

Statement at the Working Group on Effective Treaty Implementation On Practical considerations for establishing competent national authorities

The Treaty requires States Parties to designate competent national authorities ‘in order to have an effective and transparent national control system regulating the transfer of conventional arms’. As such, competent national authorities’ responsibilities may include, for example, overseeing the administration of the arms transfer licensing/authorisation system, chairing or facilitating an interagency co-ordination system, ensuring adequate risk assessments, and making decisions on whether or not to authorise transfers. Clear and public designation of systems of governmental authority and responsibility in this area are essential for effective implementation of the ATT for every State Party,, regardless of whether it is a major arms exporter or importer or plays a limited role in the international arms trade,

There are numerous examples of relatively well-developed and effective national systems for regulating and controlling transfers of arms and associated items, from which other states can learn useful lessons. However, each of these well-developed national control systems have evolved over time according to their specific contexts, needs, relationships with manufacture and transfers of military goods, and their wider national governance and legal traditions. All of them have weaknesses and should be considered as works in progress .

It is therefore not surprising that each State Party to the ATT has distinctive arrangements for its national authorities and control systems, with unique aspects. As such, this is not a cause of concern.

A significant number of ATT States Parties need to take action to substantially develop their national control systems to meet their Treaty responsibilities. But the responsibility of these States in this regard is not to try to manipulate the national system to fit to a generic international template. Rather it is to ensure that national arrangements are established that are effective but also appropriate to the State’s situation, structures and capacities.

While the process of establishing and strengthening national authorities under the Treaty may be seen as an opportunity to create new national structures, institutions and/or mechanisms, it should also build on existing national arrangements, including formalising existing informal arrangements as appropriate.

In this context it is worth noting that in States where the necessary national structures or decision-making processes are not yet sufficiently clear or adequate in the formal sense, there may have been informal systems in place that have provided for decisions to be made. While these informal systems may be problematic to some extent, they are also likely to reflect real patterns of power and authority within the state. These need carefully to be taken into account in the strengthening and public designation of national authorities and control systems. Otherwise there is a risk that new national mechanisms based on imported models may become shadow institutions, readily by-passed when decisions on whether to authorise transfers are politically challenging.

This consideration extends to all aspects of Treaty implementation in this area. National systems for deciding on whether to authorise transfers may include varying combinations of inter-departmental 'committees', lead ministries or ministers, and specialist agencies; and different arrangements for administrative and political accountability and oversight.

Whatever is decided, it is important that there are clear lines of national responsibility and authority for such decisions which apply across the whole of government, and that these lines of responsibility explicitly go to the most senior levels of government to deal with the most sensitive decisions. It is also critical for purposes of accountability that responsibilities are clear, legally established, set down in writing, are placed in the public domain and are readily available to all relevant stakeholders – from parliament, industry, the media, civil society, and international partners.