

## Indicator checklist for compliance with ATT Arts 6 & 7

**Art 6.1:** Review [UNSC resolutions adopted under Chapter VII UN Charter](#): if any contain applicable binding measures such as sanctions including arms embargoes, transfer must be denied. Consider also risk of diversion, and any exemptions in the resolution.

**Art 6.2:** Identify international treaty obligations relevant to the ATT and binding on transferring state and assess if proposed transfer would violate any of them. “Relevant” includes obligations relating to the transfer of, or illicit trafficking in, conventional arms and, noting ATT’s principles, object and purpose, may include obligations in disarmament, corruption, organised crime, human rights treaties etc, and UN Charter.

**Art 6.3:** Compile all **internal** (eg, diplomatic, military, intelligence etc) and **external** (eg, open-source, from proposed recipient, UN reports, ICJ or ICC decisions etc) information reasonably available to the state as a whole regarding the general situation re respect for human rights, existence of armed conflict, internal repression etc for the proposed recipient and arms/items.

Using this information, consider relevant actor(s)’ **intent** (eg motivation, desire) and **capability** (eg technical ability, resources, opportunity) to use the arms/items in the commission of genocide, crimes against humanity and war crimes as defined in international law (“listed matters”). Consider any available mitigations, then per Step 1 matrix assess **likelihood** as LOW, MEDIUM or HIGH. The assessment is context-specific, focussing on the particular recipient (including risks during transit and of diversion) and particular arms/items proposed for transfer. Noting the seriousness if arms/items used in commission of the listed matters (including potential legal consequences for transferring state), this assessment should be conservative. Likelihood sufficient to prohibit transfer is more than mere suspicion or possibility, but not near certainty. It has been expressed by states parties as, eg, *real/serious/clear risk, reasonable degree of likelihood, substantial grounds for believing* etc. Using the Step 1 matrix, HIGH likelihood will prohibit transfer; MEDIUM likely prohibits transfer and requires more work to mitigate risk.

STEP 1: LIKELIHOOD (INTENT x CAPABILITY)				
INTENT	HIGH	MEDIUM	HIGH	HIGH
	MEDIUM	LOW	MEDIUM	HIGH
	LOW	LOW	LOW	MEDIUM
		LOW	MEDIUM	HIGH
		CAPABILITY		

**Art 7:** For **exports**, unless already prohibited by Art 6: compile and review all relevant internal and external information reasonably available to exporting state as a whole (information compiled for Art 6 likely relevant but further information required given Art 7’s wider scope: eg, consider terrorism, transnational organised crime, gender-based violence and serious violence against women and children etc). Based on the compiled information, assess if the proposed export: could contribute to or undermine peace and security; and/or, would be used to commit or facilitate: serious violations of IHL or IHRL, or terrorism or transnational organised crime offences. This assessment must take into account risks of gender-based violence and serious violence against women and children. As with Art 6.3, assessing likelihood of negative consequences is context-specific and considers relevant actor(s)’ intent and capability (matrix Step 1).

STEP 2: OVERALL RISK (LIKELIHOOD x IMPACT)				
LIKELIHOOD (from step 1)	HIGH	MEDIUM	HIGH	HIGH
	MEDIUM	LOW	MEDIUM	HIGH
	LOW	LOW	LOW	MEDIUM
		LOW	MEDIUM	HIGH
		IMPACT		

Having assessed likelihood (including any mitigations to reduce it), **overall risk** is assessed by plotting the assessed **likelihood** from Step 1 and the **impact** if specific negative consequences were to eventuate (Step 2 matrix to right). This assesses overall risk of the negative consequences in Art 7 as LOW, MEDIUM or HIGH (this step required for Art 7, but not Art 6.3, as impact of genocide/crimes against humanity and war crimes is always HIGH). Export must be denied if risk is “overriding”, ie it overrides other considerations because of the high likelihood of it occurring or, even with lower likelihood, because of the serious impact if it occurs. Using the Step 2 matrix, HIGH overall risk is overriding and export must be denied; MEDIUM overall risk is likely overriding and requires more work to mitigate risk.