

## CHAPTER 3.1: INITIAL REPORTS REVIEW

This chapter analyses the first tranche of publicly available Initial Reports received by the ATT Secretariat in accordance with Article 13.1. Using only the information provided in the publicly available reports (even if States Parties have previously provided additional detail and information in other national reports), the chapter first describes reporting compliance and the types of reporting formats submitted. Next, it provides a snapshot of the information contained within key sections of the Initial Reports and identifies good practice in measures undertaken to implement the Treaty. ATT Monitor is not verifying the statements made by States Parties in their submitted reports in this Chapter, but is analysing what implementation measures States Parties say they have done. The chapter then highlights information missing or limited in the Initial Reports, and lists key findings from the analysis of the Initial Reports. It concludes with recommendations to enhance reporting on measures undertaken to implement the Treaty.

Article 13.1 of the Arms Trade Treaty (ATT) states that

Each State Party shall, within the first year after entry into force of this Treaty for that State Party, in accordance with Article 22, provide an initial report to the Secretariat of measures undertaken in order to implement this Treaty, including national laws, national control lists and other regulations and administrative measures. Each State Party shall report to the Secretariat on any new measures undertaken in order to implement this Treaty, when appropriate. Reports shall be made available, and distributed to States Parties by the Secretariat.

Initial Reports are an inventory of all the measure that States Parties have undertaken to implement the ATT. These reports help to clarify whether States Parties have adequate systems for national control in place. They also can provide insight into how States Parties interpret and understand the Treaty's provisions and demonstrate the ways in which they are aligning their national systems with it. One of the key benefits of the Initial Reports is that they provide an opportunity for States Parties to assess their implementation as well as for all stakeholders to compare and analyse the implementation of all States Parties to identify potential areas of weakness or strength. Initial Reports represent the results of a State Party's self-assessment of its compliance with treaty provisions and

highlights areas that could be strengthened. They can also facilitate the identification of opportunities to match assistance requests with available resources. Finally, Initial Reports can provide examples of best practice, demonstrating that a variety of approaches can be utilized to effectively implement the Treaty. All States Parties can learn from the experiences and practices described by their peers in their Initial Reports and adapt them for their own use.

### REPORTING COMPLIANCE

Between 24 December 2015 and 31 May 2016, 63 States Parties had an obligation under the Treaty to submit their Initial Reports to the ATT Secretariat. As of 31 May 2016, 47 had submitted theirs, a compliance rate of nearly 75 per cent. Of these 47 States Parties, 44 have made their Initial Report publicly available via the ATT Secretariat's website.<sup>1</sup> Three governments have chosen to keep their reports private; although one of these governments announcing that it would make its Initial Report publicly available they have not done so by the deadline.<sup>2</sup>

### REGIONAL BREAKDOWN

Initial Reports have been provided by States Parties from every region of the world. However, regional reporting rates vary (see Table 1). The lowest level is in the Americas, with only 31 per cent of States Parties providing their Initial Report to the ATT Secretariat. By comparison, Europe has a 94 per cent rate and Africa a 63 per cent rate. Oceania and Asia had 100 per cent reporting, but the numbers of States Parties in these two regions is very small.

**Table 1. Initial Report Submissions by Region**

Region	States Parties due to report by 31 May 2016	State Parties that have submitted reports	Regional reporting rate
Africa	8	5*	63%
Americas	16	5	31%
Asia	1	1	100%
Europe	35	33	94%
Oceania	3	3	100%

\* Three private

1 See ATT Secretariat (2016). "Reporting and deadlines". Accessed 29 June 2016. <http://www.thearmstradetreaty.org/index.php/en/resources/reporting>

2 The three are Burkina Faso, Nigeria and Senegal. Nigeria committed to making its Initial Report publicly available during the Extraordinary Meeting of States Parties on 29 February 2016, but this was still not the case as of 31 May 2016. The ATT Secretariat website does not provide any information on States Parties that have provided an Initial Report but have chosen to restrict access to the it, and thus information was provided to ATT Monitor from government sources that accessed the website.

## REPORT FORMATS

The only guidance in the ATT regarding the content of an Initial Report is that it should include 'national laws, national control lists and other regulations and administrative measures'.<sup>3</sup> The Treaty does not contain a reporting template in an annex or requirements for a standardized reporting template. States Parties consider the production of a reporting template to be a useful endeavour, however, as it can assist them with guidance on the type of information to provide when reporting on implementation and transfers.

Sweden was therefore tasked with coordinating a working group on issues related to the development of a reporting template at the second informal consultations for the First Conference of States Parties (CSP 2015) in Berlin in November 2014. Civil society organizations and governments were invited to participate in the working group by sharing ideas and submitting comments via email and meeting informally. Civil society played a key role in developing the first drafts of templates for Initial and Annual Reports. Unfortunately, few States Parties shared their views on the template either publicly or via email to the chair of the informal working group. As a result, it is not possible to document the reasons for changes from the first draft to the draft templates presented at the first CSP. The draft templates were presented for adoption at the conference by States Parties, but there were differences of opinion between States Parties regarding their status and the interpretation of what information should be included in reports.

Regarding the points of difference, it is first worth noting that States Parties would not be obliged to use a standardized reporting template unless there is an amendment to the Treaty. Such an amendment cannot be adopted until 2020 at the earliest, and even then would only apply to those that ratify it. Therefore, States Parties at CSP 2015 could only adopt a decision that recommended the use of such a template.

Regarding the second difference of opinion, Article 13.1 requires States Parties to report on 'measures undertaken in order to implement' the ATT. However, the provisional template

differentiates between voluntary and mandatory treaty obligations with regard to reporting for the Initial Report by placing those measures in 'binding' and 'non-binding' sections. Although the Treaty is clear that States Parties shall report on all implementation efforts, this separation of obligations creates some confusion as to whether they are required to report on those measures that do not relate to mandatory obligations. The structure of the provisional template, by separating thematic sections into a binding and non-binding section, makes it difficult for States Parties to report on their implementation efforts as well as for those conducting an analysis of the reports to compare their responses accurately. Following feedback from States Parties, the chair of the 2016 working group has therefore proposed moving the binding and non-binding sections into the same thematic headings, but keeping the non-binding obligations shaded.

Those States Parties that did not use the provisional template chose to use the ATT-Baseline Assessment Project (ATT-BAP) Survey or their own format to submit their report. Prior to the development of the provisional template, some States Parties had used the ATT-BAP Survey to conduct an internal review and assessment of their national implementation efforts. As of 31 May 2016, 53 of the 82 States Parties had completed their ATT-BAP Survey. ATT-BAP contributed to a 'key' that was developed by the working group chair to facilitate the matching of questions in the survey with questions in the provisional reporting template in order to assist those States Parties that completed an ATT-BAP Survey but wanted to submit their Initial Report using the provisional reporting template. At least nine States Parties appear to have taken advantage of the 'key' to complete their Initial Report when using the provisional reporting template.<sup>4</sup> Six submitted their completed ATT-BAP Surveys as their Initial Report.<sup>5</sup> One provided a narrative account of its system and fulfillment of treaty provisions.<sup>6</sup>

The provisional template is currently only available in English. The ATT-BAP Survey is available in Arabic, English, French and Spanish. Three different languages were used for the 44 publicly available Initial Reports: 39 States Parties completed their report in English, two in French<sup>7</sup> and three in Spanish.<sup>8</sup>

3 Arms Trade Treaty, Article 13.1 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 13(1). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

4 These are Austria, Bosnia and Herzegovina, Bulgaria, Estonia, Finland, Latvia, Poland, Portugal and Romania.

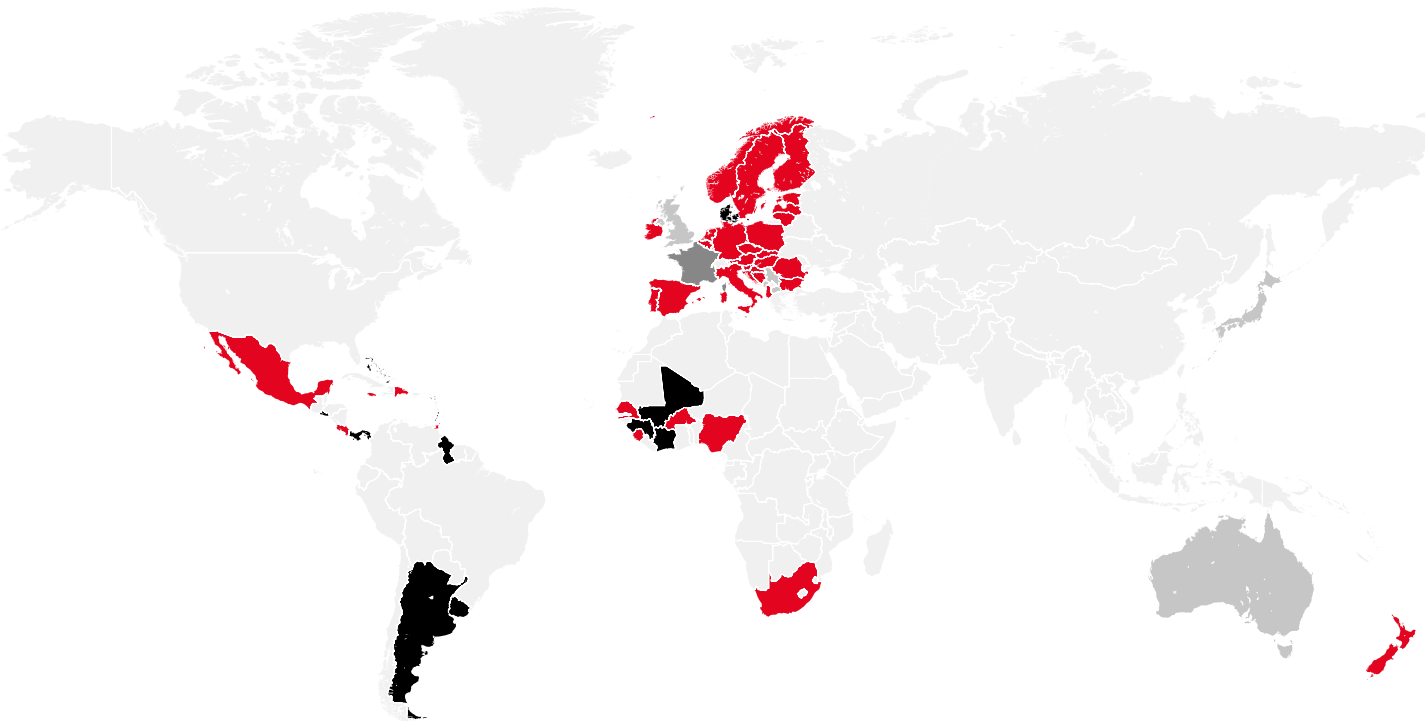
5 States Parties using the ATT-BAP Survey were Australia, Japan, Macedonia, Montenegro, Serbia and the United Kingdom.

6 France.

7 France and Luxembourg (though parts of Luxembourg's report were completed in French and English).

8 Costa Rica, Mexico, and Spain.

TABLE 2. STATE PARTY REPORTING PROGRESS



**40**  
**USED PROVISIONAL TEMPLATE:**  
Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso\*, Costa Rica, Croatia, Czech Republic, Dominican Republic, Estonia, Finland, Germany, Hungary, Iceland, Ireland, Italy, Jamaica, Latvia, Liechtenstein, Lithuania, Luxembourg, Mexico, Netherlands, New Zealand, Nigeria\*, Norway, Poland, Portugal, Romania, Samoa, Senegal\*, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago.

\* Not certain because reports were kept private.

**1**  
**USED OWN FORMAT:** France.

**6**  
**USED ATT-BAP SURVEY:** Australia, Japan, Macedonia, Montenegro, Serbia, United Kingdom.

**16**  
**HAVE NOT REPORTED:** Antigua and Barbuda, Argentina, Bahamas, Côte d'Ivoire, Denmark, El Salvador, Grenada, Guinea, Guyana, Mali, Malta, Panama, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Uruguay.

## WHAT THE INITIAL REPORTS CAN REVEAL

Article 13.1 requires States Parties report on 'measures undertaken in order to implement' the ATT. However, the provisional template differentiates between voluntary and mandatory treaty obligations with regard to reporting for the Initial Report by placing those measures in 'binding' and 'non-binding' sections. Although the Treaty is clear that States Parties report on all implementation efforts, this separation of obligations creates confusion as to whether they are required to report on those measures that do not relate to mandatory obligations. The current structure of the provisional template has had the effect of not requiring States Parties to report on all measures they have undertaken to implement the Treaty. However, even with these challenges of the format of the provisional template, the publicly available Initial Reports provided to the ATT Secretariat provide a useful overview of key elements of national transfer-control systems around the world and offer important insights into national interpretations of treaty provisions.

The willingness to provide more detail in the 'non-binding provisions' section could be due at least in part to the fact that States Parties have more opportunity to provide additional details due to the number and types of questions asked in it. The questions in the 'non-binding provisions' section are of a more open-ended nature than the one in the 'binding provisions' section. An analysis of State Parties' responses to key areas in the Treaty that relate to treaty effectiveness are described below.

## NATIONAL CONTROL SYSTEMS AND NATIONAL CONTROL LISTS

Article 5(2) of the ATT requires States Parties to 'establish and maintain a national control system, including a national control list'.<sup>9</sup> Forty-three States Parties responded in their publicly available Initial Reports that they have such a list in place. The Treaty also obliges States Parties to have national systems to control exports of conventional arms, ammunition, and parts and components, as well as to regulate the import, transit and brokering of conventional arms. Table 3 provides aggregated data from the 44 publicly available reports on the current status of implementation of the requirement for a national control list. While all publicly available reports indicate that the States Parties concerned regulate imports, not all of them regulate exports, transit/transshipment or brokering.

**Table 3. Types of transfers covered by national systems**

Region	Number of States Parties (out of 44)
National system establishes controls for exports	40
National system establishes controls for imports	44
National system establishes controls for transit/transshipment	43
National system establishes controls for brokering	39

## PROHIBITIONS

With regard to reporting on prohibitions, 43 of the 44 States Parties that made their reports public indicated that they prohibit arms transfers in all circumstances specified in Articles 6(1), 6(2), and 6(3) of the ATT, as listed below:<sup>10</sup>

- If a transfer would violate obligations under measures adopted by the UN Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes
- If a transfer would violate relevant international obligations under international agreements to which the State Party is also a party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms
- If the State Party has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed at civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a party.

<sup>9</sup> Arms Trade Treaty, Article 5.2 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 5.2. <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

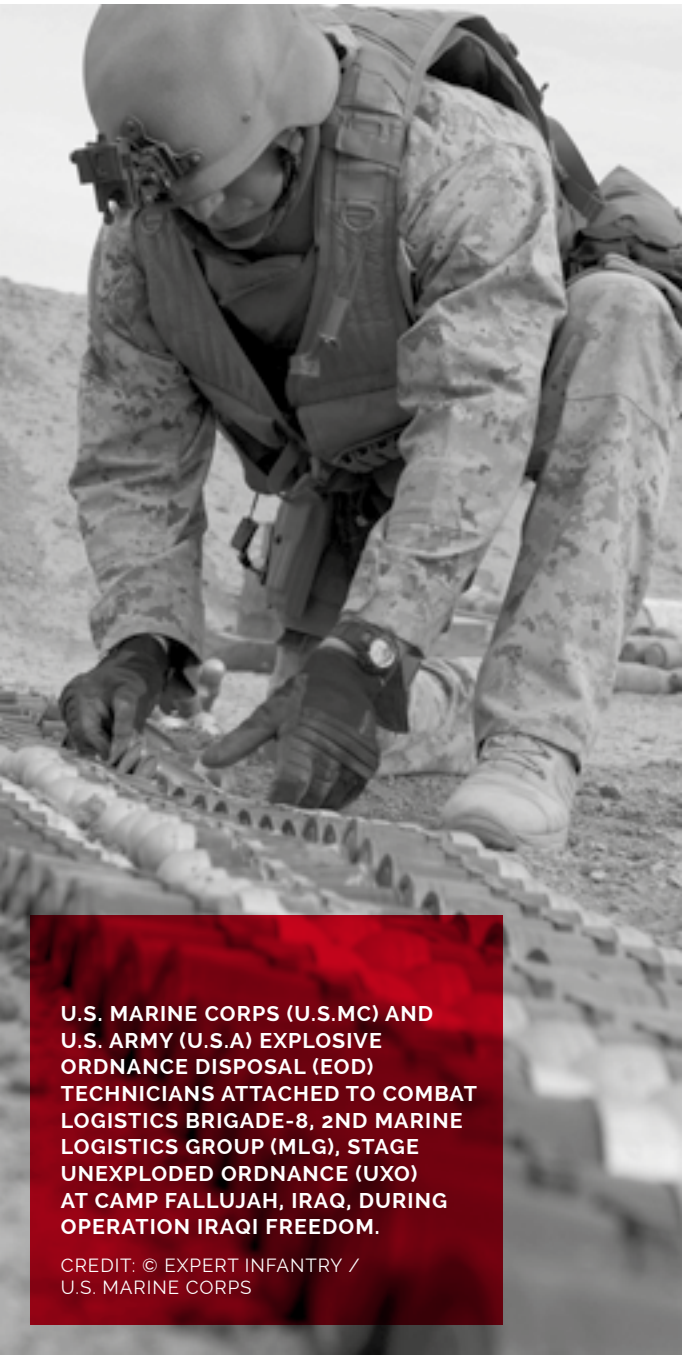
<sup>10</sup> The only State Party that responded 'no' indicated that work is underway to address the gap. Trinidad and Tobago stated that 'With the exception of small arms and light weapons and ammunition/munition, the other categories of weapons are subject to controls established by the Executive and inter-State relations. It is the intention of the Government to enact legislation to give full effect to the provisions of the ATT to treat with existing gaps in the national control system.'

The Initial Reports also provide a list of commonly cited international and regional agreements as they pertain to Articles 6(2) and 6(3) of the ATT. More than 20 such instruments relating to Article 6.2 were cited by responding States Parties, including the Convention on Cluster Munitions, the Mine Ban Treaty, the Firearms Protocol, and the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, which were referenced by more than one-third of them (see Table 4). In addition, States Parties listed agreements not specifically related to conventional weapons, such as the Biological and Toxin Weapons Convention, the Chemical Weapons Convention, the Treaty on the Non-Proliferation of Nuclear Weapons and other nuclear-focused regimes.

**Table 4. International and regional conventional arms instruments relating to Article 6.2**

International and regional instrument	Number of States Parties (out of 44)
Convention on Certain Conventional Weapons	22
Convention on Cluster Munitions	26
European Union (EU) Common Position 2008/944/CFSP defining common rules governing control of exports of military technology and equipment	13
Firearms Protocol	21
Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All its Aspects (PoA)	13
Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies	17

States Parties reported that their Article 6.3 commitments were based on the same agreements as those under Article 6.2 as well as on international human rights and humanitarian law obligations. More than three-quarters of them, however, explicitly cited the Geneva Conventions and Additional Protocols, while half referenced the Convention on the Prevention and Punishment of the Crime of Genocide, and over 40 per cent cited the Rome Statute (see Table 5). It is worth noting that States Parties may be party to these agreements, but may not have listed them within their reports.



U.S. MARINE CORPS (U.S.MC) AND U.S. ARMY (U.S.A) EXPLOSIVE ORDNANCE DISPOSAL (EOD) TECHNICIANS ATTACHED TO COMBAT LOGISTICS BRIGADE-8, 2ND MARINE LOGISTICS GROUP (MLG), STAGE UNEXPLODED ORDNANCE (UXO) AT CAMP FALLUJAH, IRAQ, DURING OPERATION IRAQI FREEDOM.

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**Table 5. International instruments relating to Article 6.3**

International and regional instrument	Number of States Parties (out of 44)
Geneva Conventions and Additional Protocols	34
Convention on Prevention and Punishment of the Crime of Genocide	27
Rome Statute	20

## EXPORTS

The export section is an area of great focus in the Initial Reports, with many States Parties providing considerable detail on their export controls in the binding and non-binding sections of the provisional template, as well as in the corresponding sections of the ATT-BAP Survey for those that submitted their one as their Initial Report. Of the 47 States Parties reporting, 25 are ranked among the top 50 exporters of major conventional arms for the period 2011–15, while at least a further 10 are recorded as exporting major conventional arms or small arms and light weapons during this period.<sup>11</sup>

Therefore, these are States Parties that are used to exchanging information on the elements of their national control system, in particular as regards exports. As Table 6 illustrates, a significant number of the 44 States Parties that provided public Initial Reports report on their systems for arms transfers and national control under other processes.

**Table 6. Experience of reporting on transfer and national control systems and arms exports<sup>12</sup>**

International and regional instrument	Number of States Parties (out of 44)
Wassenaar Arrangement	
As part of this regime, States Parties exchange information on their systems	31
Organization for Security Cooperation in Europe	
As part of this regime, States Parties exchange information on national systems to control small arms and light weapons transfers	33
National reporting mechanisms	
States Parties that have produced national reports that contain information on their arms export control systems at least once, with several providing information online	30
Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All its Aspects (UN PoA)	
States Parties that have provided information on their efforts to control small arms and light weapons	34
UN Register of Conventional Arms	
States Parties that have reported their annual arms exports, imports, or provided a nil report at least one time	42



**OF THE 47 STATES PARTIES REPORTING, 25 ARE RANKED AMONG THE TOP 50 EXPORTERS OF MAJOR CONVENTIONAL ARMS FOR THE PERIOD 2011–15, WHILE AT LEAST A FURTHER 10 ARE RECORDED AS EXPORTING MAJOR CONVENTIONAL ARMS OR SMALL ARMS AND LIGHT WEAPONS DURING THIS PERIOD.**

<sup>11</sup> Stockholm International Peace Research Institute (SIPRI), (2016). "Top List TIV Tables", data generated 3 June 2016. <http://armstrade.sipri.org/armstrade/page/toplist.php>

<sup>12</sup> See for more information: ATT Secretariat (2016). "Reporting and Deadlines". Accessed 29 June 2016. <http://thearmstradetreaty.org/index.php/en/resources/reporting>; Wassenaar Arrangement. "Participating States" Accessed 30 June 2016. <http://www.wassenaar.org/participating-states/>; Organization for Security and Cooperation in Europe (OSCE). "Participating States". Accessed 30 June 2016. <http://www.osce.org/states>; Stockholm International Peace Research Institute (SIPRI). "National reports on arms exports". Accessed 30 June 2016. <https://www.sipri.org/databases/national-reports>; United Nations. "National Reports on the Programme of Action" Accessed 30 June 2016. <http://www.poa-iss.org/Poa/NationalReportList.aspx>; United Nations Register of Conventional Arms (UNROCA). "Transparency in the Global Reported Arms Trade". Accessed 30 June 2016. <https://www.unroca.org/>

## DIVERSION

The ATT highlights the importance of combatting the diversion of arms, including with regard to reporting. Article 13.2 encourages States Parties to '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 covered under Article 2 (1)'. Until such reporting is undertaken, the Initial Reports can provide insights into how States Parties manage the risk of diversion within their national system (see Table 7).

Five States Parties out of 44 reported that they do not have measures in place to prevent diversion. The reports also reveal that less than half of the States Parties that made their Initial Reports publicly available (20 out of 44) indicated that they report through the ATT Secretariat to other States Parties on measures taken to address diversion. There is currently no mechanism for States Parties to do this, and the 'yes' answer likely refers to their willingness and intent to provide such information at a later date. In addition, 12 States Parties noted that such information is already publicly available or indicated that they will do so once the ATT Secretariat is able to serve in this capacity and if circumstances require, or upon request.

**Table 7: Efforts undertaken to mitigate risk of diversion**

International and regional instrument	Number of States Parties (out of 44)
Require end-user documentation, statements, and/or other assurances	37
Examine parties involved in a transfer	40
Require additional documentation, certification, and/or other assurances	39
Participate in information exchanges with relevant parties	41

States Parties also provided information on the types of measures that they take when diversion is detected (see Table 7). These measures include a check of export licences/authorizations issued, stopping the shipment, and sharing information with governments, Interpol and others. Twelve per cent of States Parties indicated that their national control systems do not include measures to be taken when diversion is detected. These were spread across different regions, with

two from the Caribbean (Jamaica and Trinidad and Tobago), two from Europe (Hungary and Luxembourg) and one from Oceania (Samoa). However, three of the five States Parties that reported they do not have these processes in place indicated that the establishment of such measures is under review and will soon be included in national laws and regulations. Specifically, of the five states that responded 'no', three provided the following information.

- Luxembourg: Legislation on these aspects is currently undergoing review. This review process has not yet been concluded.
- Trinidad and Tobago: Ad hoc arrangements exist to deal with situations where diversion is discovered. The proposed legislative amendments will take these arrangements into consideration.
- Jamaica: such measures are now undertaken through administrative action and will be addressed in subsequent amendments of the appropriate legislation.

Hungary gave a nuanced explanation for its 'no' response to the question(s) about whether the national control system includes appropriate measures to be taken, pursuant to national law and in accordance with international law, when a diversion of transferred conventional arms has been detected. It explained that

'[t]he measures to be taken when a diversion has been detected (thus constituting a criminal offence) are not regulated in the national legislation on conventional arms trade control. The law enforcement agencies have the powers to take measures (i.e. initiate prosecution) in case a diversion of transferred conventional arms is detected.'<sup>14</sup>

## ENFORCEMENT

Of the 44 States Parties that made their Initial Reports publicly available, 42 indicated that they have measures in place to enforce national laws and regulations as they pertain to ATT implementation. In the event that relevant laws and regulations are violated, 41 indicated that their national legislation allows for the provision of joint assistance in investigations, prosecutions and judicial proceedings. Those States Parties that did not identify joint enforcement assistance in this regard were Costa Rica, Jamaica, and Mexico. The fact that they are from the same region may highlight an area for future coordination and cooperation.

13 Arms Trade Treaty, Article 13.2 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT)\_Art 13.2.  
<https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

14 Initial Report of the Government of Hungary, [http://thearmstradetreaty.org/images/151223\\_Hungary\\_ATT\\_Initial\\_Report\\_2.pdf](http://thearmstradetreaty.org/images/151223_Hungary_ATT_Initial_Report_2.pdf)

## GOOD PRACTICE IN IMPLEMENTING THE ATT

The Initial Reports provide examples of the measures undertaken by States Parties that reflect international standards and best practice in this area that they should be encouraged to share as examples or models that could be adapted for use in other national systems.

The way in which the provisional reporting template is structured means that much of the information that could be useful to States Parties – such as specific information on national control lists – is contained within the 'non-binding provisions' section. The level of detail provided varied among submitted reports. In order to identify good practice, States Parties must use and consolidate information in both sections of the provisional template, which can be cumbersome and time-consuming.

Additionally, several States Parties revealed that their systems – including laws, regulations and policies – were under development and would be further enhanced in the near future. Under the Article 13.1, States Parties are obliged to submit an update to their Initial Report, highlighting these improvements and changes to their national systems when they occur.

## NATIONAL CONTROL SYSTEM AND LIST

States Parties provided information on, and links to, specific domestic laws and regulations that govern national control systems. Many identified a number of multilateral regimes from which their national control lists and definitions derive, including the Wassenaar Arrangement and the Common Military List of the European Union. In several cases, States Parties noted that they used descriptions contained within the UN Register of Conventional Arms, the UN Firearms Protocol, and regional agreements such as Inter-American Convention Against the Illicit Manufacturing of and Trafficking In Firearms, Ammunition, and Explosives and Other Related Materials.

States Parties also specified what is covered in their control lists. Nearly all have a control list that is comprehensive and includes the categories of all conventional arms identified in the ATT (Article 2.1), ammunition (Article 3) and parts and components (Article 4). Almost all States Parties publicly reporting (42 of 44) stated that their national control lists cover all eight categories of weapons. In addition, 41 States Parties include ammunition. Thirty-nine of them also include parts and components as well as ammunition. Of those States Parties that do not include all eight categories of weapons identified in Article 2.1 in their national control list, Sierra Leone noted that it only covers small arms and light weapons, ammunition, and parts and components, whereas Jamaica indicated that none of the items covered in Article 2.1 nor ammunition or parts and components are covered within its system at the time of reporting. Jamaica explained in its Initial Report that its control list is currently under development and, once established, will satisfy treaty requirements. Jamaica also noted that while its national control list is under development, 'the list of controlled items relevant to [the] treaty are provided for in several pieces of legislation, namely The Firearms Act 1967 and The Customs Act 1941.' The finalization of the list would be the kind of information Jamaica could provide in an update to its Initial Report in the future.

## EXPORTS

Information provided in Initial Reports builds understanding of how national systems work in practice. For example, 40 out of 44 publicly reporting States Parties revealed in their initial reports that they have systems in place through which they can reassess export authorizations if they becomes aware of new and relevant information (see Box 2 for some examples provided by States Parties). Nineteen States Parties identified the ability to suspend or revoke licences in the event that they become aware of new and relevant information. Three indicated they do not have such systems in place, with some, for example the Dominican Republic, noting the absence of reassessment due to the fact that they do not manufacture or export arms and ammunition. However, some States Parties did not provide information on this point, as this question is only explicitly asked in the 'non-binding provisions' section.



### BOX 1: RE-ASSESSING ARMS EXPORT AUTHORIZATIONS

- **Belgium:** If there has been a change in circumstances since a licence was granted or if the terms and conditions of a licence are not met, a licence can be re-assessed. This can lead to a suspension, withdrawal or the restriction in use of the licence.
- **Bosnia and Herzegovina:** The Ministry of Foreign Trade and Economic Relations shall issue its decision on the revocation of document if: (a) it establishes that the documentation was issued on the basis of false or incomplete information, while the applicant knew, or should have known that the data was false or incomplete; (b) such circumstances arise, or if new information is obtained, that, in case they existed, or had been known when the application for issuance of document was submitted, would have led to rejection of application for issuance of document; (c) issued document is not used for the intended purposes; (d) the legal entity does not operate in accordance with the provisions of this law and other by-laws regulating this area; (e) the legal entity prevents the conducting of supervision.
- **Finland:** The licence may be revoked if: there is a fundamental breach of licence conditions; misleading information have been given on purpose when applying for licence; general conditions for granting a licence or the circumstances under which the licence was granted have fundamentally changed; strong reasons exist for revoking the licence.
- **Ireland:** The Control of Exports Act 2008 provides for the revocation of a licence
- **Slovenia:** An issued export licence can be changed, abolished or annulled in the event that: the fulfilment of international obligations are imperilled, security and defence interests are imperilled, armed conflicts in the country that is the end-user of military weapons and equipment are accelerated or allowed for, if there is justified suspicion that the military weapons or equipment of the importing country is traded to a third state and in the event that this is in contradiction to the defence and security interest of the state.

### DEFINITIONS

With two exceptions, the ATT does not contain definitions, which enables States Parties to use their own. The two exceptions are the definition of transfer: 'the activities of the international trade comprise export, import, transit, transshipment and brokering, hereafter referred to as 'transfer' in Article 2.2, and Article 5.3, which states that 'National definitions of any of the categories covered under Article 2 (1) (a)-(g) shall not cover less than the descriptions used in the United Nations Register of Conventional Arms'.<sup>15</sup> Thus, Initial Reports are a useful resource for comparing the definitions used by States Parties in their national control systems. In particular, they reveal definitions for brokering and transit and transshipment that could be used by other States Parties that are seeking to develop their own definitions. Eleven States Parties provided definitions for transit/transshipment, and 33 provided definitions for brokering. The difference in the number of definitions provided for these two types of transfer activities could be a consequence of the absence of a specific question in the provisional reporting template asking for their definitions of transit/transshipment while there is such a question regarding brokering definitions.

Some States Parties are still developing definitions as part of their national systems. For example, New Zealand, which is still developing its legislative brokering control regime, noted that the legislation will include a definition of brokering as 'negotiating, arranging or facilitating the international movement of arms and military equipment from one foreign country to another foreign country'. It would also 'require all brokering activity by New Zealand citizens or entities to first obtain a permit. It is expected that the legislation will have extraterritorial application'.<sup>16</sup> This would be something that New Zealand could provide in a future update to its Initial Report.

### WHAT IS MISSING FROM INITIAL REPORTS?

Although there is a lot of information contained within the initial reports, there are some gaps in knowledge that, if included in the initial reporting template or another information exchange, transparency, or reporting mechanism, would contribute to greater understanding of ATT implementation and facilitate capacity building initiatives.

15 Arms Trade Treaty. Articles 2.1 and 5.3 (adopted 2 April 2013, entered into force 24 December 2014). UNTS (ATT) Art 2(1), 5(3). <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

16 Initial Report of the Government of New Zealand, [http://thearmstradetreaty.org/images/New\\_Zealand\\_Arms\\_Trade\\_Treaty\\_national\\_implementation\\_report\\_December\\_2015.pdf](http://thearmstradetreaty.org/images/New_Zealand_Arms_Trade_Treaty_national_implementation_report_December_2015.pdf)

## INTERNATIONAL COOPERATION AND ASSISTANCE

The Initial Reports do not generate sufficient detail on assistance needs or available resources to support more effective implementation of the ATT. This is a missed opportunity, as the Treaty clearly identifies assistance and cooperation as important for effective implementation (See Chapter 1.3 for analysis of assistance and cooperation to Africa).<sup>17</sup> The section on assistance in the provisional reporting template only consists of three questions, two of which relate to 'non-binding provisions' and in response to which States Parties did not provide a lot of information. As a result, such information might have to be elicited by supplementary reporting mechanisms instead.

International cooperation efforts are also under-reported in the Initial Reports, particularly in the case of States Parties that used the provisional reporting template. States Parties have not provided detailed responses to these questions in the provisional reporting template, which are contained within the 'non-binding provisions' section. The lack of information on this topic is a missed opportunity to effectively direct assistance where it is most needed.

If information about needs for and offers of international assistance as well as specific examples of international cooperation are missing, this makes it extremely challenging to accurately identify gaps and areas in need of additional resources. States Parties appear not to have clearly identified in a systematic and useful manner the ways in which they could benefit from (or offer) capacity-building expertise and models for facilitating bilateral or multilateral cooperation. This means that it may be difficult to allocate technical, financial, and material assistance, not least to countries and regions with the most need.

## RECORD-KEEPING

The 'binding provisions' section of the provisional reporting template only asks States Parties if their national control system includes provisions for maintaining records of issued authorizations and actual exports, and if those records are kept for a minimum of 10 years. They answered these questions with 'yes' and 'no' responses and largely only provided additional information with regard to the duration of record-keeping.

The 'non-binding provisions' section asks questions regarding additional information about record-keeping for arms imports,

transit/transshipment and brokering, as well as whether national records cover categories of conventional arms other than those specified in Article 2.1 of the ATT. Missing from the provisional reporting template are specific questions regarding the types of information contained within records on arms exports, imports and transit/transshipment. Such information could include details on quantity, value, model/type, exporting state, transit/transshipment state and other insights. Although this information could be provided in a State Party's Annual Report on arms exports and imports, describing the processes by which record-keeping is undertaken could serve to identify best practice and develop strong reporting standards.

Some States Parties provided additional information in the 'non-binding provisions' section and indicated that they keep records electronically and in hard copy. A few also provided information on types of information and national holdings and export process in the 'non-binding provisions' section.

A lack of comprehensive information on record-keeping inhibits assessments of good practice. It also limits insight on whether States Parties are capturing useful information in their records that could be provided to domestic enforcement agencies, shared with partners in joint cooperation efforts to stop diversion and be used to better facilitate end-use monitoring. This information could also be used to inform decisions on authorizations and enable the completion of Annual Reports on arms exports and imports.

## ENFORCEMENT

Detailed information on States Parties' specific enforcement measures is also lacking within the Initial Reports. Questions in the provisional reporting template are overarching and the majority of States Parties did not provide additional information on the specific processes and measures they take to enforce national laws that implement the ATT. This could be a reflection of the fact that the Treaty is quite vague in setting out clear obligations in this section. However, some States Parties provided additional information in the 'non-binding section' on their national laws and regulations that implement the Treaty and detailed specific actions that would violate these laws. These States Parties also provide details on the consequences of such violations (see Box 2). For example, some identified fines and criminal proceedings or a certain number of years of imprisonment as repercussions for violations, and they largely highlighted these measures in their voluntary information as well.

17 Arms Trade Treaty, Articles 15 and 16 (adopted 2 April 2013, entered into force 24 December 2014)\_UNTS\_(ATT) Art 15-16.  
<https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

**BOX 2: NATIONAL ENFORCEMENT PRACTICES**

- **Bulgaria:** Articles 337 and 339 of the Penal Code, provide punishment by deprivation of liberty from one to 10 years (varies depending on the severity and the type of crime) to person who manufactures, processes, repairs, develops, keeps, stockpiles, trades in, transports or exports explosives, firearms, chemical, biological or nuclear weapons or ammunition, without having the right to do so by law, or without licence from the respective government body, or does so not in compliance with the licence given to him.
- **Norway:** Section 5 of the Act relating to control of the export of strategic goods, services, technology, etc. (18 December 1987) specifies that: 'Unless the matter is subject to more severe penal provisions, any person who wilfully; exports or attempts to export goods, technology or services in contravention of this Act or regulations issued pursuant thereto, or contravenes or attempts to contravene any condition laid down pursuant to this Act, or orally or in writing furnishes incorrect information concerning circumstances of significance for authorisation to export goods, technology or services if this information is furnished: in a declaration made for use by a public authority or anyone acting on behalf of a public authority in connection with export or an application for permission to export, in a declaration intended to enable another person to make such a declaration as is mentioned under litra a, or in any other way contravenes or attempts to contravene provisions issued pursuant to this Act, is liable to fines or a term of imprisonment not exceeding five years, or both. Complicity in any offence such as is mentioned in the first paragraph is subject to the same penalty.'

A lack of specific information with regard to enforcement efforts may undermine support for international cooperation efforts to stop diversion. Indeed, a lack of understanding of the seriousness in which violations of arms-export laws are taken contributes to impunity.

**FINDINGS**

Initial Reports on implementation can help governments, regional and international organizations, and civil society to better understand current efforts to implement the ATT and enhance arms-transfer-control systems worldwide. Robust reporting will result in increased transparency in the international arms trade as well as promote greater responsibility when conducting arms transfers.

It is important to ask why one-quarter of States Parties did not submit their Initial Reports to the ATT Secretariat by their deadline in order to lead to the development of measures to help States Parties meet their obligations in the future. Eleven States Parties whose reports are overdue had previously completed their ATT-BAP Surveys and could have submitted them, or used the key to complete and submit the provisional reporting template. There are perhaps three reasons that account for why these States Parties failed to fulfil their reporting obligations.

First, is it a translation issue for some States Parties? Four States Parties completed the provisional reporting template in their native language (two in French and three in Spanish), even though it is only available in English.

Second, do States Parties understand the need to complete and submit their reports to the ATT Secretariat? They may not understand the benefits of submitting their reports (outside the fulfilment of a treaty obligation), and therefore may not recognize that reporting can help them to identify where there are weaknesses or gaps in their systems, to facilitate cooperation and assistance, and to harmonize regional approaches to improving arms-transfer control practices. For example, since, as mentioned above, the current provisional reporting template does not include detailed questions on international cooperation and assistance, States Parties may inadvertently overlook the ways in which the Initial Reports can lead to capacity-building. This omission could undermine efforts to match assistance needs with available resources because of the lack of relevant information based on what States Parties are (or rather are not) including in their Initial Reports.

Third, do States Parties lack the capacity to report on their implementation measures? Article 13.1 seeks to limit the reporting burden by only requiring a one-time report, not annual or biennial reporting as required by other instruments such as the UN Programme of Action on small arms and light weapons (UN PoA). However, it is also contemplated that States Parties will provide updates to ensure that implementation reports contain the most recent information on national control systems and are consistent with national practices. At least seven States Parties highlighted in their Initial Reports that aspects of their national control system are still 'under development'.

A lack of reporting will have consequences for the long-term success of the ATT and its goals of increasing transparency for the global arms trade. A lack of comprehensive and robust public reporting at this early stage will also set a bad precedent for the future, and thus could undermine the Treaty in its infancy. In addition, the harm this could do to efforts to match assistance needs and facilitate coordinated international cooperation risks undermining effective implementation and hindering national control efforts.

The States Parties that have submitted their Initial Reports demonstrate that there is a strong commitment to public reporting. All but one of the 35 States Parties that used the provisional reporting template and made it publicly available, completed the 'non-binding provisions' section. It is important to note that while the obligations can be interpreted as placing different requirements on States Parties, the Treaty does not differentiate between these in terms of the information to be provided in the Initial Report, and clearly those that have completed theirs are taking the reporting obligations seriously.



**AS MORE STATES PARTIES COMPLETE AND SUBMIT THEIR INITIAL REPORTS AND A FINAL REPORTING TEMPLATE IS DEVELOPED, THE LESSONS LEARNED FROM THE FIRST REPORTS SHOULD BE TAKEN INTO CONSIDERATION.**

## RECOMMENDATIONS

Improvements in reporting could have subsequent positive effects for facilitating more effective ATT implementation and thereby for supporting national, regional and international efforts to enhance security and stability. As more States Parties complete and submit their Initial Reports and a final reporting template is developed, the lessons learned from the first reports should be taken into consideration. For those that have already submitted theirs, future exchanges of more detailed information and regular updating of the ATT Secretariat of changes to national systems will be crucial. Doing so will help ensure the Treaty lives up to its potential and will assist States Parties in identifying what resources are needed or available to promote effective implementation and to develop lessons learned and good practices over time. Therefore, the following are recommendations for future reporting.

- Make reporting templates available in official UN languages – and as a minimum in Spanish and French
- Include detailed questions on international cooperation and assistance in future Initial Report draft templates as well as identify a process by which States Parties can exchange this information if they have already completed their Initial Report
- A final reporting template should eliminate the division and distinction between the 'binding provisions' and 'non-binding provisions' sections of the report, or at the very least provide all questions for each section in one place so that States Parties do not have to navigate between the sections to provide information on the same topic
- The ATT Secretariat should provide at least an annual reminder to States Parties to update their Initial Report if their system has changed, including by sending national contact points a copy of their report each year to ask if anything needs to be changed or updated
- States Parties due to report or that have yet to meet their reporting deadline should submit comprehensive and publicly accessible initial reports to the ATT Secretariat as soon as possible
- In the future, the ATT Secretariat should facilitate the development of a template for the Initial Report articulated in Article 13.2 on measures to address diversion.