

# RISKS OF ARMS DIVERSION AND HOW THE ATT CAN ADDRESS IT

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# STRUCTURE OF PRESENTATION

- Definition of Terms (Risk & Diversion)
- What may facilitate diversion
- What happens after diversion
- Role of ATT in addressing diversion

# DEFINITION OF TERMS

## □ Risk

- A situation involving exposure to danger.
- The concept to risk, assessing it and reducing it is at the heart of ATT
- **Art.7** requires to do comprehensive risk assessment before export authorization
- **Art.11** States required to examine the risk of diversion and establish mitigation measures
- **In the ATT context, Risk is about being forward looking, to examine potential risk, and mitigate it where it is likely**

# DEFINITION OF TERMS

## □ **Diversion**

- ATT does not provide definition of diversion (Art.11).
- There is no universal definition
- Diversion is the **transfer** of items from an authorized owner/user to an **un-authorized user** or to an **un-authorized use**.
- Definition covers *possession* and *use*
- Key word is **unauthorized** change in **possession or use**
- **Art.11** covers items in Art.2(1) **BUT....**  
Ammunitions and , components and parts (Art.3 & 4) in my view the spirit is there

# TYPOLGY OF DIVERSION

Classification of diversion can be based on the following:

- Source of the weapons
- Stage on the supply chain
- Degree/ Quantities involved
- Actors Involved
- Deliberate or Not

# TYPOLGY OF DIVERSION

Transfer Diversion				National Stock Diversion			
Point of embarkation	In transit	Point of Delivery	Post delivery	Low Order Diversion		High Order Diversion	
				Intra-Security force diversion (selling to illicit market)	Extra-Security force Diversion (theft by NSA)	Conspiracy	Military Collapse

# WHAT FACILITATES RISK OF DIVERSION



## RANKING STATE GUN LAWS

### 10 STATES WITH THE STRONGEST GUN LAWS

1. California
2. New Jersey
3. Massachusetts
4. Connecticut
5. Hawaii
6. New York
7. Maryland
8. Illinois
9. Rhode Island
10. Michigan

### 10 STATES WITH THE WEAKEST GUN LAWS

1. South Dakota
2. Arizona
3. Mississippi
4. Vermont
5. Louisiana
6. Montana
7. Wyoming
8. Kentucky
9. Kansas
10. Oklahoma

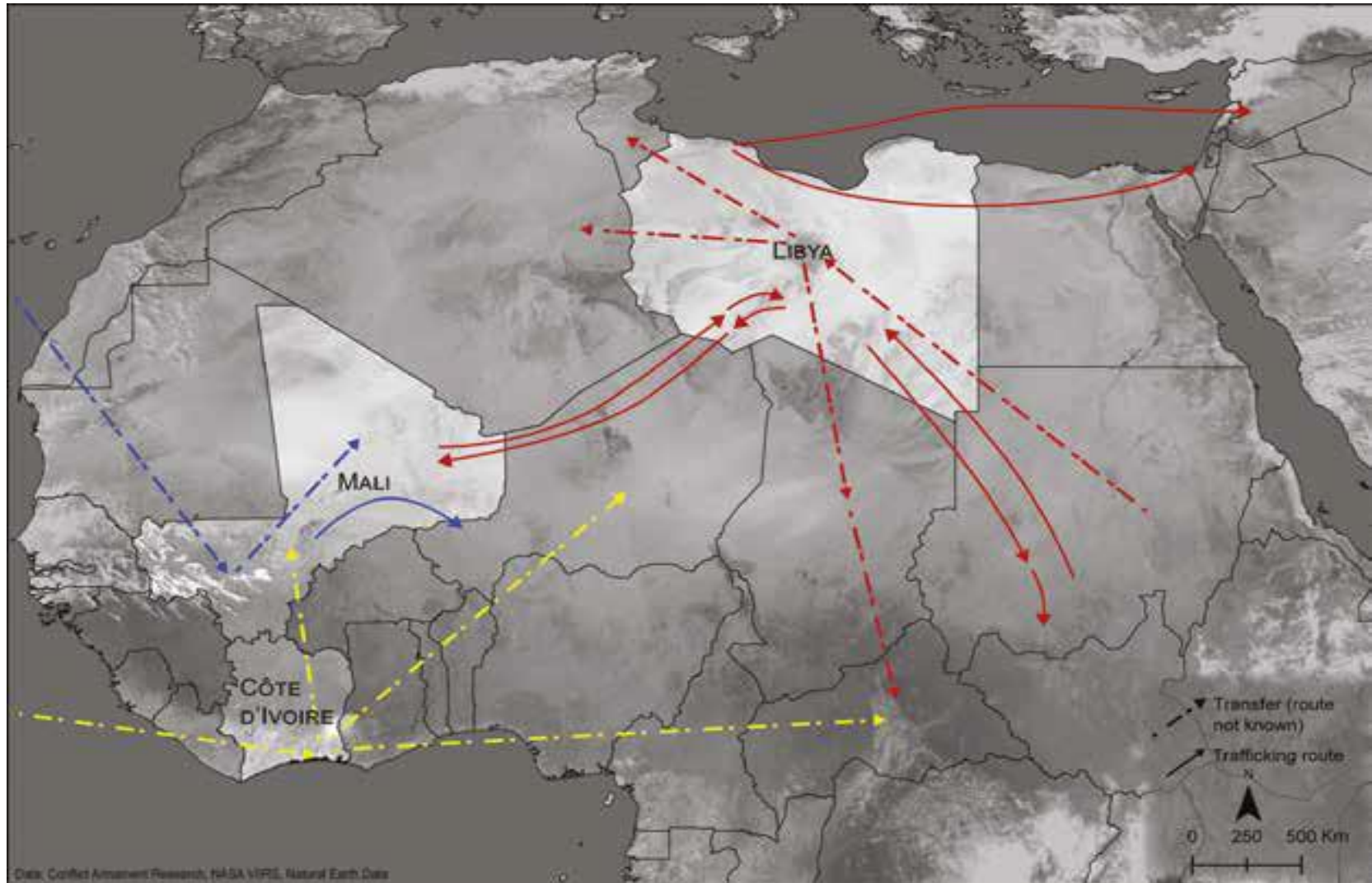
# WHAT FACILITATES RISK OF DIVERSION

- Inadequate legislation
- Weak Stockpile security (external)
- Weak Stockpile management (Internal)
- Porous borders(weak border control capabilities)
- Capture of Government stockpiles
- Un authorized re-transfers
- Handouts or sale to armed groups
- Corruption
- Lack of awareness of existing legislation/ UN embargoes (NSA DRC2002,Sudan 2005-5,Somalia 2007, Liberia 2003, Sierra Leone 2010)



# Sahel Region (Arms flow 2011-Present)

## Source CAR



# WHEN DIVERSION OCCURS



# EFFECTS OF DIVERSION

- Creates a vicious cycle of sustained conflict (Mali, Libya, Syria, CAR, South Sudan)
- Destabilization of other countries
- Migration Challenges (in Africa and Europe)
- Wildlife Crime- Poaching
- Cattle Rustling related conflicts
- Reduced Investment. Africa losses estimated US\$18 billion from armed conflict per year
- Death and Injury
- Increased cases of terrorism

# CAN ATT ADDRESS DIVERSION??

- **YES** ATT can address diversion. This is at the core of ATT but only if.....
- **Art.1** Object and purpose-Prevention of diversion of conventional arms
- **Art.11** Each state has a responsibility of preventing diversion of conventional weapons
- Preventing diversion at the various stages from production, distribution, from transfer to storage to destruction.
- Information sharing is crucial

# ATT PROVISIONS ON PREVENTING DIVERSION

- Measures by Exporting State
- Measures by Transit State
- Measures by Importing State
- Transportation Control
- Weapons Marking
- Tracing
- Physical Security of Stockpiles
- Information Exchange
- Taking action in case diversion takes place

# PREVENTING DIVERSION

## □ Exporting State

- To include risk of diversion in export assessment in terms of capacity to ensure safety of arms, control systems, functional judiciary, are end users credible.
- Consult databases and or diplomatic missions on previous cases of diversion.
- If there is risk of diversion exporting country should not authorize the export.
- If minimal risk apply mitigation measures like
  - ✓ on site visits
  - ✓ post delivery monitoring
  - ✓ ask for certificate of assurance etc

# PREVENTING DIVERSION

## □ Transit State

- Issue transit certificate
- Collaborate with exporting state upon request in the export assessment

## □ Importing State

- Commit to no re-exporting
- Improve PSSM
- Put in place procedures for import authorization
- Ensure authenticity of all documentation for importation

# PREVENTING DIVERSION

## ❑ Transportation Control

- Means of transportation, route, service providers
- Transporters to keep documentation (manifests/ bills of lading)
- Transporter to inform exporter and importer whenever there is rout change.



## ❑ Weapons Marking

- UNPOA, ITI, Nairobi Protocol all require marking at three levels (manufacture, Importation and State owned)
- Develop capabilities for tracing-RSTS, I-trace, I-arms
- Taking regular stock taking/ inventory





# PREVENTING DIVERSION

## □ Information Exchange

- Co-operation between states very crucial in preventing diversion.
- Share information export/ import & transit authorization, end user certificates, cases of previous diversion,, denials of import/ export license etc.



# PREVENTING DIVERSION

## □ **International Cooperation and Assistance**

- International Co-operation Art.15
- Seek Assistance Art.16(1)- Legal, Capacity building, technical, material and financial
- Voluntary Fund Art.16(3)

# WHEN DIVERSION HAPPENS

- **Art.11(4)** States required to take appropriate measures
- Alert potential affected States
- Re-examine all relevant documentation to identify weapons being diverted
- Co-operate and use available tools INTERPOL iARMS, RECSA RSTS etc
- Initiate/ cooperating in criminal investigations of cases of diversion



# CONCLUSION

## ❑ ATT is a beneficial tool/treaty

- Strengthening International Law
- Understand that Weapons cross borders and instability can spread
- Contributing to international / domestic security
- Accessing international assistance
- Better environment for social and economic development.

## ❑ ATT strengthens existing instruments like UNPoA, ITI, NP etc

## ❑ Improved PSSM, transparency and information sharing are at the core of preventing diversion.

## ❑ ATT will only work if we operationalize it and co-operate in information sharing.

THANK YOU FOR LISTENING

