



# THE ARMS TRADE TREATY

ASSESSING ITS IMPACT  
ON COUNTERING  
DIVERSION

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 **UNIDIR**



**STIMSON**

## ABOUT THE RESEARCH

"Strengthening shared understanding on the impact of the Arms Trade Treaty (ATT) in addressing risks of diversion in arms transfers" is a joint research initiative by the United Nations Institute for Disarmament Research (UNIDIR), Conflict Armament Research, and the Stimson Center (jointly referred to as the Consortium). The objective of the initiative is to enhance knowledge and facilitate dialogue among States to strengthen shared understanding on the impact of the ATT in addressing risks of diversion in arms transfers, and to identify options and avenues for more effective policies and practices under the Treaty moving forward. The research aims to reflect on the challenges and generate ideas to strengthen counter-diversion measures within the Treaty's framework. To be more precise, the main goals of this research initiative are:

- a** To provide States Parties with a voluntary methodological tool which can be used to assess the practical and systemic measures they have in place to counter diversion when implementing ATT provisions throughout the arms transfer chain;
- b** To provide a menu of effective counter-diversion measures consistent with the ATT for use on a voluntary basis by States Parties; and
- c** To examine the impacts of the ATT on efforts to prevent, detect and eradicate the diversion of conventional arms.

During 2020–2022, the Consortium produced three issue briefs:

- I** Obligations to Prevent the Diversion of Conventional Arms<sup>1</sup>
- I** Measures to Prevent, Detect, Address and Eradicate the Diversion of Conventional Arms<sup>2</sup>
- I** Diversion Analysis Framework<sup>3</sup>

In addition, the Consortium has convened eight online and in-person meetings to share research findings and the resources being developed to support an assessment of the impact of the ATT on efforts to address the diversion of conventional arms.

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<sup>1</sup> Brian Wood, "The Arms Trade Treaty: Obligations to Prevent the Diversion of Conventional Arms", Issue Brief no. 1, United Nations Institute for Disarmament Research with Conflict Armament Research, Small Arms Survey and Stimson Center, 2020. The Small Arms Survey contributed as a research partner until June 2021.

<sup>2</sup> Brian Wood and Paul Holtom, "The Arms Trade Treaty: Measures to Prevent, Detect, Address and Eradicate the Diversion of Conventional Arms", Issue Brief no.2, United Nations Institute for Disarmament Research with Conflict Armament Research, Small Arms Survey and Stimson Center, 2020.

<sup>3</sup> Alfredo Malaret Baldo, Manuel Martinez Miralles, Erica Mumford and Natalie Briggs, "The Arms Trade Treaty Issue Brief 3: Diversion Analysis Framework", United Nations Institute for Disarmament Research with Conflict Armament Research and Stimson Centre, 2021.

## ACKNOWLEDGEMENTS

Support from UNIDIR core funders provides the foundation for all of the Institute's activities. This joint research is supported by the Governments of France and Germany.

The author and research partners wish to thank the officials from the eight ATT States Parties who participated in the study. The author would also like to thank the research team and Jonah Leff, Pablo Rice, Shannon Dick and Ruben Nicolin for their research support and comprehensive review of previous drafts of the report. Design and Layout by Ribale Sleiman Haidar. Cover photo: Unloading weaponry cargo, Israel Defense Forces.

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## ABOUT THE RESEARCH PARTNERS

### UNIDIR

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 a 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 activities are funded by contributions from Governments and donor foundations..

### CONFLICT ARMAMENT RESEARCH

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### STIMSON CENTER

For three decades, Stimson has been a leading voice on urgent global issues. Founded in the twilight years of the Cold War, the Stimson Center pioneered practical new steps toward stability and security in an uncertain world. Today, as changes in power and technology usher in a challenging new era, Stimson is at the forefront—engaging new voices, generating innovative ideas and analysis, and building solutions to promote international security, shared prosperity, and justice through applied research and independent analysis, deep engagement, and policy innovation. Stimson organises its work in cross-programme research areas: non-proliferation, technology and trade, resources and climate, international order and conflict, US foreign policy, and Asia.

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## ACRONYMS & ABBREVIATIONS

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<b>ATT</b>	Arms Trade Treaty
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<b>CSP</b>	Conference of States Parties
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<b>DVC</b>	Delivery Verification Certificate
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<b>EUC</b>	End-User Certificate
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<b>ITI</b>	International Tracing Instrument
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<b>OECD</b>	Organisation for Economic Co-operation and Development
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<b>PoA</b>	United Nations Programme of Action on Small Arms
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<b>SALW</b>	Small Arms and Light Weapons
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<b>UN</b>	United Nations
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<b>UNDP</b>	United Nations Development Programme
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<b>UN GA</b>	United Nations General Assembly
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<b>UNROCA</b>	United Nations Register of Conventional Arms
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<b>UNTOC</b>	United Nations Convention against Transnational Organised Crime
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<b>VTF</b>	Voluntary Trust Fund (Arms Trade Treaty)
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## TABLE OF CONTENTS

<b>Executive summary</b>	<b>8</b>
<b>1 Introduction</b>	<b>12</b>
<b>2 Developing a Conceptual Framework for Assessing the Impact of the ATT on Countering Diversion</b>	<b>16</b>
2.1 The Concept of an “Enabling Environment” to Counter Diversion	19
<b>3 Findings from the Pilot Testing of the Counter-Diversion Assessment Tool with Eight ATT States Parties</b>	<b>21</b>
3.1 Impacts on Counter-Diversion Measures Applicable to all Stages of a Transfer	23
3.2 Counter-Diversion Measures Prior to a Transfer	37
3.3 Counter-Diversion Measures During a Transfer	50
3.4 Delivery and Post-Delivery Counter-Diversion Measures for a Transfer	60
<b>4 Concluding Remarks</b>	<b>70</b>
<b>Annex 1. The Counter-Diversion Assessment Tool</b>	<b>73</b>
<b>Annex 2. Preliminary Baseline Assessment for Pilot Study Countries</b>	<b>83</b>
<b>Annex 3. Data Sources to Identify Relevant Measures</b>	<b>85</b>

### LIST OF BOXES

Box 1	Developing the Counter-Diversion Assessment Tool	14
Box 2	Key Terms Used in the Research	15
Box 3	Summary of Systemic and Practical Measures to Counter Diversion	18
Box 4	Relevant International Instruments and Standards for the Regulation of the Transportation of Conventional Arms by Road, Rail, Sea or Air	57
Box 5	Secure Management of Transferred Arms During Deployment	69

# EXECUTIVE SUMMARY

Under Article 11 of the Arms Trade Treaty (ATT), States Parties have an obligation to prevent diversion in conventional arms transfers. This report presents findings from the testing of a new voluntary Tool developed to assist interested States Parties in analysing their enabling environment for preventing diversion, covering measures across all stages of the arms transfer chain. Therefore, this report provides an initial assessment of the impact of the ATT on measures taken by a sample of eight ATT States Parties. The report makes two contributions: First, it highlights the impact of the ATT on the implementation of counter-diversion measures across the arms transfer chain, showing an overall significant strengthening of States Parties' enabling environments. Second, it validates the Counter-Diversion Assessment Tool and demonstrates its usefulness for identifying gaps and effective measures for preventing diversion in a comprehensive manner.

ATT Article 11 requires every State Party involved in the international transfer of conventional arms to take measures to prevent, detect, and address the diversion of conventional arms at every stage in the transfer chain. Previous research has identified a comprehensive list of diversion risk factors.<sup>4</sup> The Counter-Diversion Assessment Tool developed for this study compiles a list of indicative measures corresponding to these risk factors that have a direct relationship to ATT provisions for the prevention of diversion, encompassing unilateral, bilateral, and multilateral systemic and practical measures. Each set of measures is accompanied by a list of questions facilitating the assessment of the existence and efficacy of an enabling environment for preventing diversion in each State Party using the Tool.

For the purposes of this study, an enabling environment for preventing diversion (*counter-diversion enabling environment*) is:

**a constellation of systemic and practical measures applicable to each State *unilaterally* (affecting actors and items directly within an ATT State Party's national jurisdiction), *bilaterally* (affecting actors and items within two national jurisdictions, at least one of which is an ATT State Party) and *multilaterally* (affecting actors and items internationally and/or regionally amongst ATT States Parties and non-parties) throughout the arms transfer chain in order to address the risks of diversion.**

In the pilot study, the Tool was applied to a quasi-representative sample of eight ATT States Parties anonymised and divided into three groups based on their rankings in the United Nations Development Programme's (UNDP) Human Development Index. This was done to facilitate comparability and analysis of the findings. Group 1 represents three highly developed countries who are significant manufacturers, exporters and importers of conventional arms. Group 2 represents two countries that are mid-range in terms of their development. One of the countries in Group 2 is a mid-range arms exporter and importer while the other is largely dependent on imported arms. Group 3 represents three less developed countries that are highly dependent on imports for their national holdings of arms and are also significant locations for the transit of arms. The study, via interviews with national authorities from the eight States Parties and desk research, presents findings on the measures taken by the States since the ATT entered into force in December 2014.

<sup>4</sup> Alfredo Malaret Baldo, Manuel Martinez Miralles, Erica Mumford and Natalie Briggs, "Arms Trade Treaty Issue Brief 3: Diversion Analysis Framework", United Nations Institute for Disarmament Research with Conflict Armament Research, Stimson Centre, 2021.

**Section 3.1** presents findings from the assessment of the eight States Parties' measures to:

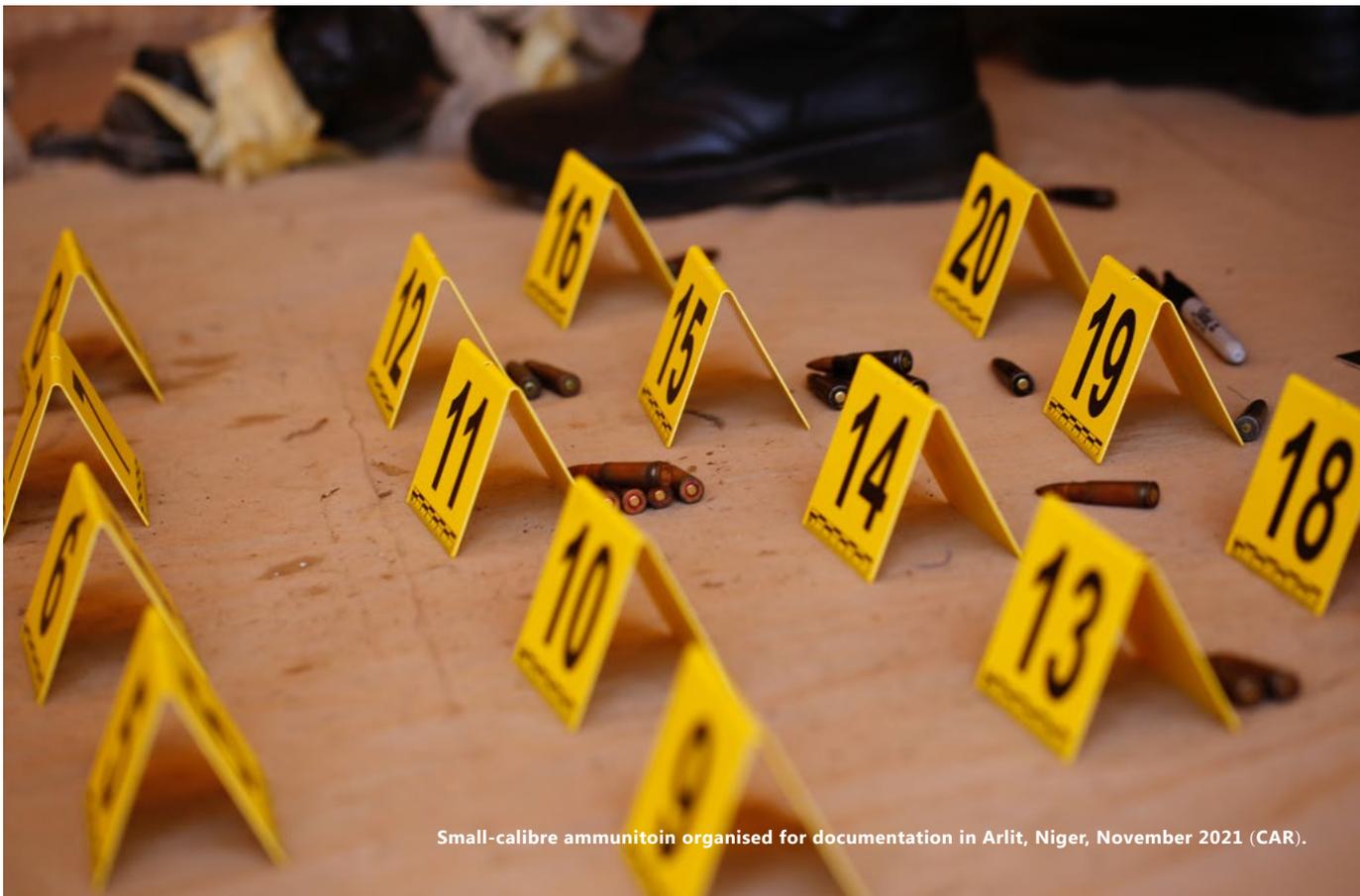
- Strengthen institutional capacities to control arms transfers; and
- Criminalise and detect deceptive methods of diversion.

These measures are applicable to all stages of the arms transfer chain. The ATT's impact on Group 2 and 3 countries was strongly evidenced by the political and practical impetus gained by these States in implementing effective measures to strengthen their enabling environments. For Group 1 countries, the impact of the ATT, while notable, was generally minimal with regards to the measures assessed here as most of the States had well-established national control systems prior to the ATT's entry into force. Thus, the notable impact of the Treaty on the Group 1 countries was seen in underscoring existing gaps in their legislative and regulatory frameworks and prompting amendments and measures to further strengthen their enabling environments where necessary.

**Section 3.2** presents findings on the measures taken by the States Parties to address diversion risks before transfers by assessing the existence and efficacy of measures applicable to the:

- Manufacture and assembly of conventional arms; and
- Diversion risk assessment of an export.

The study shows that most of the examined States Parties already had in place relevant national legislation regulating actors and entities engaged in the manufacture and assembly of conventional arms prior to the ATT's entry into force. In terms of measures taken by the States to prevent diversion during export risk assessments, the research revealed that most of the States Parties draw extensively on the guidelines



and conventions of other multilateral and regional instruments to which they are a Party thereby showing the complementarity of the ATT with other relevant international and regional instruments in terms of measures applicable before authorising or denying a transfer.

The findings presented in **Section 3.3** focus on counter-diversion measures applicable during the transfer. Questions from the Counter-Diversion Assessment Tool assessed measures applicable to:

- Transport and Routes; and
- Unauthorised cross-border movements.

The research for this study found that Group 1 States Parties had appropriate measures applicable to transport and transfer routes prior to the ATT's entry into force. However, these States Parties noted the ATT's important role in reinforcing the norms and standards contained in international transportation treaties to implement appropriate measures during a transfer to promote a more secure global arms trade.

In terms of measures to address unauthorised cross-border movements of conventional arms and related items, all the States Parties engaged in the study participated in some form of bilateral or regional arrangements or initiatives that allow joint monitoring, patrols and inspection of borders and border regions, carrying out law enforcement activities, investigating cross-border firearms trafficking offenses and adequate training of law enforcement officials to support diversion prevention efforts. The research showed that States Parties' participation in such arrangements facilitated the exchange of information relevant to diversion prevention efforts such as the kinds of information recommended in ATT Articles 11 (5) and 15 (4).

**Section 3.4** presents evidence of the ATT's impact on States Parties' progress in implementing appropriate measures to prevent, detect, mitigate and address diversion at the delivery and post-delivery stage. The research shows that the ATT influenced change in at least one country in all three Groups. At this stage, the study assessed the States Parties' progress in implementing measures:

- At points of delivery;
- In national stockpiles; and
- For secure management of transferred arms during deployment.

To enhance delivery and post-delivery verification procedures, one country in Group 1 introduced a new measure for carrying out selective post-shipment controls in third countries following the ATT's entry into force. This measure is now enshrined in the end-user certificates (EUC) of the State Party, further strengthening its EUC requirements. One country in Group 2 also introduced a series of reforms in 2020, to strengthen customs controls to enhance measures at the points of delivery. In Group 3, one country enacted a law in 2019, to enhance efforts to prevent diversion of arms during deployment by criminalizing the illegal misappropriation of arms, ammunition and related materials by members of the armed forces or an insurrectionary movement with punishments ranging from five years in prison if violence or threats are used to life imprisonment for uniformed officers.

Overall, the study documents significant progress made by the States Parties in strengthening their enabling environments to prevent diversion and suggests that the ATT has played a role in facilitating or initiating these changes. The level of progress varied across the different types of measures and the different groupings. This suggests that States in a particular group might have prioritised some measures, perhaps due to similar needs or systems in place before the Treaty came into force. Despite the documented progress made by the States Parties in strengthening their counter-diversion enabling environment, the officials

interviewed willingly identified the need to expand and entrench measures in certain areas, highlighting appetite and room for more effective policies and practices under the Treaty moving forward.

Finally, the pilot study validates the practical applicability and utility of the Counter-Diversion Assessment Tool to assess a State's enabling environment for preventing diversion in a systematic and comprehensive manner. It constitutes a first step in using the Tool. Looking forward, the Consortium encourages all interested ATT States Parties and stakeholders to utilise the Tool in assessing the existence and efficacy of an enabling environment in their national context and share findings in relevant ATT, multilateral and regional meetings pursuant to their national laws to increase knowledge on effective counter-diversion measures and policies. The Consortium also welcomes feedback from stakeholders on the use of the Tool for consideration in any potential future revisions.

AMISOM and Somali Troops Collaborate in Anti-Shabaab Operation, 2012. Somalia. UN Photo / Stuart Price.

1

# INTRODUCTION

The diversion of conventional arms and related items to the illicit market and to unauthorised end users and uses poses a significant threat to societies around the globe. The ATT, which was adopted by the United Nations General Assembly (UNGA) on 2 April 2013 and entered into force on 24 December 2014, is the first multilateral instrument to provide a binding framework to prevent and address the diversion of conventional arms through the implementation of prevention, risk mitigation, detection, information-sharing, enforcement, and other measures.<sup>5</sup>

Since the Treaty's entry into force, States Parties have highlighted the need to tackle diversion as a critical aspect of the Treaty's implementation and have discussed and developed recommendations for this purpose. For example, the issue of diversion was the thematic focus of the Fourth and Sixth Conferences of States Parties to the ATT (CSP4 in 2018 and CSP6 in 2020) while the Third Conference of States Parties to the ATT (CSP3) established a dedicated sub-working group to support implementation of Article 11 (Diversion) under the standing Working Group on Effective Treaty Implementation (WGETI). Furthermore, the thematic foci of ATT CSP7 and ATT CSP8 were closely related to diversion prevention.

This report presents the results of an initial impact assessment study, conducted by UNIDIR, Conflict Armament Research and the Stimson Center (the Consortium), to analyse the impact of the ATT on progress made by a sample of eight ATT States Parties that are seeking to address risks related to the diversion of conventional arms transfers. The research for this study was conducted using a new Tool developed by the Consortium (hereafter referred to as the "Counter-Diversion Assessment Tool", or shortened to "the Tool"). The Tool was developed with the objective of providing a voluntary tool that can assist ATT States Parties to assess the existence of practical and systemic measures throughout the arms transfer chain to establish an enabling environment to address the risks of diversion.

The Counter-Diversion Assessment Tool should be considered a living tool subject to changes and updates. The author and research partners may revise the Tool in the future to integrate feedback received from its use by interested stakeholders without announcing the edits or issuing a formal notice. As such, stakeholders are encouraged to endeavour to utilise the most up-to-date version of the Tool, as posted on UNIDIR's website. In addition, this study is an initial effort to take stock of the ATT's impact on measures to prevent, detect and address the diversion of conventional arms and related items. While the study does not necessarily demonstrate in each case a clear causal relationship attributable solely to the ATT, it highlights States Parties' progress in implementing counter-diversion measures post ATT adoption showing the correlation with and the impact of the Treaty. It is hoped that the findings will be useful for ATT States Parties, Working Groups and other interested stakeholders to promote the establishment and strengthening of sustainable measures within the framework of the ATT that create an enabling environment for countering the diversion of conventional arms.

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<sup>5</sup> The text of the Treaty is available at <https://thearmstradetreaty.org/treaty-text.html?templateId=209884>. The ATT was adopted by the General Assembly in April 2013 and entered into force on 24 December 2014. As of the time of publishing this report in August 2022, the ATT had 111 States Parties.

## **Box 1. Developing the Counter-Diversion Assessment Tool**

The Counter-Diversion Assessment Tool that was piloted in this study drew upon findings from the Consortium's previous research during 2020-2021. In developing the Tool, the Consortium engaged in the following steps:

- 1** Preliminary research to determine the amount of information available on effective counter-diversion measures taken by States and options to strengthen such measures through a preliminary baseline assessment of ATT and PoA reports of 20 ATT States Parties. The research showed that relevant information was not available at all in some cases or insufficient in others.
- 2** Based on this finding, the Consortium determined that in-depth case studies involving competent national authorities from the States Parties might be useful in arriving at the researched information and developed elements of a draft methodology for assessing the existence of such measures considering practical and systemic measures implemented by States unilaterally, bilaterally and multilaterally to establish a counter-diversion enabling environment. This work drew from the ATT Issue briefs 1, 2 and 3 previously published by the Consortium.
- 3** To validate and test the new methodology, the Consortium conducted a pilot study with a carefully selected quasi-representative sample of eight ATT States Parties, shortlisted from the 20 States Parties previously analysed in step 1.

The feedback on the methodology from the State officials engaged in the pilot study has supported in finalising the Counter-Diversion Assessment Tool presented in **Annex 1** of this report. The Tool contains a questionnaire and menu of effective counter-diversion measures applicable throughout the stages of the arms transfer chain.

It is designed as a voluntary tool to assist State Parties in examining the existence and efficacy of an enabling environment to prevent, detect and address diversion (referred to in this study as counter-diversion enabling environment) throughout the transfer chain of transfer. It takes into account measures that have been used and promoted by ATT States Parties.

## Box 2. Key Terms Used in the Research

The ATT does not provide definitions of its key terms. The following working definitions of diversion and explanation of other key terms used in this research were developed following a review of United Nations and other multilateral instruments, as well as relevant literature on the diversion of conventional arms and ammunition.<sup>6</sup>

### Diversion

For the purposes of this study, diversion is the rerouting and/or the appropriation of conventional arms or related items contrary to relevant national and/or international law leading to a potential change in the effective control or ownership of the arms and items. Depending on the context, forms of diversion could include:

- Diverted items that enter an illicit market or are redirected to an unauthorised or unlawful end user or for an unauthorised or unlawful end use;
- Items diverted through their rerouting and/or misappropriation at any point in the transfer chain, including in the export, import, transit, trans-shipment, storage, reactivation or retransfer of the items; and
- Items diverted through a change of effective ownership and/or control of the items in one or more forms of exchange, whether directly negotiated or brokered—grant, credit, lease, barter, and cash—at any time during the life cycle of the items.

### Measures

For the purposes of this study, measures include the establishment and maintenance of relevant legislation, regulations, administrative procedures, information-sharing, international cooperation or other actions by a State for the purpose of preventing, mitigating, detecting, investigating, and prosecuting diversion. Such measures can take the form of:

- Systemic Measures** referring to institutional capacity, mechanisms or comprehensive arrangements established and maintained for national control systems and international cooperation to prevent, detect, address and eradicate diversion; or
- Practical Measures** covering specific actions taken to prevent, detect, address, and eradicate diversion before, during and after an international arms transfer has taken place.

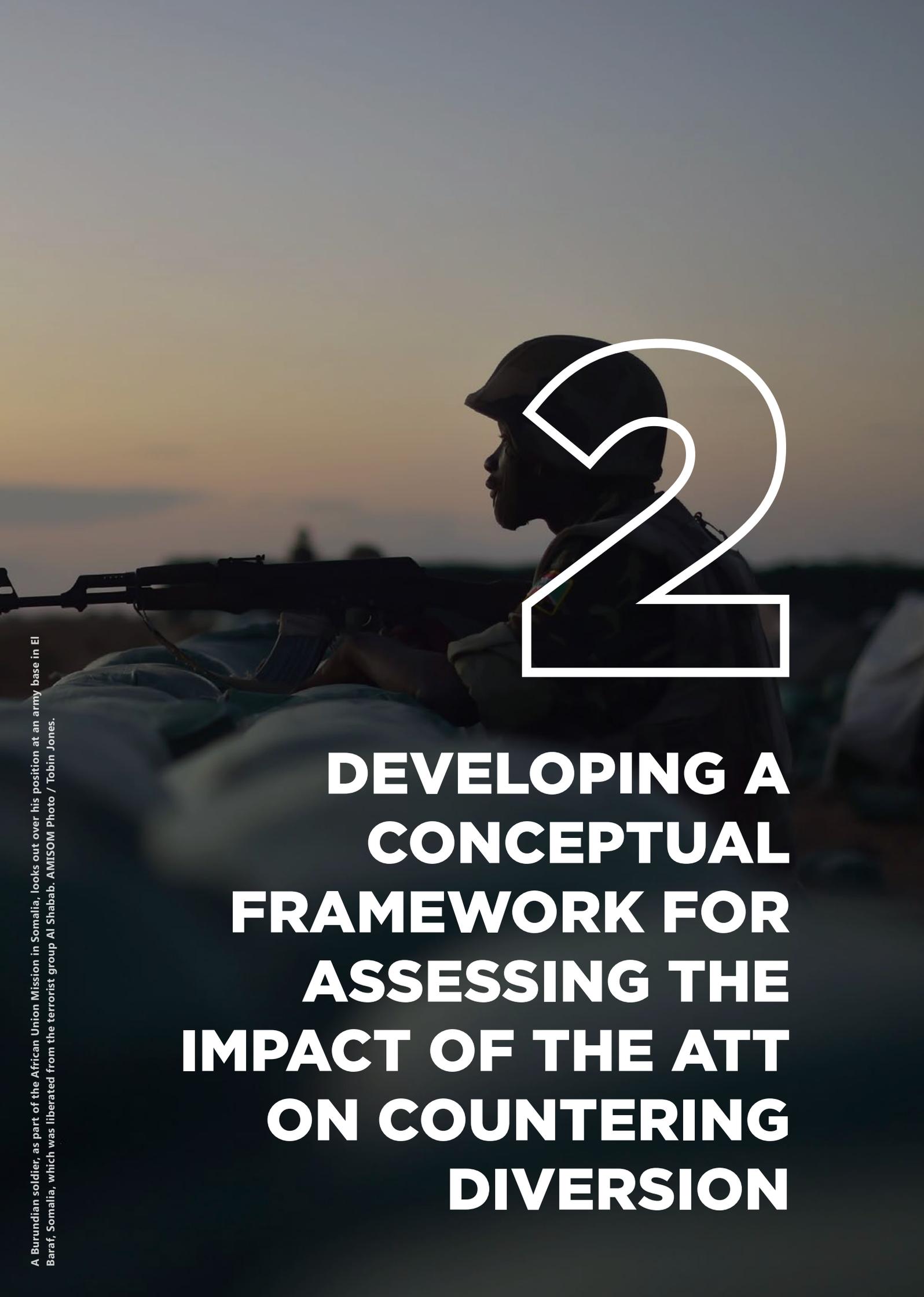
### Counter-diversion enabling environment

A counter-diversion enabling environment is a constellation of systemic and practical measures applicable to each State unilaterally (affecting actors and items directly within an ATT state Party's national jurisdiction), bilaterally (affecting actors and items within two national jurisdictions, at least one of which is an ATT State Party) and multilaterally (affecting actors and items internationally and/or regionally amongst ATT States Parties and non-parties) throughout the arms transfer chain in order to address the risks of diversion.

### Impact

Evidence that a State's ATT implementation measure has had a direct or indirect effect on preventing, reducing, or detecting the diversion of one or more conventional arms transfers or of already transferred arms.

<sup>6</sup> The approach is explained in Brian Wood, "The Arms Trade Treaty: Obligations to Prevent the Diversion of Conventional Arms", Issue Brief no. 1, United Nations Institute for Disarmament Research with Conflict Armament Research, Small Arms Survey and Stimson Center, 2020; it is elaborated further in Brian Wood and Paul Holtom, "The Arms Trade Treaty: Measures to Prevent, Detect, Address and Eradicate the Diversion of Conventional Arms", Issue Brief no.2, United Nations Institute for Disarmament Research with Conflict Armament Research, Small Arms Survey and Stimson Center, 2020.



A Burundian soldier, as part of the African Union Mission in Somalia, looks out over his position at an army base in El Baraf, Somalia, which was liberated from the terrorist group Al Shabab. AMISOM Photo / Tobin Jones.

# **DEVELOPING A CONCEPTUAL FRAMEWORK FOR ASSESSING THE IMPACT OF THE ATT ON COUNTERING DIVERSION**

A conceptual framework for assessing the impact of the ATT on countering diversion requires consistency with the ATT provisions and framework and must facilitate the collection and analysis of sufficient relevant empirical data to arrive at the intended outcome. In view of this, the Consortium dismissed the option of counting incidents of diversion, or the number of conventional arms diverted and/or related items seized before and after the entry into force of the ATT to help determine the Treaty's impact due to a lack of reliable and comprehensive data on such incidents and the challenges of ascribing the impact of the Treaty solely to such occurrences. For the purposes of this study, the Consortium therefore decided to gauge the impact of the ATT on preventing and addressing the diversion of conventional arms transfers by assessing the number and extent of relevant measures taken by each State Party that have a direct relationship to ATT provisions for the prevention, risk mitigation, detection, prosecution, and eradication of diversion.

Based on a preliminary baseline assessment conducted by the Consortium, it was concluded that sufficient reliable and comparable data on the various measures and their implementation could be collected and analysed in cooperation with the competent national authorities of States Parties. The measures analysed could be understood as systemic measures and practical measures taken prior to, during, and after an international arms transfer has taken place. Box 3 provides some examples of systematic and practical measures to counter diversion, with further information on types of measures and their relationship to the provisions of the ATT listed in the Tool in Annex 1.

Evidence suggests that often a combination of measures has been the only way of reducing the risk of diversion to a minimum or addressing a specific incident of diversion. Furthermore, since international transactions between trade jurisdictions and physical movements of arms between territories are involved, many measures to address diversion require cooperation and assistance between two or more States. In addition, a State involved in a transfer will not necessarily be party to the ATT, so the extent to which that non-ATT State cooperates in preventing, detecting, addressing, and eradicating diversion would depend on other elements present or absent in its control systems.

Taking these factors into account, the Consortium determined that a research strategy to promote preventive action by ATT States Parties could focus on the efficacy of different types of measures that contribute to a counter-diversion enabling environment.

## **Box 3. Summary of Systemic and Practical Measures to Counter Diversion**

### **Systemic Measures Related to National Control Systems**

- | National legislation, regulations, administrative procedures on all aspects of the arms transfer chain
- | National inter-agency cooperation and communication
- | National licensing system
- | Systems for information-sharing with other States bilaterally and through multilateral organisations
- | End-use/user and delivery notification systems and elements
- | Criminalisation and penalties applicable to deliberate and reckless acts of diversion
- | Detection and prosecution systems
- | Outreach and training systems for key stakeholders
- | Corporate auditing and internal compliance programmes
- | Public awareness programmes

### **Practical Measures**

#### *For Pre-Transfer Stage*

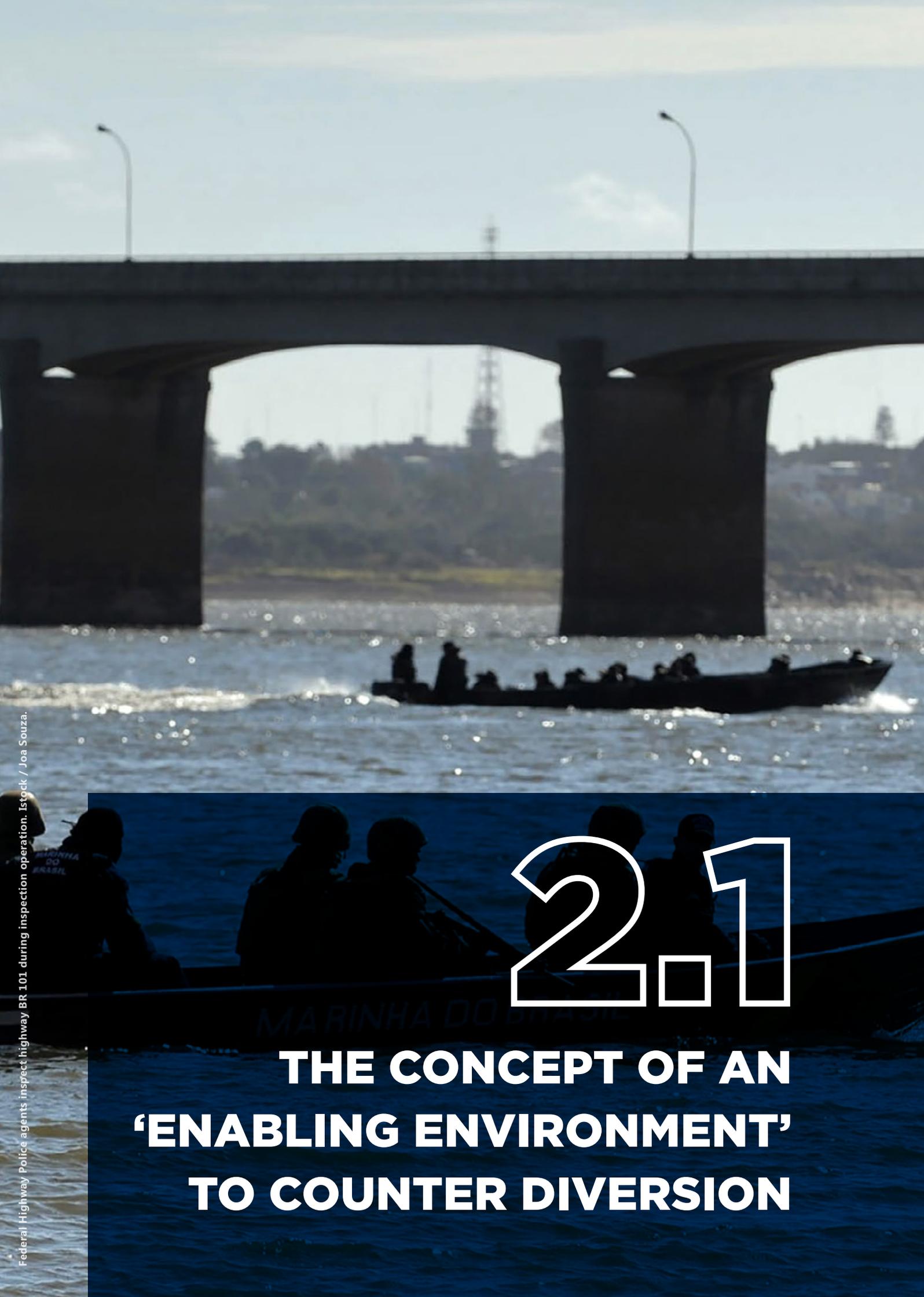
- | Prevention measures including risk mitigation measures
- | Use of diversion risk indicators in licence approvals
- | Inter-agency and inter-State information sharing
- | Pre-shipment physical inspections
- | Consultations with industry

#### *For In-Transfer Stage*

- | Prevention and risk mitigation measures for transit and trans-shipment
- | Customs notifications and clearance procedures
- | Additional safeguards such as security escorts, satellite tracking

#### *For Delivery and Post-Delivery Stage*

- | Arrival inspections and delivery notifications systems
- | Safe and secure storage systems
- | Post-delivery cooperation



Federal Highway Police agents inspect highway BR 101 during inspection operation. Istock / Joa Souza.

# 2.1

## THE CONCEPT OF AN 'ENABLING ENVIRONMENT' TO COUNTER DIVERSION

If a country assessment focuses on the extent to which a State Party is taking a range of identifiable systemic and practical measures under the ATT which will establish and maintain national and international arrangements that create an enabling environment for the prevention of diversion, a key consideration is how research can be framed and conducted to assess the efficacy of such an enabling environment. The responsibility for the creation of this enabling environment encompasses three main dimensions:

- 1 States acting **individually** to adopt and implement measures that affect actors in the international arms trade directly within their jurisdiction.
- 2 States acting **bilaterally** to implement measures that affect such actors even though the actor is not within the jurisdiction of the initiating State.
- 3 States acting **collectively** in global and regional partnerships to formulate joint policies and common programmes to address diversion.

To assess progress in meeting these responsibilities, the Consortium developed a series of indicators corresponding to measures taken by States which have already proven useful to address diversion at all stages of the transfer chain (before, during, after the transfer). These are represented in the Tool (see Annex 1) as "indicative measures" and correspond to the types of diversion risk at each stage of the transfer chain. The Tool provides a series of questions to assess the extent to which the State Party has in place the measures that make up the enabling environment, which can then be explored to assess the likely efficacy of that environment to counter diversion.

It is important to stress that the efficacy of measures taken by a State Party will also depend on relevant competent authorities within that State and—where appropriate—their counterpart authorities in other affected States. For example, to identify the source of a seized, collected, or recovered illicit weapon and determine its provenance and point of diversion, competent authorities working together can seek to trace the item's international chain of custody in the hope of clearly determining point(s) of diversion. If there are effective national control systems in place, backed up by sufficient political will and by anti-trafficking and anti-corruption practices, such tracing efforts can lead to successful corrective actions, including prosecutions that can act as a deterrent. Such tracing is carried out by law enforcement agencies and the results are occasionally made public through the courts and media.



3

**FINDINGS FROM THE  
PILOT TESTING OF  
THE COUNTER-  
DIVERSION  
ASSESSMENT TOOL  
WITH EIGHT ATT  
STATES PARTIES**

For the in-depth pilot study to assess the enabling environments of eight ATT States Parties and validate the Tool, the Consortium used a combination of interviews and desk research using materials listed in Annex 3. The assessments sought to examine measures taken that shed light on the impact of the ATT through the efforts of the States Parties to prevent, detect and eradicate the diversion of conventional arms. The process and criteria for the preliminary baseline assessment to select the eight States Parties for the pilot study is detailed in Annex 2.

Analysis of the impact of the ATT on the enabling environment of States Parties to counter diversion applied the questions in the Counter-Diversion Assessment Tool (see Annex 1). The key findings for each of the eight States Parties assessed for the pilot study are anonymised, but the Consortium determined that it was possible to use three groups, based on the UNDP's Human Development Index rankings, to show the varying impact of the ATT on the recent development of counter-diversion measures and to examine particular types of measures for countries with different national capacities.<sup>7</sup>

**Group 1** includes three highly developed countries ranked within the top 30 of the Human Development Index, and which are significant manufacturers, exporters and importers of conventional arms. These are referred to as **Country A**, **Country B**, and **Country C**.

**Group 2** includes two countries that are mid-range in their development and ranked between 30 and 80 in the Human Development Index. One of the countries is a mid-range arms exporter and importer, while the other is largely dependent on imported arms. These are referred to as **Country D** and **Country E**.

**Group 3** includes three countries that are less developed and ranked between 100 and 189 in the Human Development Index. All three countries are highly dependent on imports for their national holdings of arms, and yet are also significant locations for the transit of arms. These are referred to as **Country F**, **Country G**, and **Country H**.

The structure of the presentation of the findings below corresponds with the different sections of the Tool.<sup>8</sup> Each sub-section below introduces the focus in the Tool, followed with the relevant questions for that section of the Tool, before presenting the findings for countries in **Group 1**, **2**, and **3**. The numbering of the relevant questions for the sections may not necessarily follow a sequential order. A key findings box is presented at the start of each sub-section summarising the potential impact of the ATT, effective measures, and continuing challenges and gaps identified.

<sup>7</sup> See <https://hdr.undp.org/content/human-development-report-2020>.

<sup>8</sup> The Tool is divided into different sections according to the different stages of the transfer chain.



# 3.1

## **IMPACTS ON COUNTER-DIVERSION MEASURES APPLICABLE TO ALL STAGES OF A TRANSFER**

# KEY TAKEAWAYS

The ATT's impact on Group 2 and 3 countries was strongly evidenced by the political and practical impetus gained by these States in implementing effective measures to strengthen their enabling environments. For Group 1 countries generally, the notable impact of the Treaty served mainly to highlight existing gaps in their legislative and regulatory frameworks and prompting amendments and measures to further strengthen their enabling environments where necessary.

## Examples of Counter-Diversion Measures Taken by States Parties Post-ATT

### 3.1.1 Measures to Strengthen Institutional Capacities to Control Arms Transfers

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#### a Scope and functionality of the national control system

- Drafting of a new national arms control legislation to support domestication and implementation of ATT provisions on diversion.
- Expansion of the national legal framework for arms transfers to cover certain aspects of the arms trade that were not previously regulated by the State Party such as brokering.
- Development or update of national control lists in compliance with ATT Article 5 (2).

#### b Inter-agency cooperation and information-sharing at key levels

- Establishment of a new national coordination authority to facilitate information sharing among competent national authorities and maintain records to support counter-diversion efforts.

#### c Transparency and oversight mechanisms

- Regular and timely submission of initial reports and annual reports on actual arms transfers in compliance with ATT Articles 13 (1) and 13 (3).
- Ratification and implementation of provisions of other multilateral, regional and bilateral arrangements on anti-corruption, and transparency such as the United Nations Convention against Corruption, and the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention.

### 3.1.2 Measures to Criminalise and Detect Deceptive Methods of Diversion

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#### a Criminalisation of acts of diversion

Expansion and entrenchment of criminal penalties for arms transfer-related offenses including diversion.

Introduction of a new section on arms-related crimes into a State Party's national criminal code to improve the effectiveness of criminal investigation procedures for diversion and related crimes alongside strengthening measures to fight against organised crime, terrorism, and their financing.

#### b Law enforcement capacities in critical areas

Amendment of national legislation to include jointly agreed assistance in investigations, prosecutions, and judicial proceedings in relation to violations of national measures established pursuant to the ATT, including the use of international tracing mechanisms to identify points of diversion by the national police authority

## Gaps Identified and Avenues for Strengthening the Counter-Diversion Enabling Environment

With regards to scope and functionality of national control systems, while some of the States Parties have taken steps to draft or update legislation and national control lists to make them more comprehensive to allow the effective implementation of the ATT since their ATT ratification, these efforts are yet to yield results as the **newly drafted or updated legislation are still pending adoption** by the relevant competent national authorities.

In terms of inter-agency cooperation and information sharing at key levels, **two of the States Parties are yet to establish a formal inter-agency coordination mechanism since their ATT ratification.** In one of these States, competent national authorities implementing national arms transfer controls operate independently while in the other the government proposed bill for the establishment of a national conventional arms control authority is yet to be adopted.

**The criminalisation of acts of diversion was completely absent in the criminal code of one State Party, which is a mid-range arms exporter/importer.** The State Party neither criminalises the unauthorised import, export, delivery, movement, or transfer of firearms, their parts and components, and ammunition nor the falsification or illicit obliteration, removal, or alteration of firearms markings. The criminal procedural code does not envisage the application of special investigative measures for this provision, thus limiting the capability of law enforcement to conduct successful investigations, including on suspected and detected diversion cases.

The research also revealed that States Parties could do more to implement measures to allow for the provision to another State Party of jointly agreed assistance in investigations, prosecutions, and judicial proceedings in relation to violations of national measures established pursuant to the ATT.

## 3.1 Impacts on Counter-Diversion Measures Applicable to all Stages of a Transfer

The first section of the Tool poses questions intended to examine counter-diversion measures that are applicable to the effective regulation of all the stages of an arms transfer, rather than any one stage.

### 3.1.1 Measures to Strengthen Institutional Capacities to Control Arms Transfers

**The questions addressed in this sub-section focus on the following institutional capacities to control international transfers of conventional arms:**

- a Scope and functionality of the national control system
- b Inter-agency cooperation and information-sharing at key levels
- c Scope and functionality of the national control system

**The types of measures assessed in this sub-section seek to counter the following circumstances that can facilitate diversion:**

- | Grey areas and ineffective regulation of financial systems
- | Downsizing/dissolution/re-organisation of security forces
- | Government-sponsored unauthorised transfer or re-transfer
- | Widespread and systematic corruption
- | Fragmentation of State institutions

### 3.1.1.a. Scope and Functionality of the National Control System

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q7.** Does your State require any of the following actors to be registered and/or screened on a regular basis before they can engage in the international arms trade?

- a. Manufacturers and assemblers
- b. Dealers and wholesalers
- c. Brokers and agents
- d. Transport service providers
- e. Legal advisors

**Q8.** What types of conventional arms, if any, are not included in your national control list?

**Q9.** Are any of the activities listed below not regulated under national legislation?

- a. Manufacture and assembly
- b. Brokering of transactions
- c. Pre-export preparation of cargo
- d. Shipment, transit and trans-shipment
- e. Import delivery unloading, warehousing and local transport
- f. End-use/user operations and stockpiles

[> see Tool](#)

#### Group 1

**Countries A, B, and C** have well-established conventional arms manufacturing industries and national transfer control systems, as well as significant national resources in terms of national budgets, trained personnel, and advanced transport and communications systems. The entry into force of the ATT has not had much direct impact on the legislative scope of the national control systems in **Countries A** and **C**. Both States already had relatively comprehensive and robust legislation and well-resourced administrative procedures prior to becoming ATT States Parties. In **Country B**, however, evidence of the Treaty's impact was shown by the **Country's** implementation of measures to close gaps in its national control system since its signature of the Treaty.

The regulated activities in **Countries A, B** and **C** include the manufacture, export, import, transit, trans-shipment, storage and disposal of conventional arms, all of which require authorisation. **Countries A** and **C** had well-established and comprehensive national controls on international arms transfer activities outlined in ATT Article 2(2) prior to ratifying the ATT. **Country C** has further focused on addressing gaps in its national legislation

relating to intermediation or brokering activities, including whereby brokers use a foreign third party to facilitate a transfer of arms in violation of an international arms embargo.

Since signing the ATT, **Country B** has amended its national legislation and regulations to enhance its arms transfer authorisation scope and process. A first amendment expanded the scope of the State's brokering regulations, now requiring all entities operating in national jurisdiction to obtain permission to broker the transfer or sale of conventional arms between States. In two subsequent amendments, it also expanded and clarified which documents, including end-user documents, applicants must provide to the national authorities in order to be granted permission to export, broker, transit, and trans-ship conventional arms.

The national control lists of **Countries A, B, and C** cover all the items listed under articles 2(1), 3 and 4 of the ATT. The control lists are based largely on the Wassenaar Munitions List which is far more comprehensive than the ATT's minimal scope, and it is updated regularly. **Countries A** and **C** are also members of a regional organisation and thus also

use a regional military list for developing their national control list.

## Group 2

**Countries D** and **E** had national transfer control systems in place before becoming ATT States Parties, but have taken steps to strengthen their national transfer control system after signing the ATT. **Country D** introduced a law on the export and import of arms and military equipment soon after signing of the ATT. The law provides regulation for exports, imports, brokerage and technical services, including new provisions on shipment and delivery and includes the transfer of software and technologies by fax, telephone, electronic mail, or any other electronic means to a foreign territory. A subsequent law passed within two years after its signature of the ATT defined technical assistance to include instruction; training; transfer of technical information, professional knowledge and skills; or professional and consulting services, including assistance provided orally, and related to the development, production, assembly, testing, repair or maintenance of arms and military equipment. All importers, exporters, brokers and providers of technical assistance related to arms and military equipment in **Country D** must first be registered in compliance with new national law which allows for 5-year registrations following a security check procedure. Those registered are subject to comprehensive record-keeping and reporting obligations, and the authorities keep a database of all licences.

Officials of **Country E** interviewed for the pilot study indicated that national legislation provides a comprehensive framework which, along with federal policy, has allowed the State to fulfil all its obligations under the ATT. The ministry of defence has exclusive authority over the manufacture, export, import, transit, trans-shipment, brokerage and storage of conventional arms, except for arms used by the navy. At the same time, these officials consider that some aspects of national legislation could be updated to clarify certain operational issues.

The national control lists of **Countries D** and **E** cover all the items listed under articles 2(1), 3 and 4 of the ATT. Shortly after signing the ATT, **Country D** updated its list and then expanded it further during the early years of the ATT's entry into force to include

a comprehensive range of military equipment and technologies to be fully consistent with military list of the regional organisation it belongs to. **Country E**'s control list was by two inter-agency agreements of a committee established in 2011 as part of its preparations to join the Wassenaar Arrangement.

## Group 3

**Countries F, G** and **H** are highly dependent on imports of conventional arms for their security needs. All three countries suffer from porous borders and other problems related to the illicit circulation and trafficking of small arms. **Country G**'s ATT ratification process and its involvement in the CSP process, as well as its direct experience of a United Nations arms embargo, has encouraged the government to initiate measures on arms transfers that can assist the authorities in preventing diversion, although no major revision of the national legal framework or legislation governing arms transfers has yet been completed. **Countries F** and **H** have taken steps since becoming ATT States Parties to amend their national legislation on arms control or draft new legislation to implement key ATT provisions. These States Parties have received international assistance to support such efforts.

**Country F** regulates the import, export, trans-shipment, manufacture, purchasing, acquiring and selling of firearms and ammunition, as well as military goods. Transit or brokering of conventional arms is not explicitly regulated, though may in some cases be covered by existing legislation. Intermediaries such as customs brokers, freight forwarders, and consolidators are not required to register before engaging in commercial exports unless they are the owners/operators of the goods to be exported or if they represent overseas buyers/importers.

**Country F** recently tabled a bill to repeal and replace its national firearms legislation in order to strengthen the existing regulatory framework and enhance compliance with international obligations. It is expected that the new law when passed will increase penalties for firearms-related offences; clarify transit, trans-shipment, and brokering regulations; resolve operational challenges facing government authorities; and address emerging threats not referenced in the existing law, such as 3D-printed firearms.

**Country G** relies on a national arms transfer legislation dating from the late 1990s and on the progressive implementation, where possible, of its sub-regional arms control instrument which prohibits the export, import, transit, trans-shipment and brokering of SALW and their manufacturing materials into, from, or through the national territory of a Member State unless the transfer is authorised by an exemption certificate. The Country has however not passed a legislation to domesticate all aspects of the ATT and its sub-regional instrument and thus national legislation does not regulate arms brokering and related services.

**Country H**'s national legislation regulates the import, export, transit sale, transportation, delivery and acquisition of firearms, ammunition and parts and components. A new conventional arms control law has been drafted, which officials interviewed for this study expect to bring the State into alignment with the ATT requirements and other international standards. **Country H** has recently requested international assistance to establish national controls on brokering.

**Countries F** and **H** began to develop national control lists following their ratification of the ATT. By mid-2020, **Country H** had developed a draft national control list of military items, having benefited from an ATT Voluntary Trust Fund (VTF) project on the subject, and was awaiting appropriate legislation to be adopted. **Country F** has recently begun to develop a national control list. **Country G** introduced legislation in the early 1990s that included a national arms control list, covering a wide range of weapons of war, other weapons, plus ammunition, parts and components, but the government would like to address some gaps in the national control list, such as the exclusion of ballistic missiles.

### 3.1.1.b. Inter-Agency Cooperation and Information-Sharing at Key Levels

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q7.** Does your State require any of the following actors to be registered and/or screened on a regular basis before they can engage in the international arms trade?
- Manufacturers and assemblers
  - Dealers and wholesalers
  - Brokers and agents
  - Transport service providers
  - Legal advisors
- Q10.** Does the national authority have a system to assess the nature of any institutional risks of diversion such as corrupt practices, organised crime and lack of parliamentary oversight of procurement, and, if applicable, does the authority consider what available mitigation measures may help to reduce those risks to an absolute minimum?

[> see Tool](#)

#### Group 1

**Countries A, B, and C** enjoy a high level of cooperation and information-sharing among the competent national authorities involved in assessing and granting licences for arms trading activities. In **Country A**, four main national authorities are responsible for authorising licences for trade in conventional arms: the ministries of defence, finance, interior, and economics. Soon after the adoption of the ATT, **Country A** passed a new law that allows parliamentarians to address questions to the government regarding export licensing decisions for conventional arms exports.

#### Group 2

After signing the ATT, **Country D** established a new national coordination authority that enables regular cooperation among the ministries of defence, trade, foreign affairs, interior and justice, as well as among the intelligence, customs, and border control agencies. Under a new law passed soon after its signature of the ATT, the lead ministry maintains a database that contains information on:

- All issued, revoked, amended, terminated and rejected licences;

- The implementation of issued licences; and
- Entities and persons that have violated the provisions of the national arms trade law.

In **Country E** the ministry of defence may request information or support from other government authorities—including the ministries of foreign affairs, customs, and public security, as well as the attorney general's office—related to a particular transfer. The ministry of defence utilises an inter-agency committee to analyse export licence applications, as well as to decide on amendments to the national control list and the establishment of new export control measures.

#### Group 3

**Country F** still lacks a formal inter-agency coordination mechanism. Agencies involved in implementing national arms transfer controls operate independently. Therefore, the government has proposed the establishment of a national authority to coordinate the ministries of national security, foreign affairs and trade, as well as the police, defence forces, the firearms licensing authority, the trade board, and the seaport and airport authorities.

**Country G** established a national commission on SALW in 2009, which has received international assistance since 2011 to strengthen national record-keeping, marking, stockpile management, and weapons and ammunition collection and destruction.

**Country H** relies on the national police to authorise the import export, movement, storage, possession, sale, manufacturing and repair of firearms, their parts, components and ammunition. The national police keep records in a central registry of the acquisition, possession and transfer of all privately held firearms. The ministry of defence has powers

to control the import, export and transit of conventional arms. The competent national authorities for the regulation of transit and trans-shipment are the ministries of defence and foreign affairs, the national revenue authority under the ministry of finance, and the civil aviation authority under the ministry of communications and transport. The drafting of new legislation to establish a single national conventional arms control authority, which will replace the early 1970s arms transfer legislation as amended in the mid-1990s, was completed recently but is yet to be established in law.

### 3.1.1.c. Transparency and Oversight Mechanisms

This sub-section includes some publicly available information that was not provided during the pilot study but is relevant for indicating transparency and oversight for international arms transfers more generally.

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q10.** Does the national authority have a system to assess the nature of any institutional risks of diversion such as corrupt practices, organised crime and lack of parliamentary oversight of procurement, and, if applicable, does the authority consider what available mitigation measures may help to reduce those risks to an absolute minimum?

> see Tool

#### Group 1

**Countries A, B and C** have submitted regular annual reports on their actual exports and imports of conventional arms for the United Nations Register of Conventional Arms (UNROCA) since its inception in 1992, and also report biennially on national implementation of the UN Programme of Action on Small Arms and the International Tracing Instrument (PoA/ITI). With the ratification of the ATT, all three States Parties have complied with Article 13(1) and 13(3) and submitted an initial report on measures to implement the ATT and annual reports on exports and imports of conventional arms.

**Countries A and C** have published comprehensive national arms export reports in accordance with

provisions of a regional code of conduct on arms. They also exchange information via regional information exchange arrangements. Data collected by the national authorities of **Country A** on the activities of international arms trade companies can be made public if in the public interest, but the threshold for the release of such information is high.

**Countries A, B and C** are States Parties to the United Nations Convention against Corruption and members of the Organisation for Economic Co-operation and Development's (OECD) Anti-Bribery Convention. Both conventions require specific implementation measures to be taken, including measures related to transparency in public procurement.<sup>9</sup>

<sup>9</sup> According to Transparency International's Government Defence Integrity risk ranking, Country A was ranked at level B in 2020 which implies that, overall, there is a low risk for corruption in the defence and security sector, while Countries B and C were ranked at level C in 2020 implying a moderate risk of such corruption; see <https://ti-defence.org/gdi/>. Also, the Small Arms Survey's 2021 Small Arms Trade Transparency Barometer also ranked Country A as a very transparent exporter, Country C as highly transparent and Country B as moderately transparent; see <https://www.smallarmssurvey.org/sites/default/files/resources/SAS-BP-TB21.pdf>.

### Group 2

**Countries D** and **E** regularly report on arms exports and imports for the ATT, as well as on PoA/ITI implementation. Furthermore, both countries regularly reported to UNROCA until 2015 and 2017 respectively. In addition, **Country D** issues a national report on authorisations for export licenses and actual arms exports, transit and brokering, and **Country E** participates in the Wassenaar Arrangement information exchange on arms exports.

Like the countries in the previous Group, **Country D** and **Country E** are also parties to the Convention against Corruption, and **Country E** has ratified the

OECD Anti-Bribery Convention. **Country D** initiated three anti-corruption initiatives in the early years following their ATT signature on public procurement, whistle-blower protection, and parliamentary rules to reorganise parliamentary oversight of defence and intelligence organisations.

### Group 3

**Countries F, G** and **H** have submitted initial reports on measures to implement the PoA and also regularly report on measures to implement the PoA/ITI. The three countries have submitted national reports to UNROCA for at least a few years since its inception and are parties to the Convention against Corruption.

## 3.1.2 Measures to Criminalise and Detect Deceptive Methods of Diversion

**The questions addressed in this sub-section focus on the criminalisation and detection of diversion:**

- a Criminalisation of acts of diversion
- b Law enforcement capacities in critical areas

**The types of measures assessed in this sub-section seek to counter the following circumstances that can facilitate diversion:**

- | Fraudulent use of documentation
- | Use of front companies
- | Illicit brokering activities
- | Smuggling, including by postal and courier deliveries
- | Illegal acquisition and sales, including by international Internet transactions

### 3.1.2.a. Criminalisation of Acts of Diversion

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q1.** Is theft or the use of fraud, deception, corruption, violence or any other method of rerouting or misappropriation of arms listed as an aggravated criminal offence subject to severe criminal sanctions? If so, what sanctions are applicable?
- Q2.** Is it also a criminal offence to engage in arms exports, imports or brokering activities without a licence or official authorisation, or to do so in a manner that is in contradiction to the terms of a licence or authorisation? If so, what sanctions?

> see Tool

#### Group 1

At the multilateral level, **Countries A, B and C** are party to international instruments that require and recommend measures to be taken to criminalise and prohibit diversion, and acts and methods related to diversion, including the ATT, PoA/ITI, the Wassenaar Arrangement, and the Firearms Protocol, and a supplementary protocol to the Convention against Transnational Organized Crime (UNTOC).

Shortly after the ATT's entry into force, **Country A** introduced anti-corruption legislation specifically covering officials engaged in the regulation of the arms trade, which listed two types of passive bribery offences (taking bribes) and two types of active bribery offences (giving bribes). Natural persons can face a criminal sentence resulting in a financial penalty or imprisonment of up to five years, as well as the forfeiture of the proceeds from the crime.

**Country A** also introduced criminal penalties for various offences involving the acquisition, storage and carrying of firearms and related items to prepare or commit acts of violence or organised crime. Acts of diversion of war weapons from national stockpiles are criminal offences that incur a penalty of imprisonment from three months to five years.

**Country B** expanded and enhanced the criminal penalties for transfer-related offenses after signing the ATT. Penalties were increased for manufacturing, selling, importing, exporting or possessing certain categories of conventional arms without government authorisation; unlawfully posting to the Internet information on the manufacture or design of guns and explosives; and failing to report a lost

or stolen gun. Further, anyone who manufactures SALW without permission, or obtains such permission by fraud or other improper means, is subject to up to 15 years of imprisonment, or a very large fine. The criminal penalty for violating an order to halt transportation of conventional arms to verify the lawfulness of an export was added to legislation when it signed the ATT.

Following ratification of the ATT, **Country C** strengthened its measures to fight organised crime, terrorism and their financing as well as its measures to improve the effectiveness of criminal investigation procedures. Several arms-related crimes were codified in the criminal code, which now has a section entitled "arms traffic". The manufacturing and trading of military weapons and related materiel without authorisation is a criminal offence, as is the failure of operators to keep a special register recording the items that are manufactured, repaired, processed, purchased, sold, leased or destroyed. Diversion-related offences are also contained in laws relating to the regulation of international commerce, transport and storage of goods, including of dangerous goods that include munitions, and to the duties of customs and other law enforcers. The penalties for unauthorised carrying and transportation of military materials, weapons, and ammunition components vary from one to seven years' imprisonment for a single offence. Transporting weapons or their components without tracing and identifying marks is a criminal offence punishable by a large fine and five years' imprisonment for an individual and 10 years' imprisonment if the offender was part of an organised group.

## Group 2

As prescribed in its new law that was adopted soon after the ATT's entry into force, it is a criminal offence in **Country D** for an arms exporter, importer, broker or technical assistance provider to not submit relevant data to the ministry of trade to be entered into the official registry for arms trade entities, which is a prerequisite for an application for a licence to conduct international arms trade activities. Theft, fraud, and forgery of a document and violation of international sanctions are criminal offences. **Country D** does not criminalise the import, export, delivery, movement, or transfer of firearms, their parts and components, and ammunition if conducted without government authorisation. Also, it does not criminalise the falsifying or illicitly obliterating, removing, or altering of firearms markings. The unauthorised manufacture, modification, sale, procurement, exchange and possession of firearms, convertible or deactivated weapons, their parts, ammunition and explosives, however, is punishable with six months to five years of imprisonment and a fine in accordance with the criminal code. The criminal procedural code does not envisage the application of special investigative measures for this provision, thus limiting the capability of law enforcement to conduct successful investigations.

Under its basic firearms law, **Country E** established fines and prison terms for the violation of its provisions on the manufacture, trade, storage or use of conventional weapons and related items. Importing a firearm without a permit is punishable by 10 years of imprisonment, while importing guns classified as exclusively for military use without a permit is punishable by 30 years. Other sentences for illegal importation are also severe.

## Group 3

**Country F's** legislation provides for up to two years imprisonment for importing, exporting or transshipping firearms or ammunition without or in violation of the relevant permit. Manufacturing conventional weapons, firearms, or ammunition without or in violation of a firearms manufacturer's licence is punishable upon summary conviction by imprisonment for up to five years; between 15 years and life imprisonment can be imposed upon conviction by a higher-level circuit court. Firearms manufacturers

or dealers that violate record-keeping requirements or falsify their records may be subject to a fine or imprisonment for up to one year.

**Country G** enacted a law in the late 90s which criminalises anyone who—without administrative authorisation—acquires, holds, carries or transfers weapons, ammunition or explosives, with penalties of a fine and from six months to ten years in prison, depending on the category of the equipment. The import, transport or storage and manufacture of arms or related components or ammunition without official authorisation was also made punishable by imprisonment of up to 20 years.

**Country H** criminalises the import, export, purchase, acquisition and possession of firearms or ammunition without a relevant permit or licence. The firearms legislation also criminalises the fraudulent use of firearms licences. Corrupt practices conducted with, or by, public officers are a criminal offence.

### 3.1.2.b. Law Enforcement Capacities in Critical Areas

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q3.** Does your national system provide for mutual legal assistance in regard to investigations, prosecutions, and judicial proceedings for the activities mentioned in questions 1 and 2? (If yes, what / how?)
- Q4.** Are bilateral and multilateral information-sharing approaches used to prevent the use of deceptive methods? (If yes, what / how)
- Q5.** Does your State allow for sharing with other States such information as the disbarment of traders and brokers and the revocation of their registration?
- Q6.** Does your State allow for sharing with other States information on illicit activities including, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organised groups engaged in diversion?

[> see Tool](#)

#### Group 1

In **Country A** the authorities have the right to seize and confiscate weapons if the facts give cause to assume that the person having actual control is likely to transfer the weapons to an unauthorised person or use them in an unauthorised manner or if confiscation is needed to ward off a threat to law and order and if less stringent measures are inadequate. If weapons of war are confiscated, ownership of them shall pass to the State once the confiscation order is final. **Countries A** and **C** participate in a regional police organisation and regional judiciary organisation, which facilitates cooperation for police, law enforcement, judicial investigations and prosecutions.

**Country B's** national legislation was amended soon after the adoption of the ATT to explicitly include the ATT in its definition of “international export control system”. National authorities may request that the intelligence agencies investigate or render assistance, if necessary, to control exportation and importation of conventional arms. National regulations require that licensing authorities consult with other ministries prior to issuing a licence for the export of conventional arms. Additionally, following an amendment to its foreign trade legislation shortly after the ATT entry into force, intelligence agencies “may take necessary measures”, such as notifying other agencies, if they recognise “any illegal exportation” of conventional arms. National legislation now allows for the provision of jointly

agreed assistance to another ATT State Party, in investigations, prosecutions, and judicial proceedings in relation to violations of national measures established pursuant to the Treaty, including the use by the national police authority of international tracing mechanisms to identify points of diversion.

#### Group 2

In **Country D** the unauthorised manufacture, modification, sale, procurement, exchange and possession of firearms, convertible or deactivated weapons, their parts, ammunition, or explosives is a criminal offence to be punished with six months to five years of imprisonment and a fine. However, the criminal procedural code does not envisage the application of special investigative measures for this provision, thus limiting the capability of law enforcement to conduct successful investigations.

Although not directly related to being an ATT State Party, **Country D** recently invested in scaling-up an existing project on firearms-related forensics and crime scene investigation. Training to strengthen the capacity of law enforcement and prosecutors to investigate firearms trafficking cases and to address possible links to terrorism and organised crime have included the identification of firearms (training for prosecutors only), collection and admissibility of electronic evidence on firearms (capacity-building activity for prosecutors and law enforcement), and investigation and prosecution of arms diversion (capacity-building activity for law

enforcement, customs, and prosecutors). Tools for conducting the training were also developed. Going forward, the project will focus on further strengthening the capacities of the crime investigation units and the ballistic laboratories and will include the development of a weapon registry system through the provision of equipment and training.

**Country E** recently launched a series of reforms to strengthen its national customs controls and to reduce corruption and illicit trafficking at its ports. To implement article 12 of the ATT, the authorities have recently developed a registry of seized and recovered illicit firearms to support tracing the life cycle of firearms, thereby helping to identify the spaces that allow the diversion of arms and their links to criminal activities, the main trafficking routes, as well as the groups or organisations that are part of that market.

### Group 3

**Country F** has yet to enact legislation allowing for the provision to another State Party of jointly agreed assistance in investigations, prosecutions, and judicial proceedings in relation to violations of national measures established pursuant to the ATT. However, its legislation does allow for the provision of assistance in investigations and proceedings in relation to criminal matters, as well as for the extradition of alleged criminals. Its national police and customs agency—with support from other law enforcement and border security officials—enjoy significant bilateral information sharing and cooperation with their regional counterparts. Interviewed officials declared that this has resulted in the successful detection and interception of illicit shipments of arms and ammunition. The forensic science laboratory, national intelligence bureau, and constabulary force are responsible for responding to tracking requests from other States.

The interviewed officials from **Country G**'s competent national authorities indicated that under the national security council there is an institutional mechanism to evaluate the risks of misappropriation of arms through corruption, organised crime and control of public contracts. In addition, there are official procedures for mutual legal assistance with certain States, including neighbouring States, and procedures for investigations, prosecutions and judicial proceedings carried out by the police,

customs, gendarmerie, the water and forests department and the ministry of justice. Procedures for sub/regional cooperation and mutual transparency regarding trade in SALW and related materials are set out in the sub-regional arms control instrument. Interviewed officials also indicated that they share information via INTERPOL's I-24/7 system.

**Country H** is party to a regional treaty on mutual legal assistance in criminal matters and has taken initiatives on such assistance through the regional police organisation. The police authority cooperates closely with INTERPOL through the I-24/7 system and uses these databases regularly to identify groups and individuals involved in the illicit trade of SALW.



**3.2**

**COUNTER-DIVERSION  
MEASURES PRIOR  
TO A TRANSFER**

OCEAN SHIELD

# KEY TAKEAWAYS

The research shows that most of the examined States Parties already had in place relevant national legislation regulating actors and entities engaged in the manufacture and assembly of conventional arms prior to the ATT's entry into force albeit noting varied levels of comprehensiveness of these national legislations. In terms of measures taken by States to prevent diversion during export risk assessments, the research revealed that most States draw extensively on the guidelines and conventions of other multilateral and regional instruments to which they are a Party, thereby showing the complementarity of the ATT with other relevant international and regional instruments in terms of measures applicable before authorising or denying a transfer.

## Examples of Measures taken by States Parties to Counter Diversion Prior to a Transfer

### 3.2.1 Manufacturing and Assembly Stage

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#### a Regulation of entities/actors in manufacturing and assembly

Existence of national legislation regulating the manufacture and assembly of conventional arms including in examined States Parties that do not currently have an arms manufacturing or assembly industry.

#### b Marking and record-keeping

Existence of national legislation requiring the marking of all items at the time of manufacture and upon delivery or post delivery in the case of imported ones in all the States Parties.

Criminalisation of the illicit removal or alteration of weapons markings in the criminal codes of some States Parties.

Existence of national legislation requiring comprehensive record-keeping by competent national authorities in accordance with ATT Article 12.

### 3.2.2 Measures Applicable to the Diversion Risk Assessment of an Export

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#### a Risk factors and criteria taken into account

Existence of measures that ensure that risk factors stated in ATT Articles 7 and 11 are considered in their national export risk assessments. Some of the measures include participating in and implementing export control guidelines and conventions of other multilateral and regional arrangements to facilitate the implementation of the ATT provisions and the gathering of information relevant for export risk assessments and export authorisation processes.

Introduction of a risk mitigation measure by one State Party prohibiting the export of SALW to non-government end users and requiring government recipients of SALW to commit to destroying the old SALW to be replaced by the new consignment, as well as destroying the newly procured weapons when deemed surplus because of a new acquisition.

Drafting of a new national legislation, by one State Party with support from the ATT Voluntary Trust Fund (VTF), to ensure that the risk factors in ATT Articles 7 and 11 are considered in the national control system once the new legislation is adopted.

**b Authentication and verification of end-use/er documents**

Strengthening of end-user requirements in one State Party to include a written oath from the end user on the intended end use as part of export and transit and trans-shipment authorisation application documents.

**c Export and brokering licensing standards and procedures**

Existence of national legislation requiring licenses and written authorisation for the export of conventional arms in all the States Parties examined except for one State Party whose national arms legislation is yet to be adopted.

Existence of brokering licensing standards and procedures in few of the States Parties, with one of the States Parties adopting its brokering regulation in 2013.

Recent amendment of national arms legislation by one State Party making information on transit States a requirement to be included in all export and import licenses.

## **Gaps Identified and Avenues for Strengthening Counter-Diversion Enabling Environment**

The research revealed that **more could be done to address gaps in national legislation for arms transfers to ensure that diversion risks prior to transfers are adequately addressed.** For example, in two of the States Parties, national legislation on arms production did not include provisions for regulating the repair of a firearm or ammunition or the alteration, substitution or replacement of any component of a firearm and the officials interviewed indicated a desire to update national legislation to address such gaps.

In terms of authentication and verification of end-user certificates, **one State Party was yet to implement a measure to allow to check the reliability of end users.**

## 3.2 Counter-Diversion Measures Prior to a Transfer

The second section of the tool examines measures to prevent diversion prior to the international transfer of conventional arms taking place.

### 3.2.1 Stage of Manufacturing and Assembly

**The questions addressed in this sub-section focus on measures to be taken during manufacture and assembly of conventional arms:**

- a Regulation of entities/actors in manufacturing and assembly
  - Existence of national legislation regulating the manufacture and assembly of conventional arms in the States Parties, including those that do not currently have an arms manufacturing or assembly industry
- b Marking and record-keeping

**The types of measures assessed in this sub-section seek to counter the following circumstances that can facilitate diversion:**

- | Illicit removal
- | Unauthorised distribution
- | Deliberate overproduction and/or unauthorised production by internal actors
- | Theft and violent capture by external actors

### 3.2.1.a. Regulation of Entities/Actors in Manufacturing and Assembly

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q9.** Are any of the activities listed below not regulated under national legislation?
- Manufacture and assembly
  - Brokering of transactions
  - Pre-export preparation of cargo
  - Shipment, transit and trans-shipment
  - Import delivery unloading, warehousing and local transport
  - End-use/user operations and stockpiles
- Q13.** Does your State require any of the following actors to be registered and/or screened on a regular basis before they can engage in the international arms trade?
- Directors of all such companies
  - Senior managers
  - Technicians
  - On-site supervisors and dispatchers
  - On-site loaders and guards?

> see Tool

#### Group 1

In **Country A** the production or manufacture of conventional arms is regulated and any entity or actor who intends to engage in this activity requires a government-issued licence. The ministry of economics and technology is responsible for overseeing the domestic production, marketing, and transportation of military conventional weapons as well as for supervising licence holders for these activities to ensure that they comply with all applicable legal obligations. The ministry has the right to request information, have access to and examine company records, and carry out inspections to perform their oversight role, including stockpile checks and inventories, while licence holders are obligated to allow access and to provide the necessary information and records.

**Country B** amended its legislation following the ATT's entry into force so that anyone intending to engage in the manufacture, remodelling or repair of guns or explosives is required to obtain permission for each factory and each type of product, for which they meet detailed criteria. Another amendment of

the State Party's national arms legislation soon after the ATT's entry into force has criminalised the posting or spreading of information on methods of manufacture and technical drawings of guns and explosives via the internet.

In **Country C** applications for authorisation to manufacture conventional weapons are issued under conditions of professional competence and good repute, for a maximum period of five years which is renewable. The authorisation can be withdrawn for reasons of public order and security. The exercise of this activity is carried out under the control of the national authorities, involving on-site and documentary controls. Any natural or legal person engaged in the manufacture of SALW must take specific security measures to protect themselves against the risk of theft and is subject to specific provisions regarding the monitoring of their activity.

#### Group 2

**Country D** requires government authorisations for the manufacture and modification of firearms, their parts, ammunition, or explosives.

**Country E** requires any arms manufacturing entity to be authorised by the national defence authorities. Interviewed officials indicated that there is a desire to update national legislation covering arms production.

### Group 3

Although there are no authorised arms producers in **Country F**, the law provides for issuing a licence to manufacture firearms or ammunition.

**Country G** introduced legislation in the late 1990s requiring prior authorisation on an exceptional basis for manufacturing or repair of arms and related items, but such activity is insignificant. Only entities

controlled or managed by nationals may be authorised for such activities and they must submit details of the entity, its finances, and weapons to be manufactured or repaired with an application before a decree to authorise the activity can be issued by the council of ministers.

**Country H** does not have an arms manufacturing or assembly industry, but national legislation prohibits the manufacture of firearms and ammunition without the consent of the relevant government minister. The legislation does not include provisions for regulating the repair of a firearm or ammunition or the alteration, substitution or replacement of any component of a firearm.

## 3.2.1.b. Marking and Record-Keeping

### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q11.** Does your State require manufacturing and assembling companies to mark each item (whether a military weapon, other armament or munition) when it is manufactured? Are all manufacturers required to keep records of the unique markings when each item is sold, moved or otherwise transferred from the plant site?
- Q12.** Does your State enforce measures to prevent the manufacture, stockpiling, transfer and possession of any unmarked or inadequately marked arms, in particular SALW?

[> see Tool](#)

### Group 1

**Country A's** legislation requires comprehensive record-keeping by State agencies and manufacturers. SALW must be marked at the time of manufacture with details such as the name, country and year of manufacture, year of delivery, and the production serial number, model and calibre of the weapon. For imported weapons, markings must include the year and country of import. Markings vary according to the type of weapon and which State agency holds it. Marking is applied to an essential and unchangeable part on the weapon and, if the firearm is manufactured outside of the region, the marking must be done on import.

**Country B** requires that SALW be marked at the time of manufacture, without exception, and encourages SALW manufacturers to develop measures against the removal or alteration of markings.

Specific legislation requires that guns and their parts be manufactured so that their identification plates are maintained showing symbols, numbers, and letters to easily identify the date of manufacture, name of manufacturer, place or country of manufacture, and serial number. The legislation has also been revised to expand the scope of the record-keeping requirements. In 2013, a provision requiring that traders store documentation relating to their permits was amended to explicitly require the retention of documentation relating to transit and trans-shipment permits. In a subsequent amendment, language was added requiring gun manufacturers, dealers, renters, exporters, and importers to report to the authorising agency within seven days of a transaction on the quantity and type of guns manufactured, sold, rented, exported or imported. It was also indicated that when stocks are identified as surplus, they are officially declared as such and recorded by type, lot, batch, and serial number.

In **Country C**, fraudulently removing, masking, altering, or modifying in any way whatsoever the markings, stamps, serial numbers, emblems, or signs of any kind affixed to or integrated into weapons or their essential elements to guarantee their identification in a certain manner is punishable by five years' imprisonment and a fine.

### Group 2

In **Country D** all importers, exporters, brokers, and providers of technical assistance related to arms and military equipment must first be registered in compliance with the national law which allows for five-year registrations following a security check. Those registered are subject to comprehensive record-keeping and reporting obligations, and the authorities keep a database of all licences issued for a minimum of 10 years, in accordance with ATT Article 12. The national law on exports and imports of military equipment does not refer to the marking of weapons, but under another law passed in 2015, detailed comprehensive records must be kept on licences for an indefinite period by the government, as well as by licensed dealers on all firearms and air weapons, including their mark, model, calibre and serial number; if any such weapon has not been tested, stamped and marked in accordance with regulations it cannot be registered.

**Country E** has mandatory technical regulations that govern the marking and labelling of firearms, ammunitions, explosives, and related items. This includes a requirement that SALW be marked upon manufacture, without exception. Information reflected in these markings includes the name of manufacturer, country of manufacture, serial number, year of manufacture, weapon model and type, and weapon calibre.

### Group 3

**Country F** has recently developed a programme for unique marking of all categories of imported firearms. The markings must be permanently etched into the weapons and data on marked firearms is entered into a data management system to facilitate tracing efforts. The system is intended to be a proactive, preventative tool for accountability, rather than simply a reactive tool for firearms law enforcement.

**Country G's** national legislation, enacted in the late 1990s, requires mandatory marking and daily recording of all SALW as well as their parts and ammunition at the time of manufacture or repair. Legislation also requires arms transfers to record detailed information in a registry on SALW and their parts and ammunition, including the unique markings of the manufacturer, the details on their current and previous owners, the trader, the locations and dates of delivery, arrival, transit and/or departure of the item(s), the nature of the transaction and those involved.

Under its national firearms legislation, **Country H** requires that records of all transferred firearms are kept by importers and exporters. In a report on the national implementation of the PoA, **Country H** stated that it had not developed measures addressing the removal and alteration of markings and needed assistance for building its capacity for marking and record-keeping.

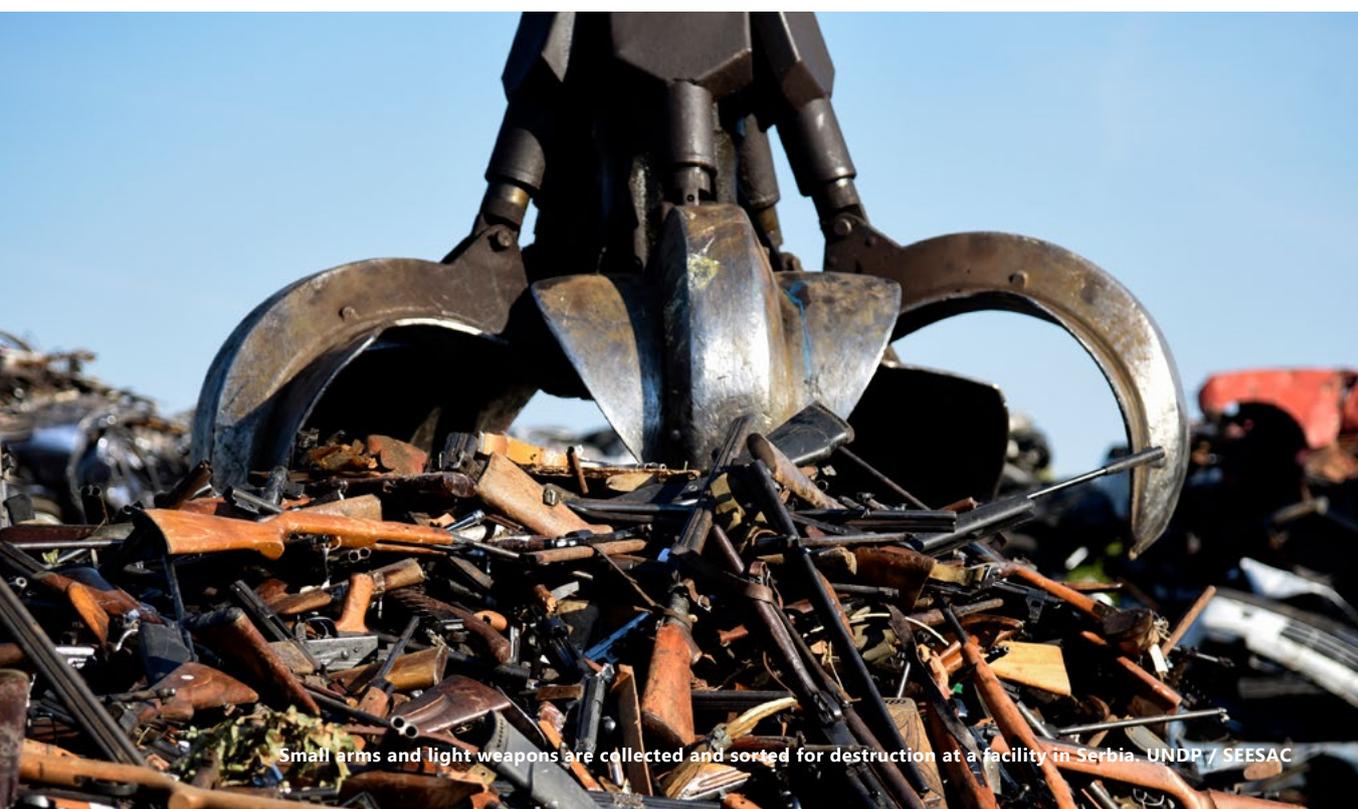
### 3.2.2 Measures Applicable to the Diversion Risk Assessment of an Export

The questions addressed in this sub-section focus the export risk assessment to prevent diversion on:

- a Risk factors and criteria taken into account
- b Authentication and verification of end-use/user documents
- c Export and brokering licensing standards and procedures

The types of measures assessed in this sub-section seek to counter the following circumstances that can facilitate diversion:

- | Gaps in diversion risk criteria
- | End use/users not being verified
- | Export risks not being considered
- | Suspicious brokering not being checked
- | Documents not being authenticated



Small arms and light weapons are collected and sorted for destruction at a facility in Serbia. UNDP / SEESAC

### 3.2.2.a. Risk Factors and Criteria Taken into Account

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q15.** What risk factors do your national authority consider in order to prevent the diversion of an export or import before an export or import licence can be issued? Do the risk factors include the following?
- Known cases of diversion in the importing country or by its agents or dealers
  - Transfers involving countries bordering or trading with a country whose State and/or armed groups are subject to United Nations or other international sanctions
  - Excessive quantities being ordered
  - Types of arms not in service with the importing or exporting country
  - The arms transfer regulatory system is known to be inadequate or to lack capacity
  - The proposed route for the transfer is circuitous or the shipping method is unusual
  - A credible system of verifying end use/end user and re-transfer assurances
  - The right to conduct on-site inspections and post-shipment verification for sensitive items
  - Relevant information regarding acts of diversion has not been exchanged
  - An effective policy and practice of disposing of surplus arms
- Q16.** Do transfer assessments take into account whether the transfer would contribute to a potentially destabilising accumulation of conventional weapons, taking into account regional stability; the political, economic, and military status of the prospective importing State; and its record of compliance with transfer controls?
- Q20.** Has your State established inter-agency cooperation for the reciprocal authorisation of arms and ammunition transfers between the respective licensing agencies and customs agencies?
- Q21.** Does your national authority cooperate with national authorities engaged in the transfer of arms and ammunition and supply advanced notification to those authorities of the route of such transfers?

> see Tool

#### Group 1

As member States of a regional organisation, **Countries A** and **C** participate in regional information sharing mechanisms that can help to inform national diversion risk assessments undertaken in accordance with ATT Articles 7 and 11 and also utilise a regional guidance document governing the exports of military technology and equipment. Soon after the ATT's entry into force, **Country A** adopted a set of national principles to further mitigate the risk of diversion by prohibiting the export of SALW to non-government end users and requiring government recipients of SALW to destroy the old SALW to be replaced by the new consignment, as well as to destroy the newly procured weapons when deemed surplus because of a new acquisition.

**Country B's** initial report on measures to implement the ATT stated that it takes diversion risks into consideration not only with respect to export decision-making, but also for decisions on brokering, transit, and trans-shipment. Export authorisation denials from other States shared via international export control regimes are also taken into account. If the licensing authority deems that there is a high probability of diversion, it will not grant a licence for export, brokering, transit or trans-shipment.

#### Group 2

**Country D** considers the end user's compliance with multilateral arms embargoes, position on terrorism, international organised crime, capacity of the end user to integrate and use the conventional

arms, the likelihood of unauthorised re-export, and the capacity of the end user to integrate and use the conventional arms for determining the diversion risk before issuing or denying a licence for the export, import, brokering, and technical assistance for conventional arms.

**Country E's** armed forces are granted near exclusive authority to import and export conventional arms. The ministry of defence has exclusive authority for all such imports, except for transfers intended for the exclusive use of the navy for which the secretary of the navy is responsible. The national control system includes measures for assessing the risk of diversion of an export, but the country does not have arms manufacturing capabilities and therefore arms are only exported occasionally for sporting purposes. Interviewed officials explained that because prospective buyers are required to purchase arms directly from the ministry of defence without any intermediary, there are no other actors involved in trans-shipment or brokering, which reduces risks of diversion in the case of exports. At the same time, it was acknowledged that there is not yet a system in place to check the reliability of end users.

### Group 3

**Country F's** national control system does not include a formal or established risk assessment procedure document or policy. Interviewed officials explained that the country uses guidance from their regional organisation for arms transfer risk assessments. Factors considered to assess the risk of diversion include the absence of appropriate end-use/r documentation, negative results from security due-diligence assessments, lack of details or discrepancies in shipment documentation, and whether the transfer would be in violation of any resolution of the Security Council under Chapter VII of the Charter of the United Nations. The national licensing authority has prioritised reducing the potential for corrupt practices and collusion to impact the issuance of firearms licences. Some measures that have been implemented by the licensing authority to reduce such practices include routine security vetting of licensing officials and individual licensees; the ongoing review of the authority's internal policies, procedures and practices to identify areas of weakness; greater use of technology, such as electronic mails and online tracking systems, to

ensure transparency in the operations of the authority; and greater dependence on information from national intelligence in the consideration of applications for the issuing and renewal of firearm licences.

**Country G's** national security council evaluates the risks of misappropriation and illicit trade based on obligations and criteria set out under their sub-regional arms control instrument, which governs whether the authorisation of an export, import, transit, transshipment or brokering of SALW or related material can be approved under the granting of an exemption certificate or should be refused.

**Country H** indicated in its ATT initial report that the national control system includes an authorisation system for arms exports but does not yet include export assessment criteria nor a risk assessment procedure. With support from an ATT VTF project, a new conventional arms control law has been prepared, and the implementing regulations will cover risk assessment procedures to implement the ATT.

### 3.2.2.b. Authentication and Verification of End-Use/er Documents

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q17.** What steps are taken to check the reliability of proposed end users and entities involved in arms transfers and the authenticity of end-use/user documents? Are these procedures consistent with international good practice standards regarding certification and authentication of such documents, and verification of end use/users?

> see Tool

#### Group 1

In **Countries A** and **C**, every application for an export licence must be accompanied by an end-user certificate (EUC) and other relevant documents specifying the expected end use of the conventional arms and containing other declarations and assurances on a case-by-case basis. As members of a regional organisation, both countries are also subject to a regional directive for intra-regional transfers of firearms and certain small weapons, as well as their components and ammunition, not acquired by the armed forces, the police or the public authorities. The national authorities must inform the other member State of the regional organisation to which the firearms are to be transferred, as well as any transit member States, by sending a firearm transfer authorisation notification with information about the end user and other details of the transfer. For exports of firearms to an end user outside the region, a standard "no re-export" undertaking is required in the EUC.

**Country A** provides EUC templates for different types of arms to be used by the end user in the importing State. The template EUC for SALW includes provisions on committing to destroying the old SALW to be replaced by the new consignment as well as a provision on post-shipment controls. It also requires that EUC for SALW, as well as corresponding ammunition and production equipment, contain a commitment that the items will not be passed on within the recipient country to any other end user without the consent of the competent national authorities in the original exporting state.

After signing the ATT, **Country B** has strengthened its end-user requirements. In the mid-2010s, the law was revised to require that anyone applying for permission to export or broker the transfer of conventional arms must obtain a written oath from the end user declaring the purpose or use of the

conventional arms. The law was amended in the mid-2010s to include a list of documents that anyone applying for permission to transit or trans-ship conventional arms is required to submit, including a requirement to provide end-user documentation.

#### Group 2

**Country D's** law on imports and exports of arms and military equipment makes the ministry of trade responsible for the issuance of EUC and international import certificates at the request of the locally registered importer. The law lists 10 categories of information that must be contained in an EUC, and which must be verified by the national authorities.

**Country E** provides end-use/user documentation to exporting States upon request, and where appropriate, it examines parties involved in a transfer and requires additional documentation, certificates or assurances to prevent diversion. Before transferring SALW to authorised end users, the ministry of defence examines the original signed and stamped end-user documentation to verify its authenticity.

#### Group 3

**Country F** requires the submission of EUC prior to issuing export, import, transit or trans-shipment authorisations. End-use/user checks are conducted when inconsistencies with transfer request documentation are detected. **Country G** includes an end-user reliability check before issuing an authorisation to import, transit or export arms. **Country H** has been cooperating regularly with other States to check details of the end uses of its imports, transits and trans-shipments. It has recently drafted a comprehensive national arms control legislation which, when enacted, will provide procedures for the issuance and for the authentication and verification of end-use/user documentation.

### 3.2.2.c. Export and Brokering Licensing Standards and Procedures

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q13.** Does your State require any of the following actors to be registered and/or screened on a regular basis before they can engage in the international arms trade?
- Directors of all such companies
  - Senior managers
  - Technicians
  - On-site supervisors and dispatchers
  - On-site loaders and guards
- Q18.** Are such authorisations in each case:
- Issued in standardised written form that minimises opportunity for fraud?
  - Having a limited date of expiry?
  - Having a detailed description of the items to be transferred, their origin, quantity, weight and value?
  - Having all the names and full addresses of the contract holders, the consignee, the consignor, any intermediaries or agents involved, and the proposed route and means of delivery?
- Q19.** Does your State require a licence or a specific written authorisation, in each case:
- For all exports of arms and related items?
  - For all imports of arms and related items?
  - For all transits and/or trans-shipments of arms and related items?
  - For all brokering activities?

> see Tool

#### Group 1

The export of conventional weapons from **Country A** involves a two-step licensing procedure to ensure that adequate information is collected on the applicant, the envisaged end user, and end use. First, a production and export licence must be obtained by the arms trading entity, and second a licence for particular arms shipments. If new information becomes available between the two stages, the second licence can be denied. Moreover, licences issued for arms trade activities, including for trans-shipment, can be revoked if there is danger of the weapons being used for activities detrimental to peace or activities that violate the State's international obligations, including diversion. Licences may also be limited in scope or duration and be subject to additional conditions. There is a legal requirement for registered arms trading entities to keep a register of the weapons produced, transported, or acquired and to be able to prove their whereabouts at any time, and a requirement

to make licences available for examination by the competent authorities including customs offices at entry and exit ports. These measures were in place before **Country A** became party to the ATT.

**Country B** requires that, with very limited exceptions, the export and import of conventional arms must first be authorised with an official permit, and that prospective exporters obtain a preliminary permit prior to engaging in negotiations for the export of conventional arms. The legislation was amended in the early 2010s, requiring a licence to broker the transfer or sale of conventional arms between two foreign States. Since the mid-2010s, the State has required export and import licences to include information on all of the countries through which transferred goods will transit.

In **Country C** "transfer licences" are required to transfer conventional arms within the region or "export licences" for countries outside its region.

These licences are granted by the prime minister after advice from the inter-ministerial commission for the study of war material exports. Brokering is subject to authorisation by the ministry of defence for conventional arms and the ministry of the interior for non-military firearms. Authorisations are granted subject to certain conditions and may be refused for reasons of public order or security. Authorisations may be withdrawn or suspended due to a cessation of activities, the conditions required to obtain the authorisation no longer being met, the conviction of the operator for an offence, and for reasons of public order and security.

## Group 2

In **Country D** anyone considering an export of conventional arms must obtain prior consent from the ministry of trade before starting negotiations for export. Prior to giving or denying consent to begin negotiations, the ministry of trade consults the ministries of defence, foreign affairs and internal affairs as well as the national security agency to inform the decision on whether to proceed or not. Detailed information must be submitted by applicants for an export, import, brokering or technical services licence.

In **Country E** individuals or legal entities (including State and local law enforcement agencies, private security companies, and hunting and sport shooting clubs and associations) may apply for and obtain an individual or collective licence from the ministry of defence allowing them to obtain conventional arms regulated by the law on firearms and explosives. Authorised end users may then purchase conventional arms from the ministry of defence, either in individual purchases or (in the case of collective licences for law enforcement agencies and other groups) consolidated purchases. In the case of international purchases, the ministry of defence imports and stores conventional arms until they can be sold to the authorised end user.

## Group 3

**Country F** requires prior authorisation in the form of a licence, permit, or certificate to buy, sell, export, import, manufacture, or trans-ship firearms, ammunition or any component of a firearm. Licences, permits, and certificates are issued by the ministry of national security's firearm licensing authority

in a standardised form. Some arms brokers may engage in activities that are regulated under national legislation—for example, dealing in firearms or ammunition is regulated by the firearms act. However, brokers and brokering activities are not explicitly regulated under existing legislation.

**Country H** has drafted conventional arms legislation to implement the ATT, which provides for a national licensing system for exports, imports, transit and brokering of arms, ammunition and parts and components; it will include measures to assess the risk of diversion.



# 3.3

## COUNTER-DIVERSION MEASURES DURING A TRANSFER

# KEY TAKEAWAYS

The research for this study found that Group 1 States Parties had appropriate measures applicable to transport and transfer routes prior to the ATT's entry into force. However, these States Parties noted the ATT's important role in reinforcing the norms and standards contained in international transportation treaties to implement appropriate measures during a transfer to promote a more secure global arms trade.

## Examples of Counter-Diversion Measures Taken by Some of the States Parties During Transfer

### 3.3.1 Measures Applicable to Transport and Routes

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#### a Implementation of standards for freight by sea, air, road and waterway

Implementation of regulations and standards in the sectors of road, sea, inland waterway and air freight, in accordance with the provisions of the ATT.

Standardisation of freight licenses in compliance with the ATT.

#### b Monitoring of sensitive consignments

Implementation of additional technical means to fulfil and go beyond the obligations of Article 6 of the ATT.

### 3.3.2 Measures Applicable to Unauthorised Cross-Border Movements

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#### a Border controls and related law enforcement

Implementation of international cooperation frameworks for border control to facilitate procedures and detection.

Acquisition and operationalisation of specific equipment to detect illicit transfers of arms, parts, components and ammunition.

#### b Agreements with neighbouring States

Information sharing and implementation of bilateral agreement frameworks with bordering countries, e.g. through early warning systems, to prevent diversion cases, in compliance with the provisions of the ATT.

## Gaps Identified and Avenues for Strengthening a Counter-Diversion Enabling Environment

Regarding agreements with neighbouring States, overall, it appeared that **some cooperation frameworks and their effective implementation are more advanced than others and depends largely on the inherent cross-border geopolitical issues**. Furthermore, some of the cooperation frameworks are often limited to certain areas of border control only.



Small arms ammunition. MONUSCO / Abel Kavanagh.

## 3.3 Counter-Diversion Measures During a Transfer

The third section of the tool examines measures to be taken to prevent diversion during an international transfer of conventional arms.

### 3.3.1 Measures Applicable to Transport and Routes

**The questions addressed in this sub-section focus on countering diversion in relation to transportation and routes:**

- a Implementation of standards for freight by sea, air, road and waterway
- b Monitoring of sensitive consignments

**The types of measures assessed in this sub-section seek to counter the following circumstances that can facilitate diversion:**

Rerouting and/or misappropriation of cargo in transit or trans-shipment:

- | By aircraft
- | By ship
- | By ground transportation

Or the use of deceptive methods enroute through:

- | Falsifying transport documentation
- | Concealing actual flight plans, routes, and destinations
- | Turning off transponders falsifying aircraft registrations
- | Quickly changing registration numbers and vessel names or national flag registries

### 3.3.1.a. Implementation of Standards for Freight by Sea, Air, Road and Waterway

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q25.** What regulations and procedures does your State have to address arms diversion in road, air and maritime/waterways transport, in particular of SALW and related ammunition/munitions, to destinations or entities subject to United Nations arms embargoes?

> see Tool

#### Group 1

**Countries A and C** regulate transfer of arms via road, rail, sea or air in accordance with the instruments and standards contained in Box 4. In **Country A** anyone who intends to transport conventional arms by ships flying the national flag or by aircraft entered in the national aircraft register, even if the conventional arms are loaded and unloaded outside the national territory and not transported through the national territory, will require a valid licence granted by the ministry of transport.

**Country B** requires the transport of military firearms and explosives to be authorised and failure to obtain permission is a serious offence.

In **Country C**, a mid-2010s code provides detailed procedures for the secure transport of war materials, weapons, their components, and ammunition.

conditions and is specifically authorised. Interviewed officials indicated that the customs authorities and/or security service regulate the unloading of imported deliveries.

#### Group 2

**Countries D and E** implement the instruments and standards contained in Box 4.

#### Group 3

**Countries F, G and H** implement the instruments and standards for transportation of conventional arms by sea and air; although it is not clear if all instruments and standards for land are implemented.

Under a recent decree, **Country G** prohibited the import, transport, marketing, storage and sale of weapons of warfare and their ammunition, components of weapons or ammunition throughout the national territory unless such activity meets certain

#### **Box 4. Relevant International Instruments and Standards for the Regulation of the Transportation of Conventional Arms by Road, Rail, Sea or Air**

- | The Chicago Convention on International Civil Aviation;
- | The International Convention for the Safety of Life at Sea;
- | The International Maritime Dangerous Goods Code;
- | The United Nations Convention on the Law of the Sea;
- | The 1980 Convention on International Carriage by Rail;
- | The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
- | The International Convention against the Taking of Hostages;
- | The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;
- | The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- | The Convention concerning International Carriage by Rail;
- | The Convention on the International Maritime Organization;
- | The Convention on the Contract for the International Carriage of Goods by Road; and
- | The Protocol to the Convention on the Contract for the International Carriage of Goods by Road.

### 3.3.1.b. Monitoring and Protection of Conventional Arms Transfers

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q26.** Do your authorities deploy armed guards or use satellite tracking systems for the shipment of sensitive arms consignments and how routine is this procedure?

[> see Tool](#)

#### Group 1

**Countries A and C** benefit from a system of information notifications and exchanges required by the regional organisation they belong to for transfers of arms and related items between member States of the regional organisation. In **Country A** the ministry of finance and the customs service monitor the import, export, and transportation of conventional arms. Anyone who transports conventional arms must carry a copy of the relevant transfer licence and present it to the competent authorities or agencies on request for examination, particularly to the customs offices at the points of entry and exit, and hand it over. Satellite positioning systems have been used to track shipments when there are concerns about the legality of a transfer.

In **Country B**, government agencies are authorised to impose a temporary prohibition or restriction on the transportation of guns and explosives. In addition, the minister of trade or the head of the relevant administrative agency is empowered to issue an order to halt the transportation of conventional arms until it has been verified that the consignment is for lawful exportation.

**Country C** has established security conditions for shipments of conventional arms as well as firearms and their parts and ammunition by rail, air, and sea. The deliveries must be carried out by a routing system that satisfies certain regulated time conditions and must be transported in secure containers. The conventional arms and firearms must remain under the permanent custody of the driver of the vehicle or a courier throughout the journey, in particular during loading and unloading operations, as well as during stops. When transport or forwarding by road is carried out, the transport company must be informed of the contents of cargo and must take the appropriate security measures to protect itself against theft during the various handling operations.

#### Group 2

In **Country D**, according to their national law, the consigner must inform the competent authority about the transportation of conventional weapons and ammunition no later than 48 hours before the transportation commences. The competent authority may, if required, order the consigner to take special security measures during transportation. The expenses of special security measures shall be borne by the consigner. A request to transport weapons and ammunition through **Country D** shall be denied, or a weapon transportation authorisation shall be revoked by a relevant decision, if such activity would pose a threat to public safety.

**Country E** employs security escorts with military personnel to monitor and control convoys of military material and SALW. The national authorities are required to analyse the situation of the towns and areas through which the convoy travels, to establish the main routes and alternate routes, and to maintain permanent communication with military command and with the military units on the route.

#### Group 3

National authorities in **Country G** have procedures for satellite tracking and deployment of armed forces when shipping sensitive weapons.

**Country H** undertakes joint monitoring of borders and border regions with the authorities of neighbouring States. At designated points of exit from its national territory, the national revenue authority under the ministry of finance undertakes checks of conventional arms being exported, imported, transited and trans-shipped. Officials indicated that national control of conventional arms in transit and trans-shipment does not go beyond the fulfilment of obligations under Article 6 of the ATT. **Country H's** national coast guard and marine police conduct

routine patrols with vessels carrying sensitive cargo in transit, including conventional arms, but due to resource constraints the authorities do not use satellite systems for tracking such shipments. Regarding trans-shipments of conventional arms and

ammunition that remain in country for over 48 hours, upon arrival the cargo is transported under armed escort for temporary storage with the national defence force, and then escorted back to the port for departure.

### 3.3.2 Measures Applicable to Unauthorised Cross-Border Movements

The questions addressed in this sub-section focus on tackling unauthorised cross-border movements of conventional arms:

- a Border controls and related law enforcement
- b Agreements with neighbouring States

The types of measures assessed in this sub-section seek to counter the following circumstances that can facilitate diversion:

- | Ant trade
- | Drop-off points
- | Postal shipments
- | Large shipments
- | Inadvertent change of jurisdiction

#### 3.3.2.a. Border Controls and Related Law Enforcement

##### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q27.** Does your State use the lists of risk indicators for border controls issued by the World Customs Organization and INTERPOL?

> see Tool

#### Group 1

**Countries A and C**, through their membership of two regional bodies, have reciprocal and long-standing arrangements for the prevention of cross-border trafficking of arms. The two States have established bilateral agreements with neighbouring States for cross-border police cooperation, with relevant information and documentation regarding legal and authorised cross-border transfers of arms and ammunition being shared to prevent the use of deceptive methods and to reduce the risk of diversion. At a procedural level, several instruments

have been established within the regional framework in the last 20 years to facilitate the coordination of member State authorities for investigations and prosecutions related to transnational crimes, including a simplified cross-border judicial surrender procedure for the purpose of prosecution or executing a custodial sentence or detention order. In the mid-2010s a regional investigation order was established, providing for instruments of mutual legal assistance, and this has become the main legal tool to gather trans-border evidence among member States of the regional organisation. Both

countries have ratified a regional convention that allows for mutual assistance in criminal matters and are also members of the World Customs Organization and INTERPOL.

Few years after the ATT's entry into force, **Country B** amended its foreign trade law which now allows for the intelligence agencies to take necessary measures if they detect an illegal exportation of conventional arms.

## Group 2

**Country D** is a member of the World Customs Organization and supports the SAFE Framework of Standards to Secure and Facilitate Global Trade and the Global Trade Facilitation Programme, under which it receives capacity-building support for customs services via the Mercator Programme.

**Country E** maintains a long-standing relationship with its neighbouring States to cooperate in carrying out law enforcement activities, investigating cross-border firearms trafficking offences, tracing seized weapons, and training law enforcement officials to identify individuals and groups involved in firearms trafficking. The authorities have sought to expand and improve cross-border control measures, such as the use of non-intrusive technologies, X-rays, scanners and drones to detect cases of illicit trafficking in firearms, parts, components, and ammunitions.

## Group 3

**Countries F** and **H** use the World Customs Organization's list of risk indicators for border controls in their internal risk management system. **Country H** also uses guidance provided by INTERPOL.

**Country F** has used several methods through its customs agency to counter the smuggling of firearms and ammunition and other illicit goods. These include screening protocols for cargo and passenger luggage, the use of mobile X-ray machines for the scanning of cargo, control measures to restrict access to sensitive port areas, video surveillance of these sensitive areas, and the use of trained canine units for detection. To track the movement of firearms, the authorities utilise the e-Trace system. In addition, it has established marine bases at strategic locations along the coast to strengthen its

capacity to detect and intercept illicit arms and ammunition transfers and has implemented a "cordon" system to restrict the movement of vessels to and from unofficial ports of entry.

**Country G** has specific procedures to combat the diversion of arms in road, air or sea/river transport, with X-ray machines being used at the main points of arrival and departure of goods.

### 3.3.2.b. Agreements with Neighbouring States

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q28.** Has your State made agreements with neighbouring States to cooperate on eradicating illicit cross-border movements of arms, including the apprehension and prosecution of offenders?

[> see Tool](#)

#### Group 1

**Countries A and C** are members of a regional organisation and share information concerning the risks of diversion with member States of that organisation. They also coordinate via the organisation's border and coast guard and law enforcement training agencies.

in cooperation with their regional organisation and a security platform was established with three neighbouring States. The national authorities have bilateral agreements, programmes and projects for cooperation with neighbouring States for risk profiling to detect illicit cross-border movements of arms.

#### Group 2

**Country D** has an agreement with five neighbouring States to reduce the supply and demand and misuse of firearms through increased awareness, education, outreach and advocacy. To date, cooperation focuses mainly on capacity-building efforts to strengthen law enforcement and prosecutors to investigate firearms trafficking cases and to address possible links to terrorism and organised crime.

**Country H** indicated in 2016 that it undertakes regular bilateral and multilateral cooperation meetings on security and defence matters, including on arms control, with neighbouring countries. The country also uses the INTERPOL I-24/7 alert system and undertakes joint monitoring of borders and border regions. When a diversion of transferred conventional arms was detected, the national authorities alerted potentially affected States in the aftermath.

**Country E** has a long established cooperation with its neighbouring States to prevent, detect and prosecute illicit cross-border trafficking of firearms and their ammunition, parts and components via bilateral agreements.

#### Group 3

In **Country F** the national police and customs—with support from other law enforcement and border security officials—enjoy significant bilateral information sharing and cooperation with their regional counterparts. According to interviewed officials, this has resulted in the successful detection and interception of several illicit shipment of arms and ammunition.

**Country G** has regional and bilateral arrangements for cross-border operations, which were enhanced in the mid-2010s with the assistance of the United Nations peace support mission in the country. An early warning system was established



# 3.4

## **DELIVERY AND POST- DELIVERY COUNTER- DIVERSION MEASURES FOR A TRANSFER**

# KEY TAKEAWAYS

The research identified evidence of the ATT's impact on State Parties' progress in implementing appropriate measures to prevent, detect, mitigate, and address diversion at the delivery and post-delivery stage. The research shows that the ATT influenced change in at least one country in all three Groups, including the introduction of a new measure for carrying out selective post-shipment controls in importing countries, strengthening customs controls at the point of delivery, and by criminalising the illegal misappropriation of arms, ammunition and related materials by members of the armed forces or an insurrectionary movement.

## Examples of New Counter-Diversion Measures Implemented by the State Parties Post-ATT

### 3.4.1 Points of Delivery

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#### a Delivery verification procedures and certification

Implementation of post delivery cooperation measures between exporting and importing States Parties.

#### b Standards for secure warehousing and reloading at ports of entry

Adoption and implementation of operational and strategic storage and registration standards and procedures at reception and reloading by importing and exporting countries in accordance with relevant international norms and standards.

### 3.4.2 Transferred Arms in National Stockpiles

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#### a Standards and procedures for secure storage

Adoption and implementation of clear standards and procedures for the management and security of conventional arms and ammunition in the custody of the armed forces, police and other authorised entities, in accordance with relevant international norms and standards.

#### b Record-keeping and inventory management

Adoption and implementation of standards and procedures for record keeping and inventory in national stockpiles, in line with international standards and norms.

## Gaps Identified and Avenues for Strengthening the Counter-Diversion Enabling Environment

With regards to the implementation of verification and certification procedures at the reception of conventional arms, the study found that not all the States Parties are able to ensure a standardised implementation of these procedures, and that **the level of the verifications and certifications varied according to the national standards in place**, and the capacities of the competent national authorities.

With regards to the standards for warehousing security and reloading at the different ports of entry, the research showed that **some States Parties had lower capacities in terms of sufficient staff to monitor all national ports of entry** and in some cases, the relevant standards are not implemented uniformly, across the different ports in the country.

With regards to record-keeping and stockpile inventories, the State Parties engaged in the study had sufficient capacities in terms of relevant equipment and databases for keeping track and records of their stocks. However, **some of the States Parties maintained only paper-based records which could be easily lost or damaged**. Such an occurrence might not facilitate some counter-diversion efforts such as intelligence or tracing procedures.

## 3.4 Delivery and Post-Delivery Counter-Diversion Measures for a Transfer

The fourth section of the tool examines measures to be taken to prevent diversion during the delivery or after the delivery of an international transfer of conventional arms.

### 3.4.1 Points of Delivery

**The questions addressed in this sub-section focus on tackling unauthorised cross-border movements of conventional arms:**

- a Delivery verification procedures and certification
- b Standards for secure warehousing and reloading at ports of entry

**The types of measures assessed in this sub-section seek to counter the following circumstances that can facilitate diversion:**

- | Theft in unloading
- | Unexplained loss
- | Import becomes unauthorised transit or trans-shipment
- | Inadequate port authority and customs procedures
- | Insecure warehousing at port

### 3.4.1.a. Delivery Verification Procedures and Certification

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q29.** Does your State's customs authorities have a sufficient presence at all ports of entry and exit, or at the designated ports of entry for consignments of arms and ammunition?
- Q30.** Do your competent national authorities verify the end user and prepare and sign a delivery verification certificate (DVC) or comparable documentation which is shared with the national authorities of the country of origin or export of the arms and ammunition?

[> see Tool](#)

#### Group 1

In the mid-2010s, **Country A** introduced selective post-shipment controls for deliveries of conventional arms and specific types of firearms. This new measure supplements the strict application of the arms export controls and has resulted in additional requirements for EUC (see section 3.2.2.b). As at the time of writing, **Country A** has conducted 10 post-shipment control exercises in agreement with host States and has also advocated with some success the introduction of comparable controls by their partners in the regional organisation.

**Country B** has post-delivery controls in place to detect diversion incidents. The national authority requires a delivery verification certificate (DVC) to confirm that exported SALW have reached their intended importer or end user. The national authority does not authenticate DVC.

**Country C** did not provide specific and detailed information on delivery verification procedures and certification.

#### Group 2

In **Country D**, according to their national law, each exporter, importer, broker or technical service provider of conventional arms, including any person in the business of transport or transit of such items, must allow the authorities to have access to their records and documentation for the purpose of supervision in all the stages of trade and transport, transit and storage of such items. The authorities responsible for this supervision are the ministry of trade in cooperation with the ministries of defence, internal affairs and foreign affairs, as well as the national security agencies and customs. The ministry

of trade can issue DVC at the request of the registered importer, which customs agents and law enforcement officials are authorised to inspect to check their authenticity.

In **Country E** the general customs administration is the focal point to facilitate interactions with the other States or companies involved in an arms transfer. As part of a series of reforms launched recently to strengthen customs controls, the ultimate authority over customs and ports was transferred from the general customs administration to the ministries of defence and the navy. **Country E** uses "post-sale verification commitments" as part of its arms transfer process, and reports that its measures were developed and improved upon as a result of its joining and implementing the ATT. It also reports that, in response to the challenges of the COVID-19 pandemic, it has worked with a commercial partner to develop a remote verification scheme.

#### Group 3

**Country G** stated that the unloading of imported deliveries of SALW and related materials is regulated to meet provisions of their sub-regional arms control instrument. Thus, a SALW that is not properly marked is prohibited from import and the weapon must be registered and securely stored and/or destroyed. The national authorities stated that there are sufficient customs staff dedicated to monitoring the entry and exit points of weapons and ammunition, to verify all entries and exits. The authorities verify the end user through a DVC in collaboration with the authorities of the State of origin or export. There are storage facilities that meet international safety and security standards at all entry and exit points for weapons and ammunition,

with each maintaining a register of stored weapons and ammunition.

In **Country H**, under a 1994 firearms law, exporters and importers are required to keep records of all deliveries of SALW including the date and location of delivery, their quantities, type or model received,

the markings and details of the transaction, and those involved.

**Country F** did not provide specific and detailed information on delivery verification procedures and certification.

### 3.4.1.b. Standards for Secure Warehousing and Reloading at Ports of Entry

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q31.** Are there safe and secure storage facilities at all places of arrival in ports and at the premises of the final end user in your country, including routine record-keeping, inventory management and accounting for the items stored and released?

[> see Tool](#)

#### Group 1

**Country A** requires that the carrier, the transporter or the owner of an arms shipment provides a full declaration of transported arms to the main customs office immediately upon arrival or completion of loading.

**Country C** requires that at the point of entry, imported arms and ammunitions are subject to a customs clearance procedure. The procedure varies depending on the region of origin of the imported goods. The country has established security criteria for loading, unloading and transit operations in bus and train stations, ports and airports for weapons and components of weapons. These criteria are set by a joint order of the ministers of the interior and defence, and the ministers responsible for industry, transport and customs.

#### Group 2

**Country D** requires that importers, including any person in the business of transport or transit allows the competent national authorities to have access to records and documents for trade in and transport, transit and storage of arms and other military equipment.

**Country E** indicated that when arms or related items arrive at customs, personnel from the ministry of defence, the supplier, and the general customs administration carry out a preliminary inspection of the delivered conventional arms. The ministry is required to verify that the imported conventional arms correspond to those noted in the respective import or export authorisation before they are permitted to enter or leave the country.

#### Group 3

**Country F** deploys armed guards to escort arms imported by firearms dealers while they are being transported from the port of arrival to the national licensing authority and then to the registered firearms dealer's secure storage.

**Country G** regulates the unloading of imported deliveries, and the storage and local transport of SALW and their ammunition.

**Country H** requires that unloading of arms at ports be strictly supervised but has limited capacity to cover all possible entry points.

### 3.4.2 Transferred Arms in National Stockpiles

The questions addressed in this sub-section focus on countering the diversion of conventional arms held in national stockpiles:

- a Standards and procedures for secure storage
- b Record-keeping and inventory management

The types of measures assessed in this sub-section seek to counter the following circumstances that can facilitate diversion:

- | Theft and violent capture by external actors
- | Illicit removal by internal actors
- | Unexplained loss
- | Unauthorised transfer, sale, trade or gift
- | Rental by the authorised holder
- | Failure to destroy or render permanently inoperable surplus arms

#### 3.4.2.a. Standards and Procedures for Secure Storage

##### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

- Q32.** Does your State have designated national authorities responsible for overseeing and monitoring the application and the review of existing security regulations and procedures that apply to State-held weapons?
- Q33.** Does your State have designated national authorities responsible for conducting risk and needs assessments of storage locations? Describe what elements are considered as part of this risk assessment.

[> see Tool](#)

#### Group 1

**Country A** has standards and procedures relating to the control of access to stocks, inventory management and accounting control. These include staff training, security, accounting and control of SALW held or transported by operational units or authorised personnel, procedures and sanctions in the event of theft or loss, and provisions on the characteristics of stockpile management and security of military stocks. Regarding the disposal of surplus and obsolete weapons and ammunition,

the ministry of defence or customs administration handles this separately to reduce the risks of diversion. Surplus weapons for example are not stored in the armouries of the relevant security agency in order to reduce the risk of diversion. The customs administration disposes of surplus stocks by destruction, cession to other national armed authorities, or contracting a private entity to carry out the destruction. Since the late 2010s, **Country A** has been supporting multilateral efforts to address problems arising from the accumulation of conventional ammunition stockpiles in surplus.

**Countries B and C** have established standards and procedures relating to the management and security of conventional arms held by their armed forces, police, and other authorised entities.

**Country C** strengthened provisions for the storage of weapons in 2012 to prevent theft and diversion. According to security legislation, arms, ammunition and their components belonging to the State services or placed under the State's control are subject to special provisions enacted by the ministers responsible for these services. Among other measures, access to warehouses storing weapons and military equipment is protected by a security and control system that prevents the handling and removal of these materials by any person other than those designated by the holders of the authorisations. In addition, natural or legal persons in possession of firearms are required to take all measures to prevent the use of these weapons by a third party.

### Group 2

In **Country D** a mid-2010s law regulating firearms and ammunition requires that legal entities and entrepreneurs involved in the international arms trade must meet technical requirements for the safe storage and keeping of weapons.

In **Country E**, imported conventional arms are transported by the ministry of defence to a single, secure warehouse within a military installation where a full inspection is carried out, pending their transfer to authorised end users. The authorities report that the procedures in place for the security of SALW held by its military and security forces, include procedures on the appropriate locations for stockpiles, physical security measures, and control of access to stocks. To detect instances of diversion, government-held SALW are examined every six months by the ministry of defence. Interviewed officials report that work is currently underway to develop new standards for the safe storage of weapons and equipment.

### Group 3

**Country F** has established standards and procedures relating to the management and security of government held SALW and has designated national authorities to conduct assessments of storage

locations and audits of government security forces' stockpiles as well as civilian firearms dealers and private security companies' stockpiles. The goal is to regularly assess, identify and then address weaknesses. Elements considered as part of these audits include a review of physical security arrangements (such as physical barriers and other perimeter security measures, access control measures, and monitoring and surveillance measures), records management and information security measures, and management and accountability systems.

**Country G** has two dedicated national authorities in charge of the supervision, control and revision of national security procedures and regulations concerning State-owned weapons, and in charge of assessing the risks and needs of storage sites.

**Country H** indicated it has standards and procedures relating to the management and security of SALW held by the armed forces, police or any other entity authorised to hold SALW. When stocks are identified as surplus, the authorities record the surplus by type, lot, batch and serial number and store it separately. For the stocks identified as surplus, destruction is one option for disposal, but not the only one.

### 3.4.2.b. Monitoring, Reporting and Investigating Diversion from National Stockpiles

#### QUESTIONS FROM THE TOOL ADDRESSED IN THIS SUB-SECTION INCLUDE

**Q34.** Does your State have established measures for monitoring and diagnosing the diversion of weapons from stockpiles?

**Q35.** Does your State have established procedures for reporting and investigating weapons diverted from stockpiles?

[> see Tool](#)

#### Group 1

The supervisory authorities in **Country A** have the right to request information, have access to and examine company records, and carry out inspections to perform their oversight role. This includes stockpile checks and inventories while licence holders are obligated to allow access and provide the necessary information and records.

In **Country C** arms, ammunition and their components belonging to the State services or placed under their control are subject to special provisions enacted by the ministers responsible for these services. To prevent their theft and diversion, war materials are kept in a place where access is protected by a security and control system that prevents the handling and removal of these materials by any person other than those designated. This regime was strengthened in the early 2010s. Companies which are authorised to engage in the international arms trade must take specific security measures to protect against the risk of theft of arms from their premises. Each holder of an authorisation is required to maintain a register of arms held on company premises, the format of which is defined in regulations.

#### Group 2

Neither **Country D** nor **E** provided specific and detailed information on inventory management and measures to detect and investigate diversion from national stockpiles.

#### Group 3

**Country G**'s national authorities use several measures to monitor and diagnose potential diversion of weapons and ammunition from stockpiles on the national territory. Some of the measures identified by the national authorities for this purpose are: marking of weapons (on import), registration in databases (for tracing purposes), securing storage sites, and capacity-building of site personnel on the safe and secure management of weapons and ammunition. Stockpile management software was made available to the forces, allowing for the reporting of lost weapons and subsequently facilitating further investigation.

### **Box. 5. Secure Management of Transferred Arms During Deployment**

Only countries in **Group 3** provided information on measures to prevent or detect the diversion of transferred arms while on active use or deployment. **Country F** shares appropriate information about diversion during active use and deployment with exporting States through bilateral security cooperation arrangements. Such information sharing is done both proactively as well as when handling information related to tracing requests. Procedures cover the control of SALW held or transported by operational units or authorised personnel. They also define procedures and sanctions in the event of theft or loss.

**Country G** enacted a law in the late 2010s to criminalise the illegal misappropriation of arms, ammunition and related materials by members of the armed forces or an insurrectionary movement, with punishments ranging from five years' imprisonment if violence or threats are used to life imprisonment for uniformed officers. A deserter from the armed forces who takes such items may be imprisoned from five years to life. Soldiers can also be punished for negligence or failure to comply with regulations that leads to the loss of such equipment. Knowingly and wilfully supplying such items to an insurrectionary movement carries a punishment of life imprisonment. The code of military service brings together all the norms applying to the armed forces. This code includes a mid-1990s decree on the rules of service and general discipline in the national armed forces. Despite the many issues it covers, the code does not include any clauses concerning the misappropriation of weapons by soldiers during active use or deployment unless they are classified as deserters or deemed to have joined an insurrectionary movement.

National authorities in **Country G** share information with exporting States in the event of a diversion during active use and deployment via responses to tracing requests from the exporting State. The national security council is responsible for dealing with such tracing requests.

**Country H**'s legislation on the national police contains provisions to prevent diversion committed by police officers who have been issued arms for the exercise of their duties.



Weapons being burnt during the official launch of the Disarmament, Demobilization, Rehabilitation and Reintegration process in Murambya, Burundi. UN Photo / Martine Perret.

# CONCLUDING REMARKS

The testing of the Counter-Diversion Assessment Tool has yielded a rich array of information about the measures taken by the eight ATT States Parties examined in the pilot study. Many of the measures used to counter the diversion of arms transfers highlighted in this study were introduced following the ATT. There are of course different reasons that help to explain why these measures have been taken and therefore the study does not demonstrate a clear causal relationship attributable solely to the implementation of the ATT for all new measures. However, the pilot study reveals numerous and significant changes in the enabling environments of the eight pilot countries to counter diversion, which have taken place since the adoption and entry into force of the ATT.

The pilot study findings show that the ATT had some impact on the systemic and practical measures used by Group 1 to counter diversion, with some significant legislative amendments and regulatory controls and policies in all three States. After ratifying the ATT, **Country B** introduced several amendments to its national legislation, for example expanding its brokering regulations to implement Article 10 and 11, which can be directly connected to becoming an ATT State Party. For **Countries A** and **C**, following the adoption of the ATT both States Parties closed gaps in their legislative and regulatory framework to strengthen efforts to counter diversion, including increasing penalties for violations of diversion-related offences. Of particular note, **Country A** introduced post-shipment controls for SALW as a measure to further mitigate the risk of diversion.

States Parties in Group 2 have introduced new legislative and regulatory provisions and introduced practical measures to counter diversion, but it is not always clear to determine the impact of the ATT on the introduction of such measures to strengthen the enabling environment to counter diversion. For example, following the signing of the ATT, **Country D** introduced a law on the export and import of arms and military equipment that contains provisions explicitly related to ATT articles, including for countering diversion. **Country D** also established a national coordination authority to support implementation of ATT provisions to counter diversion. **Country E** has also reviewed national legislation and regulations and introduced a registry to support tracking of illicit firearms. In the early 2020s, it began reforms to strengthen its national customs controls and to reduce corruption and illicit trafficking at its ports. For these States Parties, the ATT has provided political and practical impetus amend the legislative and regulatory framework for tackling diversion, as well as supporting reforms for practical measures to counter diversion.

Group 3 States Parties face resource challenges for implementing ATT provisions to counter diversion; and there are many priority areas to address. Yet, as with States Parties in Group 2, the ATT and relevant regional instruments have contributed to political impetus for significant reform for establishing a national control system to implement the ATT, including counter-diversion measures. Further, there is evidence that international assistance and cooperation to support ATT implementation has been well used by **Countries F, G** and **H** to make progress in updating national legislation and the regulatory framework to implement the ATT. While these countries have not yet enacted new legislation to implement the ATT, including its diversion provisions, reform efforts are well advanced. In all three countries, there is a desire to strengthen controls and detection efforts during the transit stage and on arrival and after delivery in their countries.

## Looking Forward

The Consortium would like to encourage all interested States Parties to make use of Counter-Diversion Assessment Tool to examine their own national systemic and practical measures to strengthen their enabling environment to counter diversion. The Tool is not set in stone and could be further refined. The findings resulting from the use of the Tool by States Parties could inform the development and exchange of good policies and practices on counter-diversion in supporting the implementation of the ATT and other relevant multilateral instruments highlighted in this study. The Counter-Diversion Assessment Tool can be used (a) to identify effective practices to share with other States in initial report updates, interventions in ATT working groups, or other forums; and (b) to highlight gaps to address with or without international cooperation and assistance. The following modes, applicable individually or in combination, suggest possible ways to use the Tool:

- | A self-assessment approach under which an interested State uses the Tool, which is intended to be the long-term sustainable approach;
- | A cooperative approach under which an interested State and the Consortium work together to collect relevant data to address the questions contained in the Tool; and
- | A peer review by mutual agreement under which interested States use the Tool to structure the peer review, which could build upon an initial self-assessment.

# Annex 1. The Counter-Diversion Assessment Tool



## ALL STAGES OF TRANSFER

DIVERSION RISK	KEY QUESTIONS	
<p style="text-align: center;"><b>USE OF DECEPTIVE METHODS</b></p> <ul style="list-style-type: none"> <li>█ Fraudulent use of documentation</li> <li>█ Use of front companies</li> <li>█ Illicit brokering activity</li> <li>█ Physical alteration of items</li> <li>█ Participation in organised crime</li> <li>█ Smuggling, including by postal and courier deliveries</li> <li>█ Illegal acquisition and sales, including by Internet transaction</li> </ul>	<p><b>Q1.</b> Is theft or the use of fraud, deception, corruption, violence or any other method of rerouting or misappropriation of arms listed as an aggravated criminal offence subject to severe criminal sanctions? If so, what sanctions are applicable?</p> <p><b>Q2.</b> Is it also a criminal offence to engage in arms exports, imports or brokering activities without a licence or official authorisation, or to do so in a manner that is in contradiction to the terms of a licence or authorisation? If so, what sanctions?</p> <p><b>Q3.</b> Does your national system provide for mutual legal assistance in regard to investigations, prosecutions, and judicial proceedings for the activities mentioned in questions 1 and 2? (If yes, what / how?)</p> <p><b>Q4.</b> Are bilateral and multilateral information-sharing approaches used to prevent the use of deceptive methods? (If yes, what / how)</p>	<p><b>Q5.</b> Does your State allow for sharing with other States such information as the disbarment of traders and brokers and the revocation of their registration?</p> <p><b>Q6.</b> Does your State allow for sharing with other States information on illicit activities including, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organised groups engaged in diversion?</p> <p><b>Q7.</b> Does your State require any of the following actors to be registered and/or screened on a regular basis before they can engage in the international arms trade?</p> <ol style="list-style-type: none"> <li>a. Manufacturers and assemblers</li> <li>b. Dealers and wholesalers</li> <li>c. Brokers and agents</li> <li>d. Transport service providers</li> <li>e. Legal advisors</li> </ol>
<p><b>References:</b> ATT Articles 5, 6, 7, 8, 9, 10 11, 12, 13, 14, 15(4), 15(5); UN Firearms Protocol Articles 5, 6, 10, 11, 12; ITI in particular, paragraphs 14 to 21, 24, 25, 31, 33 and 35.</p>		

		↔ UNILATERAL	↔ BILATERAL	⊗ MULTILATERAL
<b>PREVENTION MEASURES*</b>	<b>SYSTEMIC</b>	<p>The State has established in law criminal offences and penalties applicable to deliberate and reckless acts of diversion, including the reactivation and conversion of firearms and other arms.</p> <p>National control systems to detect, trace and prosecute illicit arms trade activities and illicit arms have been established.</p>	<p>The State has established bilateral arrangements for information exchanges on export, import, transit and brokering to prevent deception.</p> <p>Mutual legal assistance agreements have been established.</p>	<p>The State is a party to relevant international and regional agreements on arms transfers including transnational crime and corruption conventions.</p> <p>The State has adopted legislation and established administrative systems to implement the above relevant multilateral agreements and standards.</p>
	<b>PRACTICAL</b>	<p>Law enforcement agencies and the national licensing authority conduct monitoring, detection, tracing and prosecution.</p> <p>The State has examined diverted shipments of such conventional arms and taken follow-up measures through investigation and law enforcement.</p> <p>The State has organised outreach and provides training systems for key stakeholders involved in arms transfers to prevent incidents of diversion.</p>	<p>Bilateral checks have been made with the transferring State to verify arms transfer documents.</p> <p>If a diversion has been detected the State has alerted potentially affected States and endeavoured to jointly trace the arms to discover points of diversion and take corrective action.</p>	<p>The State has actively participated in the ATT CSP and working groups, as well as other international and regional standard-setting processes on arms transfers to prevent diversion.</p> <p>The State has reported in such forums on the measures it has taken to prevent diversion.</p>

\* These prevention and other indicative measures include risk mitigation, monitoring, detection, reporting and information-sharing measures are contained in Article 11 and related provisions of the Arms Trade Treaty

DIVERSION RISK	KEY QUESTIONS	
<p><b>DIVERSION FROM INSTITUTIONAL WEAKNESSES</b></p> <ul style="list-style-type: none"> <li>█ Grey areas and ineffective regulation of financial systems</li> <li>█ Downsizing/dissolution/re-organisation of security forces</li> <li>█ Government-sponsored unauthorized transfer or re-transfer</li> <li>█ Widespread and systematic corruption</li> <li>█ Fragmentation of State institutions</li> </ul>	<p><b>Q8.</b> What types of conventional arms, if any, are not included in your national control list?</p> <p><b>Q9.</b> Are any of the activities listed below not regulated under national legislation?</p> <ol style="list-style-type: none"> <li>a. Manufacture and assembly</li> <li>b. Brokering of transactions</li> <li>c. Pre-export preparation of cargo</li> <li>d. Shipment, transit and trans-shipment</li> <li>e. Import delivery unloading, warehousing and local transport</li> <li>f. End-use/user operations and stockpiles</li> </ol>	<p><b>Q10.</b> Does the national authority have a system to assess the nature of any institutional risks of diversion such as corrupt practices, organised crime and lack of parliamentary oversight of procurement, and, if applicable, does the authority consider what available mitigation measures may help to reduce those risks to an absolute minimum?</p>
<p><b>References:</b> ATT Preamble Principles and Articles 5, 6, 7, 8, 9, 10, 12, 14, 15 and 16, especially 5(2), 6(1), 6(2), 6(3), 7(1), 7(5), 7(6), 7(7), 8(1), 8(3), 9, 10, 15(4) and 16(2); UN Firearms Protocol Articles 5, 6, 7, 10, 11, 12, 13, and 14.</p>		

		→ UNILATERAL	↔ BILATERAL	↻ MULTILATERAL
PREVENTION MEASURES	SYSTEMIC	<p>The government has taken active measures to uphold the rule of law and democratic accountability according to the constitution and is accountable to parliament.</p> <p>National legislation, regulations and administrative procedures have been established and maintained on all aspects of the arms transfer chain—import, export, transit, trans-shipment, brokering and stockpiles/holdings.</p>	<p>When the State considers a potential transfer of arms the national authority has a system of licensing to first assess the nature of any institutional risks of diversion and, if applicable, the authority considers what available mitigation measures may help to reduce those risks to an absolute minimum, e.g. confidence-building measures or jointly developed and agreed programmes by the exporting and importing States; requiring additional documentation, certificates, or assurances; or not authorising the transfer.</p>	<p>The State is a party to the ATT and other relevant international and regional agreements on arms transfers.</p> <p>The State's agreements on arms transfers include transnational crime, corruption and counter-terrorism conventions.</p> <p>The State adopts legislation and establishes administrative systems to implement the above relevant multilateral agreements and standards.</p>
	PRACTICAL	<p>The legislature is kept informed of national arms procurement and the procedures to ensure the rule of law.</p> <p>National inter-agency cooperation and communication on arms transfer policies and standards have been discussed in parliament.</p> <p>Public awareness programmes on the dangers of illicit arms trafficking and dealing have been conducted.</p>	<p>The State engages in bilateral information sharing on arms control.</p> <p>The State has cooperated bilaterally in anti-corruption, anti-money laundering and security sector reforms according to international standards.</p>	<p>The State actively participates in the ATT CSP process and other relevant international and regional standards to prevent the diversion of arms.</p> <p>The State engages in, or supports, multilateral assistance programmes with United Nations and other multilateral and regional organisations to strengthen arms transfer controls and management, e.g. security sector reforms, which reduce the risks of diversion.</p>



## PRE-TRANSFER STAGE

DIVERSION RISK	KEY QUESTIONS	
<b>DIVERSION FROM MANUFACTURING OR ASSEMBLING FIRM</b>	<p><b>Q11.</b> Does your State require manufacturing and assembling companies to mark each item (whether a military weapon, other armament or munition) when it is manufactured? Are all manufacturers required to keep records of the unique markings when each item is sold, moved or otherwise transferred from the plant site?</p> <p><b>Q12.</b> Does your State enforce measures to prevent the manufacture, stockpiling, transfer and possession of any unmarked or inadequately marked arms, in particular SALW?</p>	<p><b>Q13.</b> Does your State require any of the following actors to be registered and/or screened on a regular basis before they can engage in the international arms trade?</p> <ol style="list-style-type: none"> <li>Directors of all such companies</li> <li>Senior managers</li> <li>Technicians</li> <li>On-site supervisors and dispatchers</li> <li>On-site loaders and guards?</li> </ol> <p><b>Q14.</b> Does your State license the export and/or import of parts and components in a form capable of assembly into a conventional arm?</p>
<ul style="list-style-type: none"> <li>■ Illicit removal</li> <li>■ Unauthorised distribution</li> <li>■ Deliberate overproduction and/or unauthorised production by internal actors</li> <li>■ Theft and violent capture by external actors</li> </ul>	<p><b>References:</b> ATT Articles 5, 9, 10, 12, 13, 14, 15(4), 15(5); UN Firearms Protocol Articles 6, 7, 8, 9, 11 and 12; ITI paragraphs 7 to 13.</p>	

		→ UNILATERAL	↔ BILATERAL	↻ MULTILATERAL
PREVENTION MEASURES	SYSTEMIC	Establish in national regulations and maintain specific registration, record-keeping, reporting and inspection requirements for all arms manufacturing and assembly companies, plants and sites.	Bilaterally encourage States to establish national regulations.	Encourage the affected State to implement relevant standards devised by the Wassenaar Arrangement and in the MOSAIC modules.
	PRACTICAL	<p>Carry out official inspections of record-keeping and inventories.</p> <p>Actively encourage corporate auditing and internal compliance programmes.</p> <p>Establish regular outreach and consultations with industry.</p> <p>Encourage firms to screen for potential diversion risks relating to their customers, such as particular destinations, end users and end uses.</p>	Promote the sharing of information regarding illicit activities and actors in order to prevent and eradicate diversion.	Report to other States Parties, through the Secretariat, information on measures taken that have been proven effective in addressing the diversion of transferred conventional arms.

DIVERSION RISK	INADEQUATE TRANSFER RISK ASSESSMENT	
<ul style="list-style-type: none"> <li>█ Gaps in diversion risk criteria</li> <li>█ End-use/users not verified</li> </ul>	<ul style="list-style-type: none"> <li>█ Export risks not considered</li> <li>█ Suspicious brokering not checked</li> </ul>	<ul style="list-style-type: none"> <li>█ Documents not authenticated</li> </ul>

### KEY QUESTIONS

**Q15.** What risk factors do your national authority consider in order to prevent the diversion of an export or import before an export or import licence can be issued? Do the risk factors include the following?

- a. Known cases of diversion in the importing country or by its agents or dealers
- b. Transfers involving countries bordering or trading with a country whose State and/or armed groups are subject to United Nations or other international sanctions
- c. Excessive quantities being ordered
- d. Types of arms not in service with the importing or exporting country
- e. The arms transfer regulatory system is known to be inadequate or to lack capacity
- f. The proposed route for the transfer is circuitous or the shipping method is unusual
- g. A credible system of verifying end use/end user and re-transfer assurances
- h. The right to conduct on-site inspections and post-shipment verification for sensitive items
- i. Relevant information regarding acts of diversion has not been exchanged
- j. An effective policy and practice of disposing of surplus arms

**Q16.** Do transfer assessments take into account whether the transfer would contribute to a potentially destabilising accumulation of conventional weapons, taking into account regional stability; the political, economic, and military status of the prospective importing State; and its record of compliance with transfer controls?

**Q17.** What steps are taken to check the reliability of proposed end users and entities involved in arms transfers and the authenticity of end-use/user documents? Are these procedures consistent with international good practice standards regarding certification and authentication of such documents, and verification of end use/users?

**Q18.** Are such authorisations in each case:

- a. Issued in standardised written form that minimizes opportunity for fraud?
- b. Having a limited date of expiry?
- c. Having a detailed description of the items to be transferred, their origin, quantity, weight and value?
- d. Having all the names and full addresses of the contract holders, the consignee, the consignor, any intermediaries or agents involved, and the proposed route and means of delivery?

**Q19.** Does your State require a licence or a specific written authorisation, in each case:

- a. For all exports of arms and related items?
- b. For all imports of arms and related items?
- c. For all transits and/or trans-shipments of arms and related items?
- d. For all brokering activities?

**References:** ATT Articles 5, 6, 7, 11, 13(2), 15(4) and 15(6); UN Firearms Protocol Articles 10, 11, 12. (See also UNIDIR Issue Brief 2 – pp. 21-26 list of risk indicators which draw upon multilateral guidelines)

		→ UNILATERAL	↔ BILATERAL	↻ MULTILATERAL
PREVENTION MEASURES	SYSTEMIC	<p>National arms trade licensing systems are established with specific diversion risk indicators to assess licence approvals.</p> <p>Effective regulations on arms export, import, transit, trans-shipment and brokering are established according to relevant international standards.</p>	<p>Bilateral standards and procedures are agreed for authentication and verification of end-use/user documentation and monitoring.</p> <p>Bilateral procedures are established for the exchange of information on risks of diversion.</p> <p>In sensitive cases, or in the event of diversion, bilateral agreements allow for on-site inspections by the supplier State.</p>	<p>The State is a party to the ATT and other international and regional arms transfer control regimes that require diversion risk assessments and risk mitigation measures for exports and other transfers, as well as the submission of regular reports to multilateral bodies on its arms transfer and trade activities.</p> <p>Standards for the authorisation of arms transfers are consistent with the ATT or similar multilateral agreements and arrangements.</p>
	PRACTICAL	<p>Inter-agency risk assessments are routinely carried out routinely by specialised officials before all decisions on arms transfers are made using sources of reliable information.</p> <p>Diversion risk checks are made on the effectiveness of:</p> <ul style="list-style-type: none"> <li>█ End-user and end-use controls in the importing State;</li> <li>█ The reliability of agents, businesses, intermediaries and service providers involved in the transfer;</li> <li>█ The security of the shipping arrangements; and</li> <li>█ The procedures for stockpile management and security in the importing State.</li> </ul> <p>Extra diversion risk checks are made if the end-user's country is not the same as the buyer or initial importer's country.</p> <p>Cases of diversion are analysed and where possible are prosecuted by the national authorities.</p>	<p>Bilateral information-sharing on diversion may include information on:</p> <ul style="list-style-type: none"> <li>█ Illicit activities including corruption;</li> <li>█ International trafficking routes;</li> <li>█ Illicit brokers and sources of illicit supply;</li> <li>█ Methods of concealment; and</li> <li>█ Common points of dispatch, and destinations used by organised groups engaged in diversion.</li> </ul>	<p>The State actively participates in the ATT and other international and regional control regimes, including the PoA, Organized Crime Convention, Convention against Corruption and counter-terrorism treaties, and cooperates in sharing relevant information with other States on effective measures to reduce the risks of diversion.</p>

DIVERSION RISK	KEY QUESTIONS	
<p><b>FAILURE OF PRE-SHIPMENT CHECKS</b></p> <ul style="list-style-type: none"> <li>■ Illegal delivery route</li> <li>■ Arms cargo ready for shipment does not match documentation</li> <li>■ Planned shipment route is unnecessarily circuitous</li> <li>■ Concealed compartments in shipping containers or vehicles</li> <li>■ Organisers of shipment include known traffickers on watch list</li> </ul>	<p><b>Q20.</b> Has your State established inter-agency cooperation for the reciprocal authorisation of arms and ammunition transfers between the respective licensing agencies and customs agencies?</p> <p><b>Q21.</b> Does your national authority cooperate with national authorities engaged in the transfer of arms and ammunition and supply advanced notification to those authorities on the route of such transfers?</p> <p><b>Q22.</b> Do your national authorities deploy technologies such as X-ray machinery at ports of departure for the prevention and detection of incidents of diversion?</p>	<p><b>Q23.</b> Does your State register businesses involved in the arms trade as "approved economic operators" (AEO) according to the World Customs Organization's best practice standards, and what safeguards are in place when AEOs are given permission to undertake certain customs clearance procedures?</p> <p><b>Q24.</b> Do your customs and other law enforcement agencies conduct risk profiling for arms and ammunition shipments to help detect diversion and trafficking incidents?</p>
<p><b>References:</b> ATT Article 7(5), 7(6), 8, 9, 10, 11,14, 15, 16; UN Firearms Protocol Article 10; Organisation for Security Cooperation in Europe (OSCE) Handbook of Best Practices on Small Arms and Light Weapons, Chapter 5; WCO Safe Framework of Standards; UN Regulations for the Transport of Dangerous Goods by Sea, Air, Road and Waterways transport.</p>		

		→	↔	↻
		UNILATERAL	BILATERAL	MULTILATERAL
PREVENTION MEASURES	SYSTEMIC	<p>The State has established and maintained a customs agency and border police force with appropriate training and capacity to undertake physical inspections at points of export, transit and import, specifically to cross-check pre-shipment items with documentation and determine if any arms are unmarked, and to notify the receiving customs agency of sensitive consignments.</p> <p>National procedures are established so that the standard cargo manifest can be checked by customs, as a norm, against the relevant export licence and initial end-use/user certificate to which it refers, reporting to the relevant national licensing authorities.</p>	<p>The State has established procedures to check bilaterally:</p> <ul style="list-style-type: none"> <li>■ If any additional security measures are required and how this will be implemented; and</li> <li>■ If simplified procedures for the temporary import and export and the transit apply, e.g.: for firearms, their parts and components and ammunition for verifiable lawful purposes such as hunting, sport shooting, evaluation, exhibitions or repairs.</li> </ul>	<p>The State has made a commitment to implement the International Tracing Instrument and the SAFE Framework of Standards regarding the movement of goods.</p> <p>The government has established and trained personnel to ensure the implementation of those standards by customs and border control authorities.</p> <p>Law enforcement personnel are trained, and secondment and exchange of staff is considered to implement and contribute to the recommendations of the Organized Crime Convention.</p>
	PRACTICAL	<p>The authorities have taken steps to ensure the security of international arms shipments in circumstances where routes and methods warrant additional measures and safeguards due to the increased risks of diversion and abuse of the arms, e.g.:</p> <ul style="list-style-type: none"> <li>■ Sensitive nature of arms and munitions;</li> <li>■ Deliveries to private entities;</li> <li>■ Danger of unauthorised onward shipment;</li> <li>■ Deliveries by circuitous routes; and</li> <li>■ Mediated by unregistered/unlicensed intermediaries.</li> </ul> <p>The government has provided X-ray and other means to check that contents of consignments match shipping documents.</p>	<p>Bilateral sharing of information is conducted so the authorities at transit or trans-shipping ports and airports, including where there is a free-trade zone or bonded warehouse, are notified in advance to provide extra security for certain cargoes, and open the cargo if they receive such order by law enforcement authorities.</p>	<p>Customs administrations along the supply chain consider customs-to-customs data exchange, in particular for high-risk consignments, to support risk assessment and facilitate release; such an electronic messaging system could include the exchange of notifications about the export transaction, including the control results, as well as a corresponding arrival notification.</p>



## IN-TRANSFER STAGE

DIVERSION RISK	KEY QUESTIONS
<b>DIVERSION DURING SHIPMENT</b>	
<p>Rerouting and/or misappropriation of cargo in transit or trans-shipment by:</p> <ul style="list-style-type: none"> <li>█ Plane/aircraft</li> <li>█ Boat/ship</li> <li>█ Ground transportation</li> </ul> <p>Use of deceptive methods en route by:</p> <ul style="list-style-type: none"> <li>█ Falsifying transport documentation</li> <li>█ Concealing actual flight plans, routes, and destinations</li> <li>█ Turning off transponders</li> <li>█ Falsifying aircraft registrations</li> <li>█ Quickly changing registration numbers and vessel names or national flag registries</li> </ul>	<p><b>Q25.</b> What regulations and procedures does your State have to address arms diversion in road, air and maritime/waterways transport, in particular of SALW and related ammunition/munitions, to destinations or entities subject to United Nations arms embargoes?</p> <p><b>Q26.</b> Do your authorities deploy armed guards or use satellite tracking systems for the shipment of sensitive arms consignments and how routine is this procedure?</p> <p><b>References:</b> ATT Articles 5, 8, 9, 10, 11; UN Firearms Protocol Articles 11 and 12; UN Regulations for the Transport of Dangerous Goods by Sea, Air, Road and Waterways transport; WCO SAFE Framework.</p>

		→ UNILATERAL	↔ BILATERAL	⊕ MULTILATERAL
PREVENTION MEASURES	SYSTEMIC	<p>Legislation and regulations for customs notifications and clearance procedures have been established.</p> <p>Prior registration is required for freight forwarders, shipping agents and transport companies that provide arms transfer services. The details of their registration are included along with other intermediaries in export application procedures.</p> <p>National regulations ensure that customs authorities have access to basic documents such as export and import licences, bills of lading, airway bills and cargo manifests, either electronically or in hard copy.</p>	<p>Bilateral arrangements for the transport of arms shipments have been made to prevent diversion en route, including to mitigate diversion during transit and trans-shipment involving more than one vessel for the consignment.</p>	<p>The State implements the regulations and provisions of the Convention on International Civil Aviation and the United Nations Convention on the Law of the Sea, as well as standards agreed by the World Customs Organization, the International Labour Organization, and the International Maritime Organization, including the International Convention for the Safety of Life at Sea, chapter VII on "Carriage of Dangerous Goods" and chapter XI-2 on "Special Measures to Enhance Maritime Security", the International Ship and Port Facility Security Code, and the IMO/ILO Code of Practice on Security in Ports.</p>
	PRACTICAL	<p>Initiate government-backed awareness programmes to encourage relevant private and public sector actors dealing with arms shipments to alert the authorities to possible diversion of consignments.</p>	<p>The national authorities have agreed additional safeguards bilaterally such as special vehicles, security escorts, satellite tracking and physical checks in transit, especially for more sensitive cargoes and potentially vulnerable routes and ports.</p>	<p>The State participates regularly in deliberations of the World Customs Organization's SAFE Framework of Standards to Secure and Facilitate Global Trade, and its national officials participate in World Customs Organization training programmes.</p>

DIVERSION RISK	KEY QUESTIONS	
<b>UNAUTHORISED CROSS-BORDER MOVEMENTS</b> <ul style="list-style-type: none"> <li>■ Ant trade</li> <li>■ Drop-off points</li> <li>■ Postal shipments</li> <li>■ Large shipments</li> <li>■ Inadvertent change of jurisdiction</li> </ul>	<p><b>Q27.</b> Does your State use the lists of risk indicators for border controls issued by the World Customs Organization and INTERPOL?</p>	<p><b>Q28.</b> Has your State made agreements with neighbouring States to cooperate on eradicating illicit cross-border movements of arms, including the apprehension and prosecution of offenders?</p>
	<p><b>References:</b> ATT Articles 11, 14; UN Firearms Protocol articles 5, 6, 8, 9, 10, 11 and 12; WCO list of border control risk indicators; INTERPOL guidance.</p>	

		 UNILATERAL	 BILATERAL	 MULTILATERAL
PREVENTION MEASURES	SYSTEMIC	<p>National procedures are established for customs and other law enforcement agencies to address risks of arms, especially firearms and ammunition, illegally crossing an international border. The procedures address:</p> <ul style="list-style-type: none"> <li>■ Risk areas—those border control procedures and categories of international trade which present a risk;</li> <li>■ Risk indicators—specific criteria which, when taken together, can be used to identify high-risk individuals, companies or transports and transporters;</li> <li>■ Risk management—systematic application of management procedures to identify, analyse, assess and take enforcement action against risks; and</li> <li>■ Risk profiling—identifying individuals, organisations, transporters and goods which match a profile that indicates the possibility of illegal activity.</li> </ul>	<p>The State has negotiated and agreed bilateral arrangements with neighbouring States for cross-border law enforcement and air, road, waterway and maritime cooperation.</p> <p>The State has agreements with neighbouring States to conduct mutually beneficial law enforcement operations, including procedures for hot pursuit of arms traffickers and groups.</p>	<p>The State consults regional and other partner States about cross-border agreements and changes in legislation that will affect cross-border cooperation.</p> <p>The State participates in World Customs Organization and INTERPOL deliberations regarding standards for cross-border cooperation in law enforcement.</p>
	PRACTICAL	<p>Provide customs and other law enforcement officials with risk indicators and appropriate training, including for outreach work among key stakeholders.</p>	<p>Work bilaterally with neighbouring States to create awareness of the dangers among local communities along porous borders and ensure their cooperation</p>	<p>Use the lists of risk indicators for border controls issued by the World Customs Organization and INTERPOL.</p>



## DELIVERY AND POST-DELIVERY STAGE

DIVERSION RISK	KEY QUESTIONS	
<b>DIVERSION AT POINTS OF DELIVERY</b>	<p><b>Q29.</b> Does your State's customs authorities have a sufficient presence at all ports of entry and exit, or at the designated ports of entry for consignments of arms and ammunition?</p> <p><b>Q30.</b> Do your competent national authorities verify the end user and prepare and sign a delivery verification certificate (DVC) or comparable documentation which is shared with the national authorities of the country of origin or export of the arms and ammunition?</p> <p><b>References:</b> ATT Articles 8, 11(3), 11(4), 11(5), 11(6), 12, 13, 14, 15; Firearms Protocol Articles 6, 7, 8, 9, 10, 11 and 12; UN Regulations for the Transport of Dangerous Goods by Sea, Air, Road and Waterways transport.</p>	<p><b>Q31.</b> Are there safe and secure storage facilities at all places of arrival in ports and at the premises of the final end user in your country, including routine record-keeping, inventory management and accounting for the items stored and released?</p>
<ul style="list-style-type: none"> <li>▮ Theft in unloading</li> <li>▮ Unexplained loss</li> <li>▮ Import becomes unauthorised transit or trans-shipment</li> <li>▮ Inadequate port authority and customs procedures</li> <li>▮ Insecure warehousing at port</li> </ul>		

		→ UNILATERAL	↔ BILATERAL	↻ MULTILATERAL
<b>PREVENTION MEASURES</b>	<b>SYSTEMIC</b>	<p>The State has established national laws and regulations to ensure:</p> <ul style="list-style-type: none"> <li>▮ On-arrival inspections at ports, border controls, transit and trans-shipment customs procedures and delivery verification notifications;</li> <li>▮ Safe and secure storage at arrival in ports and at the premises of the end user, including record-keeping as part of inventory management and accounting; and</li> <li>▮ The security of stockpiles that are in transit and trans-shipment.</li> </ul>	<p>The State has agreed bilaterally the arms transfer procedures for:</p> <ul style="list-style-type: none"> <li>▮ Import certificates;</li> <li>▮ Shipment notifications to receiving and transit States;</li> <li>▮ Arrival unloading and inspection procedures; and</li> <li>▮ Delivery verification systems for consignees.</li> </ul> <p>Bilateral arrangements are in place, such as prior notifications, profiling and spot checks, to give special attention to port procedures involving transits and trans-shipments in free-trade zones.</p>	<p>The State consults regional and other partner States about cross-border agreements and changes in legislation that will affect cross-border cooperation.</p> <p>The State participates in World Customs Organization and INTERPOL deliberations regarding standards for cross-border cooperation in law enforcement.</p>
	<b>PRACTICAL</b>	<p>The authorities routinely screen candidates and train customs and port officials.</p> <p>Sufficient numbers of staff are employed and closely supervised to cover all ports of entry and customs warehousing.</p>	<p>Undertake bilateral measures for:</p> <ul style="list-style-type: none"> <li>▮ Post-delivery cooperation to ensure mitigation measures and assurances remain in place; and</li> <li>▮ Detecting and investigating diversion of transferred conventional arms.</li> </ul>	<p>The authorities exchange information according to the provisions in the ATT on national points of contact for end-user and end-use control, and according to the tracing provisions in the International Tracing Instrument and Firearms Protocol, and other relevant instruments.</p>

DIVERSION RISK	KEY QUESTIONS	
<b>DIVERSION FROM NATIONAL STOCKPILES</b>		
<ul style="list-style-type: none"> <li>█ Theft and violent capture by external actors</li> <li>█ Illicit removal by internal actors</li> <li>█ Unexplained loss</li> <li>█ Unauthorised transfer</li> <li>█ Sale, trade or gift</li> <li>█ Rental by the authorised holder</li> <li>█ Failure to destroy or render permanently inoperable surplus arms</li> </ul>	<p><b>Q32.</b> Does your State have designated national authorities responsible for overseeing and monitoring the application and the review of existing security regulations and procedures that apply to State-held weapons?</p> <p><b>Q33.</b> Does your State have designated national authorities responsible for conducting risk and needs assessments of storage locations? Describe what elements are considered as part of this risk assessment.</p> <p><b>References:</b> ATT Articles 11, 14, 16; UN Firearms Protocol Articles 7, 8, 11 and 12; International Ammunition Technical Guidelines (IATG); Wassenaar Arrangement; Modular Small Arms Implementation Compendium (MOSAIC) modules on stockpile security and regulation of civilian possession; UNIDIR Reference Methodology for national WAM Baseline Assessments.</p>	<p><b>Q34.</b> Does your State have established measures for monitoring and diagnosing the diversion of weapons from stockpiles?</p> <p><b>Q35.</b> Does your State have established procedures for reporting and investigating weapons diverted from stockpiles?</p>

		→ UNILATERAL	↔ BILATERAL	⊗ MULTILATERAL
<b>PREVENTION MEASURES</b>	<b>SYSTEMIC</b>	<p>The State has established national regulations for safe and secure storage systems for transferred arms by State armed forces and law enforcement agencies, as well as private actors.</p> <p>The State has taken active steps to ensure that adequate marking, record-keeping, inventory management and accounting control measures are in place.</p>	<p>Bilateral arrangements with neighbouring States have been established to alert each other if arms or ammunition is diverted from national stockpiles, with provisions to cooperate on tracing the items, and conducting investigations and prosecutions.</p>	<p>The State actively contributes to the implementation of the international standards on stockpile safety and security, including the International Tracing Instrument, the International Ammunition Technical Guidelines and the MOSAIC modules.</p>
	<b>PRACTICAL</b>	<p>The national authorities regularly assess the State's security requirements for national stockpiles held by armed forces, police, or any other body authorised to hold arms; stocks that no longer meet operational needs are safely disposed of, preferably through destruction in accordance with international norms and standards.</p> <p>Other measures taken include:</p> <ul style="list-style-type: none"> <li>█ Inventory management and accounting;</li> <li>█ Storing records of transactions made by all departments with a single, central authority;</li> <li>█ Controlling access to stockpiles including by physical means such as fencing and locking systems; and</li> <li>█ Strict screening and appropriate training of staff in safe and secure stockpile management procedures.</li> </ul>	<p>The authorities alert the State of origin of the arms and ammunition and, if applicable, the neighbouring States and States of transit or trans-shipment, concerning each instance of diversion from national stockpiles and where appropriate initiate a formal tracing request.</p>	<p>The State shares information and discusses tools and existing standards regarding the safe and effective disposal of surplus arms, with a view to identifying good practices, including certificates of irreversible deactivations which can supplement existing records and the requirement that deactivation is undertaken and verified by authorised entities only.</p>

DIVERSION RISK	KEY QUESTIONS	
<p style="text-align: center;"><b>DIVERSION DURING ACTIVE USE AND DEPLOYMENT</b></p> <ul style="list-style-type: none"> <li>█ Loss</li> <li>█ Defection</li> <li>█ Surrender</li> <li>█ Abandonment</li> <li>█ Violent capture</li> <li>█ Unauthorised transfer sale, trade or gift</li> <li>█ Rental by the end user</li> </ul>	<p><b>Q36.</b> Is the management of arms by personnel in the armed forces and in the law enforcement agencies subject to strict legislation, administrative procedures and practical training consistent with international standards regarding official management and uses of arms, including under treaties on transnational crime and on international humanitarian and human rights treaty obligations?</p> <p><b>Q37.</b> Do your national authorities share appropriate information about diversion during active use and deployment with the exporting State? Is such sharing done proactively or only when handling information related to arms as a result of your State's tracing request?</p>	<p><b>Q38.</b> Which government agency is responsible for responding to a tracing request from another State?</p> <p><b>Q39.</b> Does your State have procedures in place to ensure that the confidentiality of such information is guaranteed?</p>
<p><b>References:</b> ATT Articles 7(4), 11, 12, 14 and 15; UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.</p>		

		→ UNILATERAL	↔ BILATERAL	⊕ MULTILATERAL
		SYSTEMIC	PRACTICAL	
PREVENTION MEASURES	SYSTEMIC	<p>National legislation and regulations cover the handling and use of arms by:</p> <ul style="list-style-type: none"> <li>█ Government actors: armed forces; former State officials; internal security forces; customs licensing authority; intelligence agencies</li> <li>█ Private actors: individual holders of arms; arms dealers and traders; arms collectors; private security companies.</li> </ul>	<p>Bilateral arrangements with neighbouring States have been established to alert each other if arms or ammunition is diverted from national stockpiles, with provisions to cooperate on tracing the items, and conducting investigations and prosecutions.</p>	<p>The State actively contributes to the implementation of the international standards on stockpile safety and security, including the International Tracing Instrument, the International Ammunition Technical Guidelines and the MOSAIC modules.</p>
	PRACTICAL	<p>The government has taken steps to ensure rigorous training and monitoring in the management and use of arms consistent with international and professional standards.</p>	<p>The national law enforcement authorities investigate incidents of diversion during active use and deployment by members of the armed forces and police.</p>	<p>The State participates in one or more multilateral efforts to improve the management of weapons and munitions, including through United Nations peacekeeping activities as well as other United Nations and multilateral assistance programmes for arms management in the security sector.</p> <p>The State participates in projects supported by the ATT voluntary trust fund and other multilateral assistance programmes that aim to strengthen arms and ammunition management by security forces.</p>

## Annex 2. Preliminary Baseline Assessment for Pilot Study Countries

Over the course of several months in 2021, the Stimson Center, supported by UNIDIR and CAR, carried out a preliminary collection and baseline assessment of publicly available official data on counter-diversion measures taken by a structured sample of 20 ATT States Parties. This preliminary data collection and assessment was undertaken with a view to informing the subsequent, more in-depth pilot study in which the Consortium developed and tested a voluntary methodological tool that can assist a State Party to analyse and identify their progress in implementing effective measures to create a counter-diversion enabling environment, and options to strengthen such an environment.

The following criteria were used to select States Parties for inclusion in the preliminary assessment:

- | At least three States from each of the five geographic regions would be selected; and
- | The selected States Parties taken together would represent a balance of the following characteristics:
  - | Presence of armed conflict;
  - | Absence of armed conflict;
  - | Presence of pervasive armed crime;
  - | Absence of pervasive armed crime;
  - | Significant arms exports;
  - | High dependence on arms imports;
  - | Significant transit activity or major trans-shipment ports;
  - | Developed countries;
  - | Less-developed countries; and
  - | Least-developed countries.

Based on these criteria, 20 States Parties were selected by the Consortium for the preliminary assessment. The Consortium developed a preliminary list of systemic and practical measures that States can take at a unilateral, bilateral, and multilateral level to prevent arms diversion. The counter-diversion measures included in the preliminary assessment were based on those identified in the Consortium's second issue brief on ATT-related measures to prevent diversion, and are consistent with the provisions of the ATT and related international instruments and best practices.

The Consortium then identified ATT initial report and PoA report questions whose answers could shed light on whether the reporting State has implemented any of these systemic or practical counter-diversion measures. To do so, the Consortium reviewed each of the ATT initial report and PoA report templates used since the ATT's entry into force and identified potentially relevant questions. Since the review was conducted prior to the CSP7 endorsement of a revised template for initial reporting by a State Party the revised version could not be considered in this baseline research. The Consortium then developed a matrix which it used, to the extent possible, to match each counter-diversion measure to corresponding ATT initial report and PoA report questions. Using this matrix as a template, the responses provided by each of the 20 States Parties in this sample were then compiled.

This preliminary data was assessed by the Consortium with a view to refining the subsequent, more in-depth pilot study. To that end, the analysis of the preliminary data showed that information gaps and

limitations arise from the reliance on ATT initial reports and PoA national implementation reports to assess whether States have taken certain counter-diversion measures. For example, several States Parties included in the preliminary assessment have not submitted ATT initial reports, have submitted only a private ATT initial report, did not answer one or more questions we identified as potentially relevant to counter-diversion measures, or did not provide particularly detailed responses to these questions—all of which limit the Consortium's ability to assess the extent to which the reporting States Parties have implemented particular counter-diversion measures. Moreover, the preliminary data collection revealed that not all of the counter-diversion measures of interest to the Consortium were mentioned in the questions asked or in the answers provided in ATT initial reports or PoA national implementation reports. This insight informed the selection of States Parties to include in the pilot study. Based on the amount and quality of information that each State Party provided—and applying the same criteria that were used to select the initial sample of 20 States Parties to ensure a reasonably representative sample—the Consortium shortlisted eight States Parties and formally invited them to confirm their interest to participate in the pilot study.

## Annex 3. Data Sources to Identify Relevant Measures

There is a wide array of sources of relevant data on systemic and on practical measures available. Using those sources, systemic or general measures can be identified, especially in the reports by ATT States Parties before and after they have become parties to the Treaty. Some of the sources the Consortium consulted for this study are:

- | Initial Implementation Reports to ATT Secretariat;
- | Official statements in the CSP process;
- | Instruments of ratification;
- | National legislation, regulations, administrative documents, and legislature documents;
- | Data from the ATT-Baseline Assessment Project; and
- | Reports on UNIDIR weapons and ammunition management baseline assessments with selected States;
- | Public statements and reports by States on conventional arms control;
- | Structured Interviews conducted by research partners with key State officials;
- | Published reports of the Security Council and other inter-governmental bodies;
- | Court records open to the public; and
- | In-depth case studies published by reliable investigative bodies.

Relevant data can also be identified in reports of the United Nations and other inter-governmental bodies. These include, but are not limited to:

- | PoA national implementation reports submitted to the Office for Disarmament Affairs;
- | United Nations Office on Drugs and Crime, United Nations Office for Disarmament Affairs Regional Centres;
- | United Nations sanctions monitoring groups;
- | United Nations counter-terrorism reports; and
- | Legislation and related data collected and reported by other multilateral bodies, such as the OSCE, Wassenaar Arrangement, and regional treaty bodies such as the Organization of American States, the Economic Community of West African States, and the European Union.

## THE ARMS TRADE TREATY: ASSESSING ITS IMPACT ON COUNTERING DIVERSION

Article 11 of the Arms Trade Treaty (ATT) requires every State Party involved in the international transfer of conventional arms to take measures to prevent, detect, and address the diversion of conventional arms at every stage in the transfer chain. This report presents findings from the testing of a new voluntary Tool (the Counter-Diversion Assessment Tool) developed to assist States Parties in analysing their enabling environment for countering diversion covering measures applicable at the different stages of the arms transfer chain. The report makes two contributions: First, it highlights the impact of the ATT on the implementation of counter-diversion measures across the arms transfer chain, showing an overall significant strengthening of the counter-diversion enabling environments in the eight ATT States Parties engaged in the pilot study. Second, it validates the Counter-Diversion Assessment Tool and demonstrates its usefulness for identifying gaps and effective measures for preventing diversion in a comprehensive manner. This publication is produced as part of a joint research project by the United Nations Institute for Disarmament Research (UNIDIR), Conflict Armament Research and the Stimson Center. The objective of the research is to enhance knowledge and facilitate dialogue among States to strengthen shared understanding on the impact of the ATT in addressing risks of diversion and to identify avenues to further promote effective policies and practices under the Treaty.

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