Second ATT Working Groups and Informal Preparatory Meetings for the Eighth Conference of States Parties to the Arms Trade Treaty

Working Group on Effective Treaty Implementation (WGETI)

Daily Summary Analysis

Wednesday, 27 April 2022

Video recording of ATT meetings 27 April 2022 Original (as delivered) Arabic Chinese English French Russian Spanish

2. ATT Sub-Working Group on Article 9 (continued)

The meeting of the Working Group on Effective Treaty Implementation (WGETI) Sub-Working Group on Article 9 (transit and trans-shipment), chaired by Ambassador Rob Wensley, continued on 27 April with a discussion on the role of the private sector, including arms manufacturers/industry and shipping companies and agencies, in the transit and trans-shipment of arms by land, air and sea.

The meeting began with a presentation by Mr Richard Patterson of the Fair Trade Group who detailed the challenges that come with the import and export of arms and ammunition. From the negotiation process and extensive paperwork required for the licensing process to delays in shipping due to inspections, arms exports can be costly and time consuming. The export of ammunition is further complicated by its status as hazardous material which requires additional measures to ensure its safety during transport, including the consideration of placement of hazardous goods in proximity to one another which can create a serious logistics issue.

Patterson explained that common understanding and interpretation of existing regulations is key to ensuring correct documentation, streamline government regulatory systems, reduce clerical errors, and ultimately prevent diversion. Patterson also stressed that the focus must be on ensuring that regulations are clear and easily understood and that open communication exists between industry representatives and those in the regulatory fields in order to facilitate smooth, efficient and error free transactions. He concluded by noting that while a zero tolerance approach is good politically, in reality it is a cooperative relationship between regulators and law enforcement that is the most effective approach to fighting crime and diversion.

At Cameroon’s inquiry regarding the role of private actors in ensuring that “diversion” or rerouting of cargo due to meteorological or emergency reasons does not become an illicit diversion, Patterson reiterated that cooperation and open relationships between the private sector and governments is key. He stressed that while there is no specific solution to this, the ATT provides a framework for developing options that could provide member states with a comfort level that arms transfers will reach the intended recipient. Ambassador Wensley,
echoed this point and noted this session is intended to clarify what we understand under the terms “transit” and “transshipment” and to identify gaps and ambiguities.

South Africa also intervened in this discussion to note that while its system is based on international treaties and conventions, it is implemented at the local level. The industry is regulated via a system which includes registration with proper authorities, knowledge and training on domestic regulations and systems. This process, while labour intensive, can help to address the challenges discussed in these meetings.

The Global Coalition for Limitation of Armaments welcomed the efforts of the Working Group as well as the proposals and recommendations emerging from side events on post-shipment controls such as the one organised by Germany, Canada and Switzerland but cautioned that implementation is unequal, allowing for illicit transfers by sea to Iran.

The meeting concluded with Amb Wensley, the facilitator of the WGETI sub-working Group on Article 9, reaffirming the importance of cooperation with the private sector. He also invited participants to submit ideas and views on topics not yet addressed by the working group and committed to identifying ways to accommodate them.

3. ATT WGETI Sub-Working Group on Article 11

The sub-working Group on Article 11, facilitate by Ms. Stela Petrovic covered three agenda items in accordance with the groups’ multi-year plan:
1. The role of importing states in preventing diversion -
2. Post-delivery cooperation
3. The role of private sector and civil society in mitigating diversion risk.

Key takeaways
- Several stakeholders, including France, Mexico, Switzerland, Ireland, Control Arms stressed the important role played by importing states in preventing diversion
- The EU, who noted that the burden to prevent diversion should not be solely up to exporters but also importing states, echoed previous statements by Mexico, France, Switzerland, Peru, UK, who noted that cooperation between exporters and importers parties is essential.
- Switzerland, El Salvador, Romania, Cameroon, Georgia, France shared national best practices
- Switzerland, Ireland, Mexico acknowledge the important role played by industry in preventing diversion while Argentina urged ATT Secretariat to find ways to get industry actors involved in discussions related to diversion.

Switzerland clarified that a licensing requirement for all imports and delivery notifications are effective tools to mitigate the risk of diversion, and both are mandatory for Switzerland. Switzerland also sees value in post-shipment controls and noted that it began conducting these
types of checks after 3 cases of unauthorised re-export. Since then, 45 post-shipment verifications (PSVs) have been carried out in 32 countries. Noting that good cooperation and coordination between countries is crucial for their success, Switzerland stressed that PSV builds knowledge of reality on the site and of the capacity of importing states. They are therefore an effective confidence-building measure between importer and exporter. Lastly, Switzerland noted that industry actors play a key role in preventing diversion, given their interest as stakeholders in the export process. For this reason, industry actors must vet buyers and address corruption in the supply chain.

**Ireland**, speaking on PSVs, welcomed Germany’s side event as valuable discussion on the practical realities of implementing post-shipment controls. Ireland stressed that the potential benefits of PSVs far outweigh the costs and encouraged exporters to introduce such systems even though they are not explicitly required to by the ATT.

El Salvador, Romania, Georgia, France, Cameroon and Republic of Korea, speaking from the perspective of importing states, took to the floor to share good practice and information regarding their national systems and procedures adopted to prevent diversion.

- **El Salvador** noted that as an importer of weapons, it has established its own process, which is detailed in all contracts of weapons acquisitions. For instance, as a guarantee to the exporting country that the arms are secured and that diversion risks are mitigated, upon arrival in El Salvador, all goods are initially stored in a warehouse managed by the Ministry of Defence before they are delivered to the end-user.

- **Romania** explained that its export control regime provides symmetric control over exports and imports of military goods, both of which require licences. Import licence applications need supporting documents, including end-user declarations and upon request, an international import certificate needs to be issued by the Romanian applicant as well as end-user assurances. The applicant also has to notify the authority of all persons involved in the transfer. After imports are finalised, the Romanian importer must ask the national authority for a delivery verification certificate. Similarly, if an importer wants to change the end-use or user, it is obliged to request approval from the national authorities. By law, all imports are subject to 6 monthly reports. Importers must also maintain relevant records, including serial numbers and country of origin, reported on quarterly basis, subject to sanctions.

- **Cameroon** noted that purchase of weapons for state security and defence providers requires the approval of the executive branch, which upon signing of the import authorisations enabled the Ministry of Defence to deliver the end-user certification. Each institution gathers data on weapons and ammunition they hold and acquire. Armouries are controlled regularly by the authorities and excess stock is destroyed according to strict guidelines.

- **France** explained that the import of weapons requires an import authorisation from the customs authorities and Ministry of Defence. To combat illicit transactions, all authorization of import licences takes into account public security considerations and international arms agreements. France also stressed the importance of cooperation between importer and exporter states: importers can ask for an international import
certificate which allows foreign suppliers to send goods to France. End-user agreements and post-delivery certificates are also provided.

- **The Republic of Korea** noted that certificates of import purpose are required to import weapons into the country. Additionally, domestic legislation on management of weapon stockpiles, including marking and tracking, exists to prevent diversion.

**Control Arms** welcomed the attention paid to the role of importing states in preventing diversion and noted that importers, exporters and transit states have to work together to identify and mitigate risks. Control Arms also reminded states that delivery notifications from importers are not purely administrative tasks, but key to ensuring weapons reach legitimate end-users. In addition to registering and maintaining records of weapons transfers, CA urged states to mark weapons to assist in tracing diverted weapons, especially small arms and light weapons and expressed support for “new for old” programmes in which aged stocks are destroyed in parallel to new acquisitions.

**Mexico** stressed that importers and exporters must cooperate to avoid diversion and that attention must be to the role of importing states in avoiding such risks. Mexico shared that it has developed a National Registry of Weapons and that it uses sound stockpile management. Echoing previous statements, it noted the role of post-delivery cooperation as well as of industry actors in preventing diversion.

**Argentina**, who served as CSP6 President, drew attention to the working document they put forward in 2020 on transparency and information exchange to prevent diversion which emphasised that the implementation of Article 11 requires information sharing and the need for effective application of international norms and standards. Information-sharing is crucial in preventing methods of concealment, organised crime and to ensure that transfers are secure on both ends. On post-delivery verifications, Argentina noted that the National Agency for Controlled Substances (ANMaC), to which the Ministry of Foreign Affairs is a part of, issues certificates before weapons can be imported and a process of verification is necessary beforehand. The MFA also has in place a system of pre- and post-delivery control which is carried out by military representatives abroad. Argentina, who acknowledged the role of civil society and the private sector in flagging cases of diversion, urged the ATT Secretariat to seek ways to encourage private sector participation in these meetings.

**Germany** explained that it has implemented post-shipment controls as a way to minimise the legal impact and changes to licence applications so as to reduce burden on the exporting industry as well as for end-users. Acknowledging that resources are an important factor in implementing additional controls, Germany explained that it took two years to build up the post-shipment verification office and to carry out the first assessment, with 2 staff members. Germany also explained that the post-shipment control process begins in the exporting state, with the customs agencies and requires good interoperability and cooperation.

**Cote d'Ivoire** took the floor to provide an overview of the measures to prevent diversion included in the ECOWAS Convention on SALW, to which it is a party. Under the convention, all
international arms transfers are prohibited. However, when a state needs to import weapons for defence and security purposes, an exemption is required from all other ECOWAS states. Once a transfer is approved, it is systematically tracked at each stage of the transfer chain. Stockpile site rehabilitation and destruction of old stockpiles are key aspects which help ECOWAS states reduce diversion risks. Cote d'Ivoire also noted that in its ports, customs officials perform spot checks to ensure that they do not harbour illicit arms.

**Peru** stressed that cooperation between border states is vital to detecting illicit trade routes, preventing diversion and organised crime. Peru, echoing Côte d'Ivoire, encouraged the destruction of obsolete stock.

**The UK** shared that it considers the risk of diversion carefully in the export licensing process, assessing information from a wide variety of sources. The UK also noted that the DIEF, the private sector and civil society play an important role in efforts to prevent diversion and explained that it uses civil society research on illicit supply chains to inform robust risk assessments of diversion.

**China** stressed that it always took active measures to prevent diversion of arms, having implemented a monopoly mechanism on arms transfers. Negotiations, contracting and shipment - all require government authorisation. China also noted that it only conducts conventional arms trade with sovereign states, never with non-state actors. Recipient governments must submit an end user certificate, and provide guarantees that they will not re-transfer the arms to third parties without the Chinese government’s prior authorization. China also called on exporting countries to fulfil their obligations to take effective measures to prevent illicit diversion and all countries should strengthen exchange of ideas on this issue.

**Control Arms**, stressing that the private sector plays a significant role in preventing diversion, called on governments to take steps to ensure that private sector actors are aware of existing laws and regulations. It also illustrated the role of civil society in preventing diversion by sharing the example of the Italian Peace and Disarmament Network who, in 2021, sought clarity from the Italian government on a potential case of diversion of ammunition to Senegal. Similarly, it shared the work undertaken in 2022 by Instituto Sou Da Paz in Brazil who examined and reported on the connection between legal and illegal arms markets and its impact on diversion in Sao Paulo.
Side events held during the
ATT Working Group and Informal Preparatory Meetings for
the Eighth Conference of States Parties to the Arms Trade Treaty

Title: Moving up the priority lane: Lessons for the ATT and states parties to make transit controls of military goods more efficient and effective
Organiser: Flemish Peace Institute and the Government of Flanders

This side event discussed key findings from a recent study by the Flemish Peace Institute on transit control systems in seven European countries titled Under the Radar: Transit of military goods – from licensing to control. The event stressed that effective controls on transit of military goods are crucial as transit hubs are vulnerable points where illicit flows and diversion can occur. While effective controls on transit can contribute to preventing diversion, identifying and intercepting illicit flows and enforcing embargoes, their implementation is challenging. The information needed for effective customs trade management systems is less detailed than for standard import/export transactions, making it more difficult to correctly identify and control such transfers. Furthermore, additional actors are involved in transit (logistical and transport service providers), adding a new layer of complexity. The event then highlighted six key lessons that are detailed in the report:

1. Make transit controls less complex. While national processes are all highly complex and divergent, national coherence is of little relevance given the international character of transit. As such, international action is needed to reduce complexity and issues between operators. Within the ATT framework, more substantive reporting on transit control systems is required as part of the WGETI sub-working group on Article 9. Additional information on transit control regulations could also be added to the initial report template to enable the exploration of synergies and avoid divergence between national systems.

2. Increase transparency on transit control policies and practices. There is little information available on how transit controls work or on the decision-making process for approved or denied transit requests. Within the ATT framework it is recommended to introduce an inventory of contact details for competent authorities responsible for transit controls. It also recommends extending the annual reporting templates to include information on issued and denied transit licences.

3. Improve communication and information exchange. Within the ATT framework, there should be a legal obligation for service providers to share information on the strategic character of transported goods. Practices should be developed for information sharing between national licensing authorities on international transfers of military goods.

4. Increase awareness among private actors, such as transporters and logistics operators, who do not have expertise to identify military goods as well as of key risk indicators for suspicious transactions (e.g. destination change during transit, a strong indicator of diversion). There is also a need to help increase their awareness of export...
control regulations linked to military goods. Concrete actions include building outreach programmes with these actors, and monitoring and overseeing their activities.

5. Increase practical and strategic knowledge on these issues, especially among customs administrations and enhance the alignment between customs nomenclature and export control lists. Cooperation should also be improved with law enforcement.

6. Evolving from a licensing to a comprehensive control system is needed for efficient transit controls. This involves cooperation and information exchange between various actors.

Title: How to prevent diversion of illicit small arms and light weapons (SALW) in conflict and post-conflict scenarios? Exploring lessons learned and recommendations from the Balkans, Central Africa and Central America

Organisers: The Permanent Mission of Sweden to the United Nations in Geneva, IM Swedish Development Partner and IANSA

The event began with a presentation from Ms. Jennifer L. Erickson, Associate Professor of Political Science and International Studies at Boston College who spoke about the impact of US SALW exports and armed conflict. Stressing that conflict is not a consistent deterrent for state-sanctioned arms transfers, Erikson noted that states can choose to support alternative sources of supplies for warring parties. This causes persistent problems for the international community, including prolonged conflict, humanitarian violations, post conflict instability and diversion. Using the US as a case study, Ms Erickson noted that pre-conflict arms deals are often likely to continue during conflict. Additionally, the US is known to supply arms to non-state armed groups in conflict as well as to facilitate or approve surrogates supplies from other governments, as was the case in Syria and Libya. Erickson concluded that as SALW are difficult to track and control in conflict zones, exporters are not well equipped to manage the risks of diversion. Additionally, economic and security conditions on the ground often create opportunities for diversion.

Djordje Milosevic of SEESAC presente lessons learned from efforts to prevent diversion in the Balkans. Milosevic noted that SEESAC has had joint initiatives with governments from the region since 2002 to control and reduce proliferation of SALW. The organisation also facilitated regional cooperation in southeastern Europe, including awareness-raising and collection of SALW campaigns. SEESAC has also worked in the area of PSSM, supporting governments to strengthen their stockpile management. Milosevic noted that limited administrative and operational capacities, rotating staff, unstable environments, remain key challenges to effective programs to prevent the illicit trafficking and diversion of SALW. The Western Balkans SALW Control Roadmap, which was adopted to address these challenges, contains seven goals targeting arms control legislation, risk of proliferation and diversion. As GBV is an important issue in the region, SEESAC also undertakes work in this area.
Mr. Joseph Dube, Small Arms Expert and IANSA member outlined key challenges stemming from SALW proliferation in Africa and noted that the Silencing the Guns Agenda (from 2020 to 2030) was adopted to improve gun management on the continent.

The Seventh Biennial Biennial Meeting of States (BMS7) on the UN Programme of Action (UNPoA) stressed the importance of setting up regional targets for preventing the proliferation of small arms. Within the ATT framework, the DIEF is an important initiative to explore effective ways to prevent the diversion of arms in Africa. Furthermore, each year, the month of September is “Africa Amnesty month” a period during which arms belonging to individuals are collected and destroyed without any legal repercussions, a program which has shown promising results in reducing the number of arms in civilian hands.

Ms. Dina Martinez, Legal Security Area Coordinator at FESPAD, explained that armed trafficking in Latin America stems from past armed conflicts in the regions including Guatemala, Honduras and El Salvador. Following these conflicts, there was hope that violence would decrease, but factors associated with increased violence and high numbers of firearms already in civilians hands exacerbated the problem. Additionally, economic reasons and corruption remain key challenges to the fight against arms trafficking.

**Title:** Preventing and mitigating the risk of arms diversion in Africa

**Organizers:** European External Action Service & Saferworld

This event introduced *Preventing and mitigating the risk of arms diversion in Africa*, a new report which assesses the problem of diversion of small arms and light weapons (SALW) in Africa. The event also examined the nature and impact of SALW diversion in different parts of Africa, the responsibilities and roles of exporting and importing states and considered practical measures that could reduce the likelihood and consequences of diversion.

The event began with a presentation from Ambassador Richards Adejola, the Permanent Representative, Permanent Mission of the Federal Republic of Nigeria on the impact of diversion in Western Africa and in Nigeria, in particular. Ambassador Adejola explained that at the root cause of diversion in his region there are six key factors: 1) Inadequate legislation to appropriately guide arms transfer in the region; 2) Insufficient stockpile management and security, 3) Poor border controls, 4) Corruption, 5) Activities of non-state actors and 6) External factors - deliberate agression by other states or entitles, terrorism. For instance, the source of arms diversion to non-state actors in the Northern part of Nigeria lies at the intersection of insecure stockpiles and poor border control, meaning that stolen weapons from neighbouring countries’ stockpiles are smuggled into Nigeria at weak points in the border crossings. Ambassador Adejola noted that the menace of arms diversion continues to affect West Africa, rendering the region unstable, negatively impacting international investment and national GDPs.

He also noted that possible solutions to these challenges include:
- Constant engagement and information-exchange between parties involved in authorising the arms transfer
- Secure transportation of authorised arms transfers
- Efficient stockpile management and better security of nat stockpiles
- International assistance to address external interference

Ambassador Adejola explained that his country views the ATT community as a force working to build capacity around the implementation of the Treaty and ultimately preventing the diversion and illicit trafficking of arms. He also stressed the importance of focusing on ATT universalization.

Providing perspectives from Eastern Africa, Mr. Geoffrey Duke of the South Sudan Action Network on Small Arms and Light Weapons noted that his region has experienced similar challenges as those detailed by Ambassador Adejola of Nigeria. He explained that while Eastern Africa is home to resource rich communities, it is also known for some of the poorest communities in the world, warlords and decades long conflicts. He noted that the proliferation of arms in the region, undermined the potential for his country, South Sudan, to find peace and stability.

Duke explained that a significant amount of diverted weapons end up in the hands of unintended end-users. And efforts by the international community to monitor the arms used in South Sudan, peace monitoring missions mandated by the UN Security Council to inspect the origin of weapons were denied access by the government. Furthermore, citing research by CAR, Duke explained that weapons legally supplied to Uganda ended up in South Sudan, a case of diversion in which the end-user changed without prior authorization. In fact, over 37% of weapons and ammunition documented by CAR in South Sudan, originated from China. Duke welcomed China’s accession to the ATT, expressing hope that it will provide an opportunity to work together to strengthen arms transfer in the region.

Elizabeth Kirkham of Saferworld introduced the new report on Preventing and mitigating the risk of arms diversion in Africa (available in English, French and Chinese).

Kirkham highlighted key recommendations that can be implemented by all countries involved in the arms trade, jointly or independently. For arms exporters, Kirkham stressed that:
- that SALW should be marked at point of manufacture and import
- End-user certificates should be difficult to falsify and should include authentication measures.
- secure transportation must be ensured including through tracking of cargo and relevant transit/transhipment authorisations

Kirkham stressed that importing and transit states have a responsibility to trace the source of illicit arms. She noted that the International Tracing Instrument provides a framework for states to perform tracing while the Modular Small-arms-control Implementation Compendium (MOSAIC) provides clear steps on how to perform a tracing of seized arms.
Stressing that when diversion risks are significant, the responsible course of action is to deny the transfer, Kirkham also provided a list of possible mitigation measures including 1) placing explicit limitations on the end use or end-users of the arms, 2) agreeing enhanced delivery verification procedures, for example, through livestreaming delivery or storage of the arms for the benefit of the exporting authorities, 3) requiring or providing physical security measures for arms in transit or 4) improving physical security and stockpile management in the recipient country among others.

The event concluded with a substantive discussion of actual cases of diversion discussed in the report, the role of “old for new” programs, and lessons learned from Western Africa which could be applied to situations in Eastern Africa.