can be effectively implemented by African States with limited resources, capacities and know-how. Given these considerations, the group considered the utility of existing instruments and guidelines for strengthening end use/r controls and enhancing cooperation in the African region, responding to the following questions:

Can existing end use/r control definitions developed by international and regional organizations and export control regimes serve as the basis for harmonization efforts?

The group agreed that existing definitions have already been tested and therefore, based on existing knowledge, such definitions could be utilized as the basis for regional or international discussions. Participants noted that there are differences between the definitions contained in international, regional and subregional arms control instruments. Therefore, one proposal was to consider whether it could be appropriate to consolidate the different definitions contained in African subregional and regional instruments before engaging in an international dialogue. One participant noted that the ECOWAS Convention provides definitions for “end user” that could be of interest to other African subregional or international instruments. The group considered that there is scope for a dialogue at the African regional level as well as in an appropriate international forum.

¹⁴ Of the two other African respondent States, one noted that it would not be willing to share template(s) of national end use/r documentation with other States at this time, due to security concerns in the country.

Table 2. Relevant African subregional arms control initiatives or instruments for strengthening end use/r control systems

Relevant African arms control initiatives or instruments	Organization
Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components that Can be Used for their Manufacture, Repair or Assembly (ECCAS, 2010)	Economic Community of Central African States
Economic Community of West African States Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Material (ECOWAS Convention, 2006)	Economic Community of West African States
The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and Horn of Africa (Nairobi Protocol, 2004)	Regional Centre on Small Arms in the Great Lakes Region, the Horn of Africa and Bordering States
South African Development Community Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (SADC Protocol, 2001)	Southern African Development Community

Is it feasible and desirable to agree in the African region on “common minimum elements” of details of items, end user and relevant entities involved in the transfer to be exchanged between the relevant entities in the importing and exporting States (e.g. the development of a standardized end user certificate)?

Participants noted that not all arms exporting States require an EUC to be provided as part of an application to export arms and ammunition. The group considered that it is important for all relevant stakeholders to have a common understanding of the common minimum elements that should be contained in end use/r documentation. Several participants noted that there is standardized documentation for the trade in other goods and that such practices could inform discussions on a standardized EUC. The group also noted that African Union (AU) Member States have a common goal of peace and development and that subregional arms control instruments help to provide the basis for achieving this goal. Therefore, the group considered that African States could be willing to explore options for the development of common minimum elements to be exchanged between the relevant entities involved in arms transfers.

At the same time, the group noted that the international arms trade is global and therefore expressed a preference for a global rather than a specifically African checklist or template of common minimum elements for an EUC. Most African States are primarily importers and EUC contents tend to be proposed by exporters; therefore, a dialogue between African States and exporting States regarding EUC contents was considered the best approach for Africa. Nevertheless, the group suggested exploring the possibility of aligning the ECOWAS Convention, ECCAS, the Nairobi Protocol and the SADC Protocol for an “African approach” to global negotiations. It would be easier for States and all relevant stakeholders to understand each other if the same information were to be requested by all exporting States.

In preparation for such discussions, the following elements could be included in a checklist or template EUC:

- Address of end user;
- Information on the exporter;
- Description and quantity of arms;
- The condition of the arms (e.g. surplus or new);

- Assurance on end use and re-export conditions;
- Information on all entities in the supply chain, including the transportation company.

One could argue that Mali and Togo have already made a first attempt to achieve this goal. Both States provided a list of recommended elements for an EUC in their views to the Secretary-General on the feasibility, scope and parameters of the ATT, which are summarized in Table 3. It is worth noting the overlaps in the list of recommended elements provided by Mali and Togo. In addition, these lists of recommended elements contain many of the recommended elements in best practice guidelines prepared by regional organizations and multilateral export control regimes.

Table 3. A comparison of the elements of an EUC recommended by Mali and Togo

Mali: recommended EUC elements	Togo: recommended “certificate of final destination” elements
(a) Description of the weapon (type or model, calibre) and quantity (in the case of batches)	<ul style="list-style-type: none"> • A description of the arm (type or model, calibre) • Its quality
(b) Contents of the marking	
(c) Name and location of old and new owners and, as the case may be, successive owners	<ul style="list-style-type: none"> • The name and location of the former and new owners
(d) Date of registration	<ul style="list-style-type: none"> • The date of registration
(e) Information about each transaction, i.e.:	
<ul style="list-style-type: none"> • The name and address of the consignor, any broker, consignee and end user 	<ul style="list-style-type: none"> • The name and address of the sender, of any intermediary, of the recipient, and of the end user
<ul style="list-style-type: none"> • The origin, points of departure, possible transit and destination, as well as customs references and dates of departure, transit and delivery to the end user 	<ul style="list-style-type: none"> • The origin, the points of departure and transit, the customs references, and the dates of departure, transit and delivery to the end user
<ul style="list-style-type: none"> • The export, transit and import licences (quantities of batches for each licence, and validity of licence) 	<ul style="list-style-type: none"> • The export, transit and import licences
<ul style="list-style-type: none"> • Complete information on the carrier(s) 	
<ul style="list-style-type: none"> • The monitoring agency or agencies (at departure, transit and arrival points) 	
<ul style="list-style-type: none"> • The monitoring agency or agencies (at departure, transit and arrival points) 	
<ul style="list-style-type: none"> • The nature of transaction (commercial or non-commercial, private or public, weaponization, repair) 	<ul style="list-style-type: none"> • The type of transaction (commercial or non-commercial, private or public, transformation, repair)
	<ul style="list-style-type: none"> • The reason for the transfer (purpose)
<ul style="list-style-type: none"> • As appropriate, the insurer and/or financing organization involved in the transaction 	

Source: General Assembly, *Report of the Secretary-General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part II), 17 August 2007, p. 127 and p. 214.

How could roles and responsibilities of national entities responsible for end use/r control be enhanced?

Before the group began to consider in detail the roles and responsibilities for an effective end use/r control system, participants stressed the need for a solid legal framework at the national level that is consistent with international commitments. This was regarded as important before one can engage with arms manufacturers, suppliers or donors regarding roles and responsibilities in end use/r controls. It was recognized that while African States have legal frameworks for regulating arms transfers and end use/r controls, many need to update or establish national legal frameworks and legislation that correspond to commitments contained in regional and/or international instruments. Participants expressed the view that there is also scope for African States to coordinate their review and revision of legislation, especially at the subregional level. The group noted the next challenge for States to be the actual implementation and enforcement of such new legislation. To this end, the group stressed that it will be important for African States to build capacity and establish standard operating procedures for institutionalization of correct practices. A crucial first step, however, is to put in place a robust legal framework suitable for the national context, and aligned with subregional, regional and international commitments.

Is exchanging lessons learned and sources of information for risk assessment procedures and verification in the African region useful? Is it feasible?

The group agreed on the need to establish and maintain networks of relevant stakeholders to exchange information and knowledge for effective implementation of national end use/r control systems. Such networks can help to facilitate the exchange of lessons learned in establishing and maintaining end use/r control systems and the sharing of knowledge to improve the effective functioning of such systems. In addition, regional networks can help to build multilateral understanding of the issue. In the main, however, most sub-Saharan African States are not currently producers or significant exporters of conventional arms but transit or importing States—and in some cases, hosts for arms brokers. In this regard, the group expressed concerns regarding the potential ultimate use of information exchange by national actors for political and/or individual gain. Most of the discussion related to limiting the risk of diversion of imported arms via a comprehensive arms management programme. As noted in section 2, there was also discussion of risk assessment in relation to transit authorizations. It was noted that this tended to be primarily a procedural review of documentation as States did not want to be seen to be “interfering” in decisions on acquiring arms to enhance national defence capabilities in neighbouring States.

Should guidance be developed for assisting risk assessments on diversion?

The group considered that it could be useful to establish common guidelines at the international, regional and national levels. These guidelines do not need to be established from scratch, but can build upon existing EU and UN guidance. Such guidance will need to be “regionalized” for the African context, but also “domesticated” for use by African States. The group stressed the need for such guidance to be “flexible” to accommodate different national needs and interests.

Could “post-delivery cooperation” be useful for preventing diversion in the African region?

The discussion on “post-delivery cooperation” consisted of two elements:

- Post-delivery cooperation between relevant ministries, national agencies, the importer and/or end user in the importing State;

- Post-delivery cooperation between the importing and exporting State.

Participants highlighted challenges to achieving good results with both forms of post-delivery cooperation.

The group agreed that good cooperation between relevant government ministries and agencies and other key stakeholders within an importing State is crucial for a robust end use/r control system. Several participants stressed that good cooperation at the domestic level is a prerequisite for effective post-delivery cooperation with other States and stakeholders. Centralized record-keeping and regular audits of the national stockpile, including military and police storage facilities located throughout the State, including in remote regions, were considered to be a good option for national oversight and cooperation to prevent diversion after delivery. It was also recognized that good cooperation within a State could help to prevent unauthorized re-exports and unintentional “diversion”. For example, if a State would like to donate surplus arms to a neighbour, there is a need for a system to ensure that this is carried out in accordance with commitments made to the original exporting State. It was noted that if such a system does not exist and the arms are donated in breach of re-export assurances, the State could be sanctioned and this could have implications when the State is seeking to import arms in the future.

The group discussed the importance of good cooperation between importing States and exporting States in the tracking of arms and sharing of information on diversion risks. In line with the UNIDIR survey findings outlined in subsection 3.1, the group was open to States confirming the delivery of arms to the exporting State (e.g. via a DVC or comparable document). Participants also discussed the sensitivity of requests for post-delivery inspections and conditionalities attached to proposed transfers, such as commitments by importing States to destroy or return arms being replaced by arms imports rather than disposal via export or sale. It was noted that compliance with international obligations, including assurances provided in end use/r documentation, can help demonstrate that a State is a responsible end user and provide confidence regarding post-delivery cooperation. Conversely, cases of unauthorized re-export or leakage from national stockpiles can have a detrimental impact on post-delivery cooperation and might result in exporting States requesting additional measures to prevent diversion, potentially including post-delivery inspections.

Observations on potential opportunities and challenges

Several potential measures could be undertaken by African States to strengthen end use/r control systems, including:

- Engage in an African **dialogue on key terms** that not only draws upon African regional and subregional definitions, but that seeks to align the definitions of key terms in African arms control instruments. This dialogue could be expanded to include consideration of definitions of key terms developed by the EU and the Wassenaar Arrangement, which could develop into a global dialogue with exporting States.

- Develop **guidance on roles and responsibilities**, especially with regard to import and transit, but also export and brokering, that is tailored for different stakeholders within a State (e.g. licensing, customs, law enforcement). The guidelines could be developed at the global, regional or subregional level, but would still need to be domesticated for national use.
 - The ATT working group on implementation represents a potentially valuable forum for a global framework for developing such guidance.
 - RECSA has developed general guidance for implementation of the Nairobi Protocol; such an exercise could be replicated for other regional small arms instruments to support the establishment of robust national end use/r control systems. At the same time, there remains potential for an African regional approach that could facilitate an exchange of good practices across the continent.
- Establish and maintain an **effective and relevant national legal framework** for an end user/r control system and arms transfer regulations. This will help to prevent diversion and implement international, regional and subregional instruments. The ATT and subregional small arms instruments provide the impetus for high-level political support for such legal reforms and the provision of necessary resources by the State. In addition, international assistance and cooperation programmes exist to support legal reforms to effectively implement the ATT and the UN PoA.
- Undertake **sustainable capacity building at the operational level** to ensure effective enforcement of the national system. It is important to institutionalize knowledge, practice and inter-agency cooperation within a State rather than relying on personal knowledge and networks. Several African States have established inter-agency commissions on small arms that could be utilized to support institutionalization.
- **Sharing information and actionable intelligence** on diversion risks via bilateral cooperation and multilateral networks is crucial for effective enforcement and benefits from the development of an information management system for data collection and analysis. Over time, the ATT could provide a forum to facilitate such an exchange of information. However, a potential forum dedicated to the African region to facilitate information sharing on the issue of diversion risks was not identified during the consultative meeting.
- Encourage States that contribute to **AU and UN peacekeeping missions to apply stringent controls to arms and ammunition** taken on missions, and not to supply arms and ammunition to armed actors in the host State without providing information to the national government on the type, quantity and markings.
- For post-delivery cooperation between exporting and importing States to be effective, the importing State needs to have **strong mechanisms for information sharing and verification of records against stocks within the State**. This enables good quality cooperation rather than monitoring and control from the exporting State towards the importing State.



UNIDIR

Meeting Summary

Examining Common Regional Understandings to Strengthen End Use/r Control Systems to Prevent Arms Diversion

**Regional Consultative Meeting
Nairobi, Kenya
6–7 October 2016**

This regional seminar brought together representatives from national arms transfer control authorities, presidential advisers and representatives of diplomatic missions, and experts from specialized organizations to consider how States can enhance shared understandings and cooperation to strengthen their national end use/r control systems in a practical manner in order to mitigate the risk of diversion to unauthorized end users and/or end uses. This meeting is part of a larger UNIDIR project entitled “Tackling Diversion: Promoting Regional Dialogue to Enhance Common Understanding and Cooperation to Strengthen End Use/r Control Systems”.