

CHAPTER 1: ENHANCING TRANSPARENCY AND INFORMATION SHARING TO PREVENT AND ERADICATE THE DIVERSION OF CONVENTIONAL WEAPONS TO THE ILLICIT MARKET

INTRODUCTION

The Arms Trade Treaty (ATT) regulates conventional arms transfers by, in part, establishing common standards for States Parties to reduce the illicit international arms trade. The Treaty recognizes the shared responsibility of governments to prevent diversion, both in its object and purpose (Article 1) and in obligations specific to addressing diversion (Article 11).

Since the ATT's adoption in 2013, diversion has been a central concern for States Parties and has provided a considerable amount of material for discussion at the subsequent Conferences of States Parties (CSPs). This has included the creation of an Article 11 sub-working group within the Working Group on Effective Treaty Implementation (WGETI), and the choice of diversion as a priority theme by the Japanese presidency of CSP4 and the Argentinian presidency of CSP6. The choice by Argentina's presidency of enhancing transparency and information sharing to prevent and eradicate diversion of conventional weapons to the illicit market suggests increased recognition among ATT stakeholders of its importance.

Yet, cases of arms diversion continue to occur, showing that the efforts made so far are insufficient. The lack of widespread understanding of the many processes and circumstances that facilitate diversion, and of how the ATT can help prevent and mitigate it, together act as a significant impediment to positive international action. Nevertheless, the ATT and its transparency and information-exchange provisions serve as an important framework for sharing information and experience in tackling diversion, as well as actions to address it.¹

This chapter seeks to fill gaps in understandings around key terminology and Treaty provisions related to transparency, information sharing and diversion. It illustrates the need for greater transparency and increased effective and cooperative

action among ATT stakeholders to prevent and mitigate diversion through highlighting diversion cases that provide lessons learned and recommendations. To illustrate these challenges and responses, this chapter includes discussions on:

- Diversion, transparency and information sharing provisions under the ATT
- Cooperation and mutual assistance under the ATT
- Diversion-prevention measures
- Mitigation measures
- Cases of diversion

DIVERSION, TRANSPARENCY AND INFORMATION SHARING PROVISIONS UNDER THE ATT

The diversion of conventional arms and ammunition can occur at any stage of their life cycle – at the end of the production process, during the transfer, after the delivery of the equipment or years after the material was received.² Diversion is the main conduit for the supply of arms and ammunition to non-state armed groups, paramilitary groups and transnational criminal organizations. It also contributes to raised levels of insecurity and instability and reduced levels of sustainable development in countries and regions affected by conflict or showing high levels of criminality.³

Article 1 of the ATT makes clear the Treaty's purpose of promoting cooperation, transparency and responsible action by States Parties.⁴ This provides an overall framework for collaboration among States Parties and reinforces the principle that greater transparency and systematic information sharing must be at the core of the general functioning of the Treaty regime and, in particular, in the context of efforts to tackle diversion.

1 ATT Expert Group (2015). 'Key issues for ATT Implementation: Preventing and combating diversion'. Saferworld. Briefing No 2. February 2015. <https://www.saferworld.org.uk/downloads/pubdocs/key-issues-for-att-implementation---preventing-and-combating-diversion.pdf>.

2 Small Arms Survey (2018). 'Possible Measures to Prevent and Address Diversion: Supporting Effective Implementation of the Arms Trade Treaty'. August 2018. http://www.smallarmssurvey.org/fileadmin/docs/Regulations_and_Controls/Levels_of_action/International/Diversion_infographic.pdf.

3 Camello, C. (2019). 'Tackling (Arms)Diversion: Challenges for European States'. GRIP Insight. 24 February 2020. https://www.grip.org/wp-content/uploads/2019/12/EC_2020-02-24_EN_M-CAMELLO.pdf, p. 1.

4 Arms Trade Treaty. Article 1. (adopted 2 April 2013, entered into force 24 December 2014)_UNTS_(ATT) Art. 1.

DIVERSION

As with other key terms, the ATT does not propose any definition of the term 'diversion'.⁵ However, the Preamble of the Treaty underlines diversion as a multifaceted problem:

*Underlining the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end-use and end-users, including in the commission of terrorist acts.*⁶

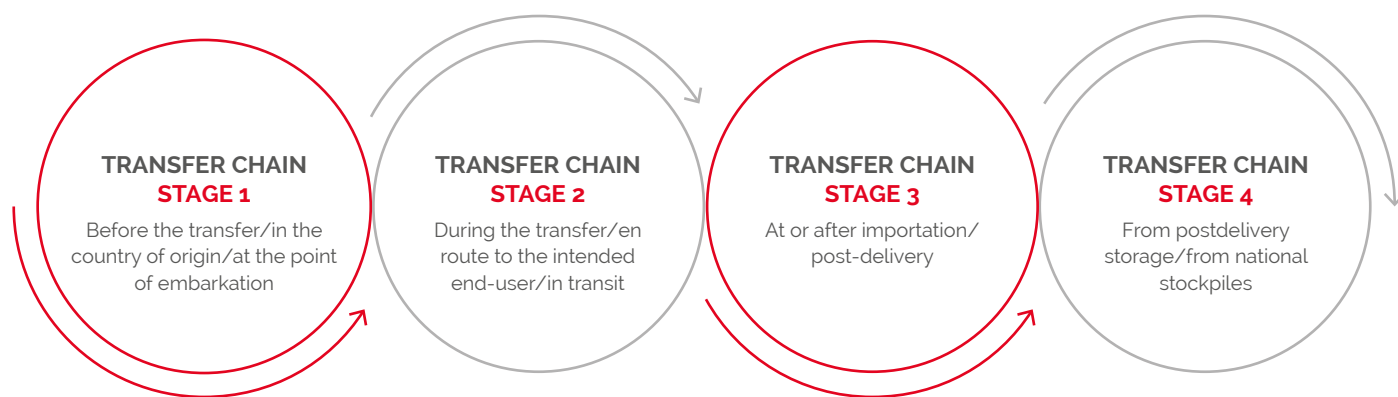
The preamble, therefore, identifies three forms of diversion:

1. Diversion from the legal to the illicit market
2. Diversion for unauthorized end-use
3. Diversion to unauthorized end-users⁷

The WGETI sub-working group on Article 11 developed a list of 'Possible measures to prevent and address diversion' that identifies four stages in the transfer chain, all of which provide different opportunities for states to take measures to address diversion (see Figure 1.1).⁸ Because this list draws from experience and input from states and was well received by ATT stakeholders, the ATT Monitor has also adopted this typology for the analysis presented in this chapter.⁹

Diversion is often the crucial link between the authorized or legal trade (for example, where conventional arms are legally produced, transferred and owned) and the illicit trade (for example, where conventional arms come into the possession of non-state actors, such as armed groups and criminal organizations, and other unauthorized end-users).¹⁰

FIGURE 1.1 – STAGES OF THE TRANSFER CHAIN



5 For more information, see Control Arms Secretariat (2018). 'ATT Monitor 2018'. 20 August 2018. <https://attmonitor.org/en/the-2018-report/>, pp. 102-105.

6 Arms Trade Treaty. Preamble (adopted 2 April 2013, entered into force 24 December 2014). UNTS_(ATT) Preamble.

7 Small Arms Survey (2019). 'Preventing Diversion: Comparing ATT and African measures for importing states'. <http://www.smallarmssurvey.org/fileadmin/docs/T-Briefing-Papers/SAS-BP-Preventing-Diversion.pdf>, p. 3.

8 ATT Secretariat (2018). 'ATT Working Group on Effective Treaty Implementation Chair's Draft Report to CSP4'. 20 July 2018. ATT/CSP4/WGETI/2018/CHAIR/355/Conf.Rep. https://www.thearmstradetreaty.org/hyper-images/file/ATT_CSP4_WGETI_Draft_Report_EN1/ATT_CSP4_WGETI_Draft_Report_EN.pdf, pp. 18-24.

9 Ibid., p. 4. For more detailed information on the four stages of the transfer chain, see Small Arms Survey (2020). 'Possible measures to prevent and address diversion: supporting effective implementation of the Arms Trade Treaty'. http://www.smallarmssurvey.org/fileadmin/docs/Regulations_and_Controls/Levels_of_action/International/Diversion_infographic.pdf.

10 Ibid., p.3.

**TEXT BOX 1: DIVERSION, TRANSPARENCY
AND INFORMATION SHARING IN THE ATT
FORMAL PROCESS**

Since the ATT entered into force in December 2014, efforts to tackle diversion have gained increasing momentum within the formal Treaty process. After establishing the Article 11 sub-working group during the intersessional period between CSP3 and CSP4, the WGETI set to work in helping States Parties understand and implement Article 11 obligations. To harness and build on diversion-prevention efforts that were implemented by States Parties prior to the ATT, and to identify gaps in these efforts, the sub-working group put forward a work plan, including a series of guiding questions and a request for input from States Parties on desired outcomes. Some States Parties responded with input, feedback and questions during the CSP4 meeting cycle.¹¹ In response, the sub-working group developed two documents to further identify where and how diversion occurs, and to present possible ways for states to address it. The list of 'Possible measures to prevent and address diversion' identifies the four stages of the transfer chain and includes proposed measures to address diversion at each stage, in relevant national contexts, and the 'Existing Guidance on Diversion Measures' presents sources States Parties could use to assist in addressing and preventing diversion.¹²

At CSP4, both the Article 11 sub-working group and the WGTR considered the issue of diversion, the priority theme of the conference chosen by the Japanese Presidency. As discussed by the WGTR, the CSP welcomed the development of an information-exchange portal on the ATT Secretariat website to facilitate exchanges between States Parties, and it endorsed a three-tier approach to information sharing on diversion, including: policy-level exchanges on diversion in the Article 11 sub-working group, intersessional exchange of operational information through the information exchange portal, and informal meetings among States Parties and, potentially, Signatories to discuss concrete cases of detected or suspected diversion.¹³

At CSP5, States Parties discussed and endorsed a multi-year work plan for the Article 11 sub-working group to facilitate better discussion on diversion at each stage of the transfer chain, and the CSP hosted the first informal meeting of States Parties and Signatories to discuss concrete cases of detected or suspected diversion, along with an open meeting for all stakeholders. The second informal meeting of States Parties and Signatories took place at the first Working Group and Preparatory Meetings for CSP6, wherein participants considered and discussed the Argentinian Presidency's chosen priority theme of transparency, information sharing, and their role in the prevention of diversion. Argentina submitted a working paper in preparation for CSP6, which included possible recommendations for States Parties.¹⁴

11 See Switzerland (2018). 'Food for thought paper on the topic of the prevention of diversion (Article 11)'. 2 March 2018. ATT/CSP4/WGETI/2018/CHE/256/M1.CHE.Art11. https://thearmstradetreaty.org/hyper-images/file/ATT_WGETI_CSP4_Food_for_thought_on_the_topic_of_the_prevention_of_diversion_Article_11CHE/ATT_WGETI_CSP4_Food_for_thought_on_the_topic_of_the_prevention_of_diversion_Article_11CHE.pdf; Argentina, et. al. (2018). 'Preventing and fighting the diversion of legally transferred weapons'. 6 March 2018. ATT/CSP4/WGETI/2018/GROUP/257/M1.GROUP.Div. https://thearmstradetreaty.org/hyper-images/file/ATT_WGETI_CSP4_WP_Diversion_France_et_al/ATT_WGETI_CSP4_WP_Diversion_France_et_al.pdf; Japan (2018). 'Addressing Diversion of Conventional Arms'. 25 May 2018. ATT/CSP4/WGETI/2018/JPN/312/M2.JAPArt11. https://thearmstradetreaty.org/hyper-images/file/Working_Paper_-_Japan_-_Addressing_Diversion_in_Conventional_Arms_25_May_2018/Working_Paper_-_Japan_-_Addressing_Diversion_in_Conventional_Arms_25_May_2018.pdf.

12 ATT WGETI (2018). 'Sub-working Group on Article 11 (Diversion) - Work Plan'. 15 May 2018. ATT/CSP4/WGETI/2018/CHAIR/303/M2.WorkPlanArt11. https://thearmstradetreaty.org/hyper-images/file/ATT_WGETI_CSP4_Sub-Working_Group_Art_11/ATT_WGETI_CSP4_Sub-Working_Group_Art_11.pdf, pp. 5-11.

13 ATT Secretariat (2018). 'CSP4 Final Report'. 24 August 2018. ATT/CSP4/2018/SEC/369/Conf.FinRep.Rev1. [https://thearmstradetreaty.org/hyper-images/file/CSP4_Final_Report_-_August_2018_\(ATT_CSP4_2018_SEC_369_Conf.FinRep.Rev1\)/CSP4_Final_Report_-_August_2018_\(ATT_CSP4_2018_SEC_369_Conf.FinRep.Rev1\).pdf](https://thearmstradetreaty.org/hyper-images/file/CSP4_Final_Report_-_August_2018_(ATT_CSP4_2018_SEC_369_Conf.FinRep.Rev1)/CSP4_Final_Report_-_August_2018_(ATT_CSP4_2018_SEC_369_Conf.FinRep.Rev1).pdf), p. 6.

14 CSP6 President (2020). 'Transparency and Exchange of Information: Its Role in the Prevention of Diversion'. 21 April 2020. ATT/CSP6/2020/PRES/597/M2.TranspInfExch. https://thearmstradetreaty.org/hyper-images/file/ATT_CSP6_DOCUMENTO_Presidencia_Argentina_-_EN/ATT_CSP6_DOCUMENTO_Presidencia_Argentina_-_EN.pdf.

DIVERSION PROVISIONS IN THE ATT

As noted above, preventing diversion is one of the objects of the ATT (Article 1). However, it is Article 11 that addresses the detailed responsibilities of States Parties in taking steps and implementing measures to prevent and address diversion. Those provisions specific to information sharing and cooperation in identifying risks and responding to cases of diversion are key to the Treaty's effectiveness in this area.¹⁵

Unlike the risk-assessment provisions of Article 7, the requirement for a diversion risk assessment set out within Article 11 does not incorporate an explicit requirement to consider whether there is an 'overriding' risk of diversion before taking appropriate action. While there is no obligation within Article 11.2 to refuse an export where there is judged to be a risk of diversion, the Article as a whole is clear on the obligations of States Parties to prevent diversion by exploring the possible use of mitigation measures or by refusing

authorization. This obligation is also applicable in situations where information on diversion risks comes to light after an authorization has been granted. In such cases an exporting State Party should follow the provisions of Article 7.7 and undertake a reassessment of the authorization.¹⁶

While Article 11 is expressly applicable only to items listed under Article 2.1, States Parties are urged under Article 5.3 to apply the provisions of the Treaty to the broadest range of conventional arms. It is arguable therefore that all States Parties that are committed to tackling the diversion of arms should ensure that all possible measures are taken to prevent and combat the diversion of all conventional arms and related ammunition as well as parts and components.

Figure 1.2 breaks down Article 11 obligations (with emphasis added to highlight transparency and information sharing provisions, where relevant).



15 ATT Expert Group (2015). 'Key issues for ATT Implementation: Preventing and combating diversion'. Saferworld, Briefing No 2, February 2015. <https://www.saferworld.org.uk/downloads/pubdocs/key-issues-for-att-implementation---preventing-and-combating-diversion.pdf>.

16 Ibid.

The information-sharing provisions of Articles 11.5 and 11.6 are further supported by Article 13.2, which encourages States Parties to "report" to each other on measures to address diversion, as "States Parties are encouraged 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)."¹⁷

Article 11 as a whole makes clear the responsibility of all States Parties to prevent diversion and emphasizes the need for cooperative action in doing so. Critically, Article 11.4 implies

that these efforts should be undertaken by any State Party that detects diversion, whether or not it has a direct role in the arms transfer, and could include transfers that originated from states that are not party to the ATT.

Given that the ATT States Parties with the most developed arms-transfer control systems are best placed to implement Article 11 provisions, it is important that major exporters share as much information as possible with other states to assist the wider effort to tackle diversion and to help build the capacity of others to take independent action.¹⁸

FIGURE 1.2 – ARTICLE 11



ARTICLE 11: DIVERSION

- 11.1** Each State Party involved in the transfer of conventional arms covered under Article 2 (1) shall take measures to prevent their diversion.
- 11.2** The exporting State Party shall seek to prevent the diversion of the transfer of conventional arms covered under Article 2 (1) through its national control system, established in accordance with Article 5 (2), by assessing the risk of diversion of the export and considering the establishment of mitigation measures such as confidence-building measures or **jointly developed and agreed programmes** by the exporting and importing States. Other prevention measures may include, where appropriate: examining parties involved in the export, requiring additional documentation, certificates, assurances, not authorizing the export or other appropriate measures.
- 11.3** Importing, transit, trans-shipment and exporting States Parties shall **cooperate and exchange information**, pursuant to their national laws, where appropriate and feasible, in order to mitigate the risk of diversion of the transfer of conventional arms covered under Article 2 (1).
- 11.4** If a State Party detects a diversion of transferred conventional arms covered under Article 2 (1), the State Party shall take appropriate measures, pursuant to its national laws and in accordance with international law, to address such diversion. Such measures may include **alerting potentially affected States Parties**, examining diverted shipments of such conventional arms covered under Article 2 (1), and taking follow-up measures through investigation and law enforcement.
- 11.5** In order to better comprehend and prevent the diversion of transferred conventional arms covered under Article 2 (1), States Parties are **encouraged to share relevant information** with one another on effective measures to address diversion. Such information may include information on illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organized groups engaged in diversion.
- 11.6** States Parties are **encouraged to report** to other States Parties, through the Secretariat, on measures taken in addressing the diversion of transferred conventional arms covered under Article 2 (1).

¹⁷ Arms Trade Treaty, Article 13.2 (adopted 2 April 2013, entered into force 24 December 2014)_UNTS_(ATT) Art 13.2.

¹⁸ ATT Expert Group (2015). 'Key issues for ATT Implementation: Preventing and combating diversion'. Saferworld. Briefing No 2. February 2015. <https://www.saferworld.org.uk/downloads/pubdocs/key-issues-for-att-implementation---preventing-and-combating-diversion.pdf>, p. 3.

TRANSPARENCY

Transparency – defined by the ATT Monitor generally as 'accessibility of information' – is central to the effective implementation of the ATT's operative articles.¹⁹ Transparency can be seen as directly linked to a government's willingness to commit to monitoring, oversight and accountability.²⁰ In the context of the ATT, States Parties have numerous opportunities to express commitments to transparency, including in reporting and information sharing more generally.

While the Treaty's requirements for public reporting on arms-transfers and related control systems are the primary tools for transparency at the disposal of States Parties, the ATT as a whole provides a broad framework for promoting cooperation, information sharing, transparency and responsible action by States Parties in the international arms trade.

TRANSPARENCY PROVISIONS IN THE ATT

The ATT makes two explicit references to transparency, in Article 1 (object and purpose) and Article 5 (general implementation), as shown in Figure 1.3.

Transparency commitments are also integrated into many of the ATT's substantive obligations beyond Article 11. For example,

Article 8 (import), which refers to information exchange and transparency measures in 8.1 and 8.3, allows for importing and exporting states to request information from others (including end-user documentation and information concerning export authorizations).²¹ When implemented by States Parties, these provisions also contribute positively to tackling diversion.

INFORMATION SHARING

In the context of the ATT, information sharing can take place among States Parties or between States Parties and Signatories bilaterally or multilaterally, and on a regular, periodic, or an ad hoc basis, as well as more broadly, including with national legislatures and other relevant stakeholders.²² Information can be transferred in a variety of mediums (for example, electronically, in written submissions or verbally in meetings) and can take place via a third party, such as the ATT Secretariat.

Information sharing can enable State Parties to demonstrate their Treaty implementation efforts to each other by fulfilling their reporting obligations. It can also involve exchanges concerning good practices, lessons learned and ways to help encourage and promote effective Treaty implementation.²³ However, information sharing can be conducted privately or publicly, and only when made public can information sharing also support transparency.

FIGURE 1.3 – TRANSPARENCY PROVISIONS IN THE ATT



ARTICLE 1: OBJECT AND PURPOSE

Promoting cooperation, **transparency** and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.



ARTICLE 5: GENERAL IMPLEMENTATION

5.5 Each State Party shall take measures necessary to implement the provisions of this Treaty and shall designate competent national authorities in order to have an **effective and transparent** national control system regulating the transfer of conventional arms covered under Article 2 (1) and of items covered under Article 3 and Article 4.

19 See Control Arms Secretariat (2017). 'ATT Monitor 2017'. 11 September 2017. <https://attmonitor.org/en/the-2017-report/>, p. 18.

20 Holtom, P. (2008). 'Transparency in Transfers of Small Arms and Light Weapons'. Stockholm International Peace Research Institute (SIPRI). 22 July 2008. <https://www.sipri.org/sites/default/files/files/PP/SIPRI22.pdf>, p. 3.

21 For more information on transparency commitments in other ATT substantive obligations, see Control Arms Secretariat (2017). 'ATT Monitor 2017 Report'. 11 September 2017. <https://attmonitor.org/en/the-2017-report/>, p. 18.

22 ATT Expert Group (2014). 'Key issues for ATT implementation: information exchange under the ATT'. Saferworld. Briefing No 1. <https://www.saferworld.org.uk/downloads/pubdocs/key-issues-for-att-implementation---preventing-and-combating-diversion.pdf>, p. 1.

23 Ibid.

INFORMATION-SHARING PROVISIONS IN THE ATT

Aside from the diversion-related provisions of Article 11, there are throughout the ATT numerous requirements for information sharing and provisions for interaction among States Parties, including within Article 5 (general implementation) and Article 15 (international cooperation), as shown in Figure 1.4.

These more general information-sharing provisions can also provide opportunities to address diversion. For example, an effective national control system developed in accordance with Article 5 would involve comprehensive measures in order to assess and mitigate diversion risks, thus making way for cooperative action among States Parties.

As noted above, Articles 11.6 and 13.2 encourage States Parties to 'report to other States Parties' via the ATT Secretariat on measures that they have taken to address diversion. The fact that this provision appears twice in the ATT text is reflective of the importance attached to this particular strand of information sharing. Unfortunately, there are as yet few indications that States Parties have taken steps to follow through on this commitment in any coherent or systematic way.

States Parties are also required under Article 13.1 to provide an initial report to the ATT Secretariat within the first year after the entry into force of the Treaty. This document must detail measures taken at the national level to implement the provisions of the Treaty (for example, national laws, control lists, regulations and administrative protocols). At the same time, the initial report template offers an opportunity for States Parties to provide insights into the steps they have taken to prevent arms diversion, including measures to assess the risk of diversion, and to cooperate and exchange information with other States Parties. The initial report template also allows States Parties to provide a range of additional information, including on their use of end-use/end-user documentation and any guarantees that are required from an importing state.²⁴ The initial report template also requests information on national measures taken by States Parties when a case of diversion has been detected (for example, alerting potentially affected states and using international tracing mechanisms to identify points of diversion). When these reports are made publicly available by States Parties, they support the goal of transparency to the benefit of all stakeholders.

FIGURE 1.4 – INFORMATION SHARING PROVISIONS IN THE ATT



ARTICLE 5: GENERAL IMPLEMENTATION

- 5.6** Each State Party shall designate one or more national points of contact to **exchange information** on matters related to the implementation of this Treaty.



ARTICLE 15: INTERNATIONAL COOPERATION

- 15.2** States Parties are encouraged to facilitate international cooperation, including **exchanging information** [...]
- 15.7** States Parties are encouraged to **exchange experience and information on lessons learned** in relation to any aspect of this Treaty.

²⁴ Arms Trade Treaty, 'Reporting Template: Initial Report on Measures Undertaken to Implement the Arms Trade Treaty, in Accordance with Article 13(1)', 17 July 2016. https://thearmstradetreaty.org/hyper-images/file/Initial_Reporting_Template_English/Initial_Reporting_Template_English.pdf?templateId=117844.

Effective action to prevent diversion requires that as many States Parties as possible be adequately informed of the risks and characteristics associated with the issue at hand. For this reason, both information sharing and transparency are essential to tackling diversion, which is more likely to occur when arms transfers are opaque. To address this, ATT States Parties must cooperate and share information with all relevant stakeholders on the risks of diversion that exist at different stages of the transfer chain. This would enhance possibilities for identifying potential points of diversion as well as those actors involved, and to develop effective measures to prevent this from happening.²⁵

COOPERATION AND MUTUAL ASSISTANCE TO TACKLE DIVERSION

Cooperative action, including information sharing, is a key element of the effective implementation of Article 11 to prevent and combat diversion. Below is an overview of the roles of cooperation and mutual assistance in tackling diversion under the ATT.

COOPERATIVE ACTION AND INFORMATION SHARING

The ATT presents a clear framework that mandates States Parties to obtain information and share experience on diversion. Before a decision is taken on whether or not to authorize an arms transfer, competent authorities must ensure they have access to accurate and detailed information in order to evaluate the risk of diversion and for an informed decision to be made. Often, such information will need to be provided by comparable institutions in other States Parties.

States Parties are also encouraged to share relevant information with one another on effective measures to address diversion. In doing so, those with experience in this field can assist others in taking effective action to prevent diversion. Information shared may include topics such as "illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organized groups engaged in diversion."²⁶



**A PROTECTED MOBILITY
VEHICLE SECURED IN A C-17
GLOBEMASTER FOR TRANSPORT
BACK TO AUSTRALIA.**

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²⁵ Amnesty International (2011). 'Our Right to Know: Transparent Reporting under an Arms Trade Treaty'. 13 June 2011. <https://www.amnesty.org/en/documents/act30/116/2011/en/>, p. 2.

²⁶ Arms Trade Treaty, Article 11.5 (adopted 2 April 2013, entered into force 24 December 2014)_UNTS_(ATT) Art 11.5.

This is reinforced by the obligations within Articles 11.6 and 13.2, which encourage States Parties to share, via the ATT Secretariat, information on measures taken to address diversion. In this regard, it may also be useful to consult a range of state and non-state actors (from customs and law-enforcement agencies to shipping agents, research centers and non-governmental organizations) that may have relevant information or practical experience in preventing, identifying or tracing diversion cases. States Parties should, in turn, also be willing, wherever possible, to share information they have with concerned non-state actors to maximize their potential to prevent or uncover cases of diversion. Given that diversion can occur at any stage in the transfer-chain or the life-cycle of a weapon or of ammunition, all States Parties, whether they are involved in the import, transit, trans-shipment, brokering or export of conventional arms must actively pursue efforts to prevent it.

There are also information-sharing provisions for States Parties in terms of responding to cases of diversion once detected. Article 11.4 requires States Parties to take appropriate measures to address cases of diversion that arise, and they may notify other States Parties implicated in the effects of such cases. States Parties can examine diverted shipments and follow up with measures such as investigation and law-enforcement action.²⁷ While States Parties are not obligated to take these actions, they are nonetheless important, as "comprehensive action to combat diversion will require States Parties to implement all provisions of Article 11 to the fullest extent possible and to share experiences and lessons learned as widely as possible."²⁸ In order to do so, States Parties must ensure that there are no obstacles to sharing information at a national level, as well as ensure that they are fulfilling their record-keeping obligations under Article 11.

MUTUAL ASSISTANCE AND INFORMATION EXCHANGE

In the ATT context, mutual assistance between States Parties and potentially involving other stakeholders is envisaged for the purpose of ensuring the effective implementation of the terms agreed in the Treaty, including those relating to diversion. In this regard, Article 15.4 encourages States Parties "to cooperate... in order to assist national implementation of the provisions of [the] Treaty, including through sharing information regarding illicit activities and actors and in order to prevent and eradicate

diversion."²⁹ Such encouragement for States Parties to cooperate could take a variety of forms, including:

- Provision of technical, financial and other assistance
- Cooperation on law enforcement
- Extension of mutual legal assistance in taking action against illicit activities and actors

Taken in conjunction with the complementary provisions of Article 11.3, it is clear that the information sharing and cooperation encouraged in Article 15.4 applies not only to exporters and importers, but also to transit, trans-shipment and brokering States – all of whom are required to "cooperate and exchange information...in order to mitigate the risk of diversion."³⁰

Article 16 of the ATT establishes that every State Party can seek assistance in order to guarantee effective implementation of the Treaty. This assistance can take the form of legal, institutional, technical, material or financial assistance and capacity building. This places the onus on every State Party that is in a position to do so to provide assistance to others seeking to prevent or mitigate diversion. State Parties can also request assistance from other actors such as the UN as well as international, regional, sub-regional or national organizations or non-governmental organizations.

Other States Parties, organizations, or CSOs can assist States Parties in drafting, amending and/or implementing relevant legislative and administrative measures that aim to establish preventive or mitigating measures against diversion. Areas in which such assistance has been useful include in the development of end-user certificates and or post-shipment verification (PSV) systems.

PSV systems require cooperation and information sharing between exporting and importing states to check documentation, do on-site visits, conduct inventory checks and investigate suspected violations of transfer conditions (Article 11.2). The introduction of these systems by Germany and Switzerland provide examples of good practice, and at CSP5 Sweden and Spain reaffirmed their intention to introduce post-shipment verifications.³¹

27 ATT Expert Group (2014). 'Key issues for ATT implementation: information exchange under the ATT'. Saferworld. Briefing No 1. <https://www.saferworld.org.uk/downloads/pubdocs/key-issues-for-att-implementation---preventing-and-combating-diversion.pdf>, p. 4.

28 Ibid., p. 4.

29 Arms Trade Treaty. Article 15.4 (adopted 2 April 2013, entered into force 24 December 2014)_UNTS_(ATT) Art 15.4.

30 Arms Trade Treaty. Article 11.3 (adopted 2 April 2013, entered into force 24 December 2014)_UNTS_(ATT) Art 11.3.

31 Intervention by the representatives of Sweden and Spain during the side event: Post-Shipments Verifications – a new instrument of arms export controls during the Fifth Conference of States Parties to the ATT, 28 August 2019.

**TEXT BOX 2: THE GERMAN POST-SHIPMENT
VERIFICATION (PSV) SYSTEM³²**

In 2015, Germany announced the introduction of post-shipment controls for war weapons and small arms and light weapons transfers to third countries.³³ This new instrument authorizes on-site inspections to verify that the recipient country respects the provisions established in the end-user certificate (EUC), particularly with regard to end-use and end-user restrictions.³⁴ Note that recipient countries must grant Germany the right to conduct these on-site inspections through the EUC. However, every PSV is subject to prior notification of their date and location.

The German authorities used a two-year pilot phase to test this PSV system, which began in May 2017. During this period, on-site inspections were carried out in India (May 2017), United Arab Emirates (December 2017), the Republic of Korea (June 2018), Indonesia (January 2019), Malaysia (April 2019), Brazil (April 2019) and Jordan (June 2019).³⁵

While Germany did not publish the results of these inspections, its national authorities have confirmed that no irregularities were found. It is therefore not known what measures Germany may take in situations where it is concluded that an EUC was breached.³⁶ The pilot phase ended in mid-2019 and was followed by an evaluation of the instrument by the German Federal government. The result of this evaluation has not yet been made public.



32 Camello, M. (2019). 'Tackling (Arms) Diversion: Challenges for European States'. GRIP Insight. 24 February 2020. https://www.grip.org//wp-content/uploads/2019/12/EC_2020-02-24_EN_M-CAMELLO.pdf.

33 Federal Ministry for Economic Affairs and Energy (2015). 'Key points for the introduction of post-shipment controls for German arms exports'. 8 July 2015. https://www.bmwi.de/Redaktion/EN/Downloads/eckpunkte-einfuehrung-post-shipment-kontrollen-deutsche-ruestungsexporte.pdf?__blob=publicationFile&v=2.

34 Deutscher Bundestag (2016). 'Endverbleibserklärungen und Post-Shipment-Kontrollen bei Rüstungsexporten'. 9 March 2016. <https://www.bundestag.de/resource/blob/505880/e8981ce146f5d378c1d98e34ccf3b4e5/wd-2-029-17-pdf-data.pdf>.

35 Bundesministerium für Wirtschaft und Energie (2018). 'Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter im ersten Halbjahr 2018'. 2 October 2018. https://www.bmwi.de/Redaktion/DE/Publikationen/Aussenwirtschaft/ruestungsexport-zwischenbericht-2018.pdf?__blob=publicationFile&v=14 and (2019) 'Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter im ersten Halbjahr 2019'. 13 November 2019. https://www.bmwi.de/Redaktion/DE/Publikationen/Aussenwirtschaft/ruestungsexport-zwischenbericht-2019.pdf?__blob=publicationFile&v=10.

36 Intervention by Irina Albrecht (Federal Office for Economic Affairs and Export Control, Germany) and Jan Groschoff (Federal Ministry for Economic Affairs and Energy, Germany) during the side event 'Post-Shipments Verifications – a new instrument of arms export controls' during the Fifth Conference of States Parties to the ATT, 28 August 2019.

**TEXT BOX 3: THE SWISS POST-SHIPMENT
VERIFICATION (PSV) SYSTEM³⁷**

The Swiss government implemented a programme for the post-shipment verification of compliance with end-user certificates (EUC) in 2013. As with Germany, the decision to launch the instrument was taken in response to various diversion cases involving Swiss arms transfers.

Due to the level of resources required, not all arms transfers are followed by an on-site inspection. Instead, a selection is made by the Swiss authorities based on an assessment of the risks associated with each specific transfer. A number of factors are taken into account: the type of weapons exported, the situation in the recipient country, the outcomes of past inspections and any past incidents.³⁸ In a six-year period starting in 2012, 36 on-site inspections were carried out in countries of final destination. In 2018, seven took place in:

Indonesia, Kazakhstan, Qatar, Lebanon, Lithuania, Pakistan and South Africa.³⁹

Unlike in German law, Article 5a, paragraph 4, of the Swiss Ordinance on War Material foresees precautionary measures if there is evidence that the EUC has been violated.⁴⁰

Examples of these measures include:

- Additional obligations are added to the EUC, and if subsequent controls do not bring to light new events of non-compliance, the need for these obligations is re-evaluated
- A suspension of exports for one year, followed by a case-by-case review of exports to the country concerned
- Exports to the country concerned are no longer authorized

DIVERSION-PREVENTION MEASURES

Diversion-prevention measures should be routinely implemented in the context of each proposed arms transfer at each stage in the transfer chain. All parties concerned in an arms transfer should ensure consistent and effective implementation of national arms-transfer controls in respect of all listed military equipment, whether new or decades old. As noted above, while Article 11 is expressly applicable only to items listed under Article 2.1, States Parties are encouraged to apply the provisions of the Treaty to the broadest range of conventional arms.

As noted above, it is also important to ensure that relevant enforcement agencies – including police, customs and border security – are fully aware and capable of playing their part in identifying and preventing potential cases of arms diversion.

Examples of routine diversion-prevention requirements that should be adopted at each stage in the transfer chain are listed below.⁴¹

BEFORE TRANSFER

- Robust and comprehensive export controls rooted in national law and compliant with national, regional and international obligations and commitments.
- Systematized export/import/transit/trans-shipment/brokering authorization processes, including a licence application process and requiring the provision of documentation such as contract, end-use certificate, information concerning shipping arrangements and route, and obligation to provide delivery verification certificate post-export.
- Checks to ensure that the end-user has a legitimate need for the arms in question, has the capability and intent to use the arms responsibly, and has the capacity to maintain secure control and storage of the equipment upon delivery.

37 Camello, M. (2019). 'Tackling (Arms) Diversion: Challenges for European States'. GRIP Insight, 24 February 2020. https://www.grip.org/wp-content/uploads/2019/12/EC_2020-02-24_EN_M-CAMELLO.pdf.

38 Intervention by Antonio von Schulthess Rechberg and Nicolas Bieri (Federal Department of Economic Affairs, Education and Research, Switzerland) during the side event: Post-shipment Verifications – a new instrument of arms export controls during the Fifth Conference of States Parties to the ATT, 28 August 2019.

39 Schweizerische Eidgenossenschaft (2019). 'Die Exportkontrolle im Bereich unter der Kriegsmaterialgesetzgebung 2018'. <https://www.news.admin.ch/news/message/attachments/55803.pdf>.

40 Swiss Federal Council (2015). 'Ordonnance sur le matériel de guerre 514.511'. October 2012. French version of 1 October 2015. Official Publication. <https://www.admin.ch/opc/fr/classified-compilation/19980112/index.html#a1>.

41 For the purposes of the subsequent analysis, a simplified diversion typology has been used whereby Stages 3 and 4 as identified in the work undertaken by the WGETI are combined into one 'Post-Delivery' phase.

- Appropriate conditions attached to the transfer, including specifying end-use restrictions (for example, no re-export or re-assignment without prior written consent), requiring proof of secure storage on arrival in the importing state and/or secure passage to the end-user, and clear consequences should arms be diverted, re-exported or misused (for example, withholding spare parts or ammunition, suspension of exports, no further exports authorized).
- Effective enforcement by customs, border-security and law-enforcement agencies including clear channels of communication between licensing and enforcement, checks to ensure that shipments are bona fide and that authorization/documentation is correct and in order.

DURING TRANSFER

- Transit/trans-shipment authorizations obtained in advance of any transfer/trans-shipment taking place and adequate security for shipments at transit/trans-shipment hubs.
- Steps taken by transit/trans-shipment hubs to check the registration of all shipping entering and leaving port.
- Tracking of cargo and ensuring that no unscheduled stops are made by the conveyance.
- Effective enforcement by customs and law enforcement including clear channels of communication between licensing and enforcement agencies, checking that shipments are bona fide and authorization/documentation is correct and in order.
- Authority for enforcement agencies in transit/trans-shipment states to interdict and/or impound suspect shipments.

POST-DELIVERY

- Delivery verification provided to the exporting State Party in a timely manner.
- Physical checks on correct delivery and assignment and to verify that stockpile security provisions are adequate as per any conditions stipulated by the exporting State Party.
- A combination of random and targeted follow-up checks to ensure that weapons remain with the authorized end-user for the declared end-use.



WHILE STATES PARTIES ARE OBLIGATED TO ASSESS THE RISK OF DIVERSION AND TO PREVENT IT, AT ALL POINTS IN THE TRANSFER CHAIN, THEY ARE ALSO ENCOURAGED TO CONSIDER WAYS TO PARTICIPATE IN INFORMATION SHARING WITH RELEVANT PARTIES TO MITIGATE DIVERSION RISKS.

MITIGATION MEASURES

While States Parties are obligated to assess the risk of diversion and to prevent it, at all points in the transfer chain, they are also encouraged to consider ways to participate in information sharing with relevant parties to mitigate diversion risks. While concrete action to prevent diversion includes the provisions described above (including national arms-transfer control systems, risk assessment and capacities that should be routinely applied in all arms transfers), mitigation measures are specific measures that can be adopted in response to identified risks of diversion in order to substantially lower these risks.

Reinforcing the risk-assessment provisions of Article 7, Article 11.2 obliges States Parties to assess the risk of diversion and, together with importing States Parties, they are encouraged to consider the establishment of diversion risk-mitigation measures, including confidence-building measures and joint programmes.⁴² State Parties involved in a prospective transfer of conventional arms should individually and jointly consider steps that could be taken.

In order to reduce diversion risks to the point that an arms-transfer authorization may be considered, mitigation measures should be appropriate, targeted and effective. These might include:

- Providing security to arms shipments in transit
- Stockpile security and accountability measures
- Limits on quantities shipped
- Use of remote-disabling technologies
- Training in responsible use⁴³

The three case studies below provide examples of arms-transfer diversion and suggest how risks might be identified and possibly mitigated.

42 ATT Expert Group (2014). 'Key issues for ATT implementation: information exchange under the ATT'. Saferworld. Briefing No 1. <https://www.saferworld.org.uk/downloads/pubdocs/key-issues-for-att-implementation---preventing-and-combating-diversion.pdf>, p. 4.

43 ATT Expert Group (2018). 'Implementing the ATT: Undertaking an arms transfer risk assessment'. Saferworld. Briefing No 6. August 2018. <https://www.saferworld.org.uk/resources/publications/1181-implementing-the-att-undertaking-an-arms-transfer-risk-assessment>, p. 9.

CASES OF DIVERSION

By investigating, exploring and analysing cases of diversion it is possible to demonstrate, in concrete terms, the importance of transparency, information exchange, mutual assistance and effective action on the part of all States Parties in preventing and mitigating diversion. Below are three case studies that provide diversion scenarios occurring across the main stages of the arms transfer chain: before transfer, during transfer, and post-delivery. The different characteristics of each example help to demonstrate the types of actions by different stakeholders that have facilitated the diversion of arms. The cases also provide examples of action that can be taken by stakeholders to prevent and mitigate diversion in the future.

CASE 1 (DIVERSION BEFORE TRANSFER) – OFFSHORE PATROL VESSEL DIVERTED TO LIBYA

BACKGROUND

In May 2018, the Libyan National Army (LNA) acquired a naval patrol vessel sailing under the name of *Alkamara*. It was previously registered with the Irish Naval Service from 1979 to 2016 under the name *LÉ Aisling*, before being sold under auction in March 2017 to a Dutch broker, Dick van der Kamp Shipsales, for €110,000 (US\$124,294).⁴⁴ Just over one year later, the LNA acquired the ship via a chain of intermediaries involving UAE-registered Universal Satcom Services and Libya-based Ahl al-Thiqa Security.⁴⁵

According to the 2019 UN Panel of Experts Report on Libya pursuant to Resolution 1970 (2011), the ship was registered as purchased from the Irish government on 29 March 2017 by Russel Ventures Limited, one of a number of Netherlands-based companies connected to Dick van der Kamp Shipsales. On the same day, Russel Ventures Limited sold the vessel to Universal Satcom Services, a UAE-registered company, for US\$525,000.⁴⁶ The ship was subsequently registered as a patrol vessel in Belize between 3 August 2017 and 17 April 2018, when Ahl al-Thiqa Security purchased it from Universal Satcom Services for US\$1.5 million. Several days later, on 23 April 2018, the vessel was re-registered as a recreational vessel in Panama, before being de-registered, and supposedly demolished, two months later, on 23 June 2018. However, the *Alkamara* was not destroyed, and it left the port of Rotterdam in the Netherlands on 4 May 2018 with its declared destination

of port being Alexandria, Egypt, where it was due to arrive on 18 May 2018. However, the vessel arrived in Benghazi, Libya, on 15 May 2018, where it was delivered to the LNA on 17 May 2018. According to the UN Panel, the UAE authorities likely forced the Universal Satcom Services to close in July 2019.

It is not clear if an export license was required for the transfer of the vessel or if brokers provided false end-user information. According to the UN Panel of Experts on Libya, the vessel is a controlled item and would have required an export licence: "the OPV *Alkamara* is classified as a naval vessel, and thus falls under the auspices of military equipment in paragraph 9 of Resolution 1970 (2011)." After its transfer to Libya, the *Alkamara* was refitted with one 40mm cannon and two 20mm cannons – the weapon systems it was originally designed to carry.⁴⁷

DIVERSION POINTS TO CONSIDER

This case highlights the role of intermediaries – specifically arms brokering agents – in the diversion of weapons. Through a complex series of ownerships and changes in documentation, efforts were made to obfuscate the true intended destination and end-user of the *Alkamara*. This case also highlights the need for strict control over the sale of surplus military equipment, no matter how old it is, as outdated equipment can be refitted for military purposes.

POSSIBLE MITIGATION MEASURES

This case highlights the fact that, in some circumstances, mitigation measures may be infeasible or unlikely to be successful in reducing the risks of diversion to a low level. While the specific arrangements that were entered into by the Irish government and the purchasing intermediary (or broker) are not known, this case highlights the risks of selling military equipment, however old, to an intermediary (or broker) given that it is notoriously difficult to track and hold such actors accountable should they act irresponsibly. Diversion risks may be reduced if the intermediary can prove, prior to purchase, that they intend to sell the items to a government that is considered to be a responsible international actor. However, the risks of selling even old military equipment to a broker with no designated end-user does not guarantee that they will be delivered to a legitimate actor and, as such, is likely to present risks that cannot be mitigated.

44 Roche, B. (2016). 'Fancy owning a naval ship? 'LÉ Aisling' to be auctioned'. The Irish Times. 24 February 2016. <https://www.irishtimes.com/news/ireland/irish-news/fancy-owning-a-naval-ship-l%C3%A9-aisling-to-be-auctioned-1.2987720>; O'Riordan, S. (2018). 'LÉ Aisling finds new lease of life with Libyan warlord'. Irish Examiner. 23 May 2018. <https://www.irishexaminer.com/ireland/le-aisling-finds-new-lease-of-life-with-libyan-warlord-471019.html>; Currency conversion via OECD Data, reflecting 2017 annual conversion rate. <https://data.oecd.org/conversion/exchange-rates.htm>.

45 UN Security Council (2019). 'Final Report of the Panel of Experts pursuant to Resolution 1970 (2011) on Libya'. 9 December 2019. S/2019/914, p. 24.

46 Ibid., p. 23.

47 Ibid., p. 23.

**CASE 2 (DIVERSION DURING TRANSFER)
– EU BORDER ASSISTANCE MISSION IN LIBYA****BACKGROUND**

On 16 April 2014, Malta notified the EU that a cargo of small arms and ammunition had been lost on its way to the European Border Assistance Mission in Libya (EUBAM).⁴⁸ The shipment, which arrived at Tripoli International Airport on 10 March 2014, contained 23 Oberland OA-15 assault rifles and accessories, 70 9mm Glock handguns, 21,200 rounds of .223 Remington and 20,850 rounds of 9 x 19mm ammunition. The intended use was for the "sole protection of EU officials" of EUBAM.⁴⁹ While the EUC was signed by the European Delegation to Libya, the shipment itself was arranged by a private company, GardaWorld. According to the 2015 Final Report of the UN Panel of Experts on Libya pursuant to Resolution 1970 (2011), the shipment was blocked upon arrival due to the alleged absence of documents that had not been requested "on previous occasions".⁵⁰

On 17 March 2014, when GardaWorld returned to Tripoli International Airport with the requested documents in order to collect the shipment, the materiel was missing. According to the UN Panel's Report, it is highly likely that members of the brigades that control the airport were involved in the removal of the equipment. Subsequent to this episode, the EU sent several notes verbales to the Libyan authorities, to no effect.

DIVERSION POINTS TO CONSIDER

This case highlights the risks associated with transferring unsecured military equipment to a high-risk destination such as Libya, together with the risks of entrusting third parties, in this case a private company, with such shipments. Consideration should have been given as to whether the private company had the capacity to secure the shipment and to guarantee its delivery. Any doubts in this regard should have resulted in EUBAM security personnel having full control of or, at least, accompanying the shipment throughout all stages of the transfer.

POSSIBLE MITIGATION MEASURES

This case highlights the risks of transferring unsecured military equipment to a high-risk destination, even if the end-user is legitimate. Moreover, the use of a private company to undertake such a transfer increases these risks, as such an actor is unlikely to be viewed with the same authority as a government entity charged with the same task. A robust risk assessment should have highlighted these risks and could have also identified potential mitigation measures. For example, EUBAM could have minimized the risk of diversion and ensured that the arms were delivered to the relevant personnel by taking responsibility for the physical transfer of the arms in question and/or by ensuring that military personnel were detailed to accompany the shipment, including remaining with it while the necessary documentation was obtained.



**A ROYAL NORWEGIAN AIR
FORCE F-35 LIGHTNING II
FIGHTER JET TAKING OFF
IN ICELAND.**

CREDIT: © NATO

⁴⁸ UN Security Council (2015). 'Final Report of the Panel of Experts pursuant to Resolution 1970 (2011) on Libya'. 23 February 2015. S/2015/128, p. 35.

⁴⁹ Ibid., p. 35.

⁵⁰ The report does not specify the circumstances of these 'previous occasions'. Ibid., p. 99.

**CASE 3 (DIVERSION POST-DELIVERY) – SWISS ARMS
TO GULF STATES****BACKGROUND**

In 2011, the Swiss TV programme Rundschau reported that several boxes of RUAG Ball M80 7.62x51mm ammunition worth CHF1.85m (US\$1.64m),⁵¹ exported by the Swiss company FGS Frex AG to Qatar in 2009, had been discovered in the possession of opposition forces in western Libya. According to a news report by 20 Minuten Schweiz, the transfer to Qatar was initially made by a Swiss company called FGS Frex AG, whose managing director was in regular contact with officials in Qatar.⁵² Following the report, the Swiss Federal Department of Economic Affairs (FDEA) ordered a six-month freeze on all arms exports to Qatar pending an inquiry.⁵³ Activities resumed after the Qatari government gave assurances that the equipment's delivery to the Libyan opposition forces was due to "an error in military logistics."⁵⁴ According to the FDEA, the export to Qatar was made under an EUC that included a 'no re-export' clause.

In another incident, in 2012, RUAG Ammotec hand grenades were found in the possession of the Free Syrian Army fighting the government of Syria in the town of Marea.⁵⁵ The grenades were initially sold by RUAG between 2003 and 2004 to the United Arab Emirates, with a 'no re-export' clause. A joint Swiss-UAE investigation retraced the path of the grenades after their delivery to the United Arab Emirates. According to the FDEA, the United Arab Emirates offered authorities in Jordan part of its stock in 2004 in an effort to support the country in its fight against terrorism. From Jordan, the grenades were transferred then to Syria.

As a result of these incidents, the Swiss government devised a PSV system (see Text Box 3) whereby the authorities of the importing country are required to agree to allow follow-up checks to be carried out to ensure compliance with the terms of any end-use undertakings.

DIVERSION POINTS TO CONSIDER

Both cases highlight the potential for violations of end-user undertakings, even when due diligence in export authorization is carried out. The Swiss experience, moreover, emphasizes the importance of undertaking post-delivery and end-user verification, especially in cases where a robust risk assessment determines that there is an elevated risk of diversion.

POSSIBLE MITIGATION MEASURES

This case is a key example of how, after cases of diversion have come to light, a government takes proactive steps to mitigate diversion risks associated with exports of arms. As above, since November 2012, the Swiss government has had the legal authority to oblige industry to provide an end-user certificate signed by the end-user and containing a clause granting the right to the Swiss authorities to conduct post-shipment verification of the delivered items as follows: "We certify that the Swiss authorities have the right to verify the end-use and end-use location of any supplied item at any time on their demand."⁵⁶ The inclusion of this clause is generally applicable to exports of complete weapons systems to all countries except those that are members of the four main international export control regimes (Nuclear Suppliers Group, Australia Group, Missile Technology Control Regime and Wassenaar Arrangement).

51 Currency conversion via OECD Data, reflecting 2011 annual conversion rate. <https://data.oecd.org/conversion/exchange-rates.htm>.

52 20 Minuten Schweiz (2011). 'Rebellen schießen mit RUAG Munition'. 20 July 2011. <https://www.20min.ch/schweiz/news/story/Rebellen-schiessen-mit-Ruag-Munition-21024881>.

53 Petignat, Y. (2012). 'Exportations d'armes : la gâchette facile'. Le Temps. 11 April 2012. <https://www.letemps.ch/suisse/exportations-darmes-gachette-facile>.

54 Ibid.

55 RTS INFO (2012). 'Les soupçons sont confirmés pour les grenades suisses en Syrie'. 21 September 2012. <https://www.rts.ch/info/suisse/4290998-les-soupcons-sont-confirmes-pour-les-grenades-suisses-en-syrie.html>.

56 Staatssekretariat für Wirtschaft (2020). 'EUC War Material applicable to countries not listed in Annex 2', Vorlagen für die Nichtwiederausfuhr-Erklärung (EUC). https://www.seco.admin.ch/seco/de/home/Aussenwirtschaftspolitik_Wirtschaftliche_Zusammenarbeit/Wirtschaftsbeziehungen/exportkontrollen-und-sanktionen/ruestungskontrolle-und-ruestungskontrollpolitik--bwrp-/bewilligungswesen/euc.html.

CONCLUSION

The above cases serve to illustrate two key lessons:

- First, comprehensive diversion-prevention measures need to be systematically and faithfully applied at each stage of every international transfer of conventional arms.
- Second, should serious risks of diversion be identified in relation to individual arms transfers, those parties to the transfer with the potential to act should jointly explore specific and targeted mitigation measures in order to effect a reduction in those risks where there is a realistic likelihood of success.

The ATT provides an important framework for States Parties to share information on diversion-prevention and mitigation measures. Fully implemented, the Treaty's provisions can also help them address and prevent diversion through effective, cooperative action. While information exchange and cooperation are important elements in any effective action to prevent diversion, transparency and inclusivity of all stakeholders is also crucial given that information on diversion is relevant not just to States Parties, and all stakeholders have a role to play in tackling diversion.

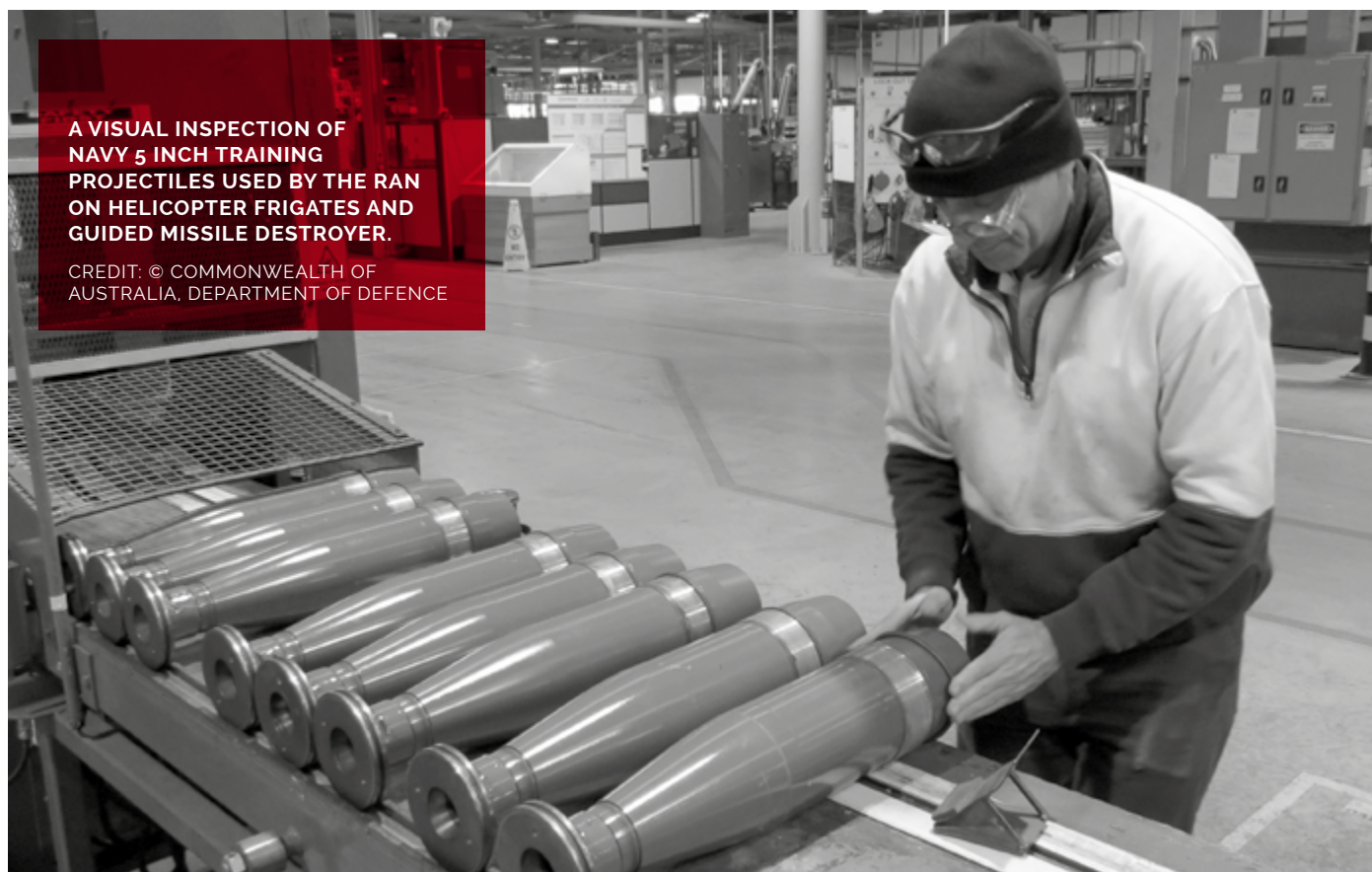
States Parties can express and reaffirm their commitments to transparency as an important step towards fully implementing Treaty provisions.

- In terms of reporting, States Parties are encouraged to submit both initial and annual reports, and to make them publicly available on the ATT Secretariat website. Reversing the trend of increased confidential reporting could be one important step in tackling diversion, as public information sharing contributes to and supports transparency in the implementation of ATT diversion-provisions.
- In terms of sharing information to prevent and address diversion, States Parties are encouraged to share information with all stakeholders. Ongoing discussions of the WGTR and WGETI Article 11 sub-working group could take stock of the importance of transparency in its proposed work on diversion.

The ATT's transparency measures should be implemented robustly, along with the numerous provisions set forth in this chapter. Without meaningful information sharing among all stakeholders, the Treaty cannot fulfil its full potential to tackle diversion.

**A VISUAL INSPECTION OF
NAVY 5 INCH TRAINING
PROJECTILES USED BY THE RAN
ON HELICOPTER FRIGATES AND
GUIDED MISSILE DESTROYER.**

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AUSTRALIA, DEPARTMENT OF DEFENCE





**SPENT 7.62MM CASES FROM
A HEAVY WEAPONS TRAINING
EXERCISE CARRIED OUT BY
THE UK ROYAL NAVY.**

CREDIT: © CROWN / BEN SHREAD