

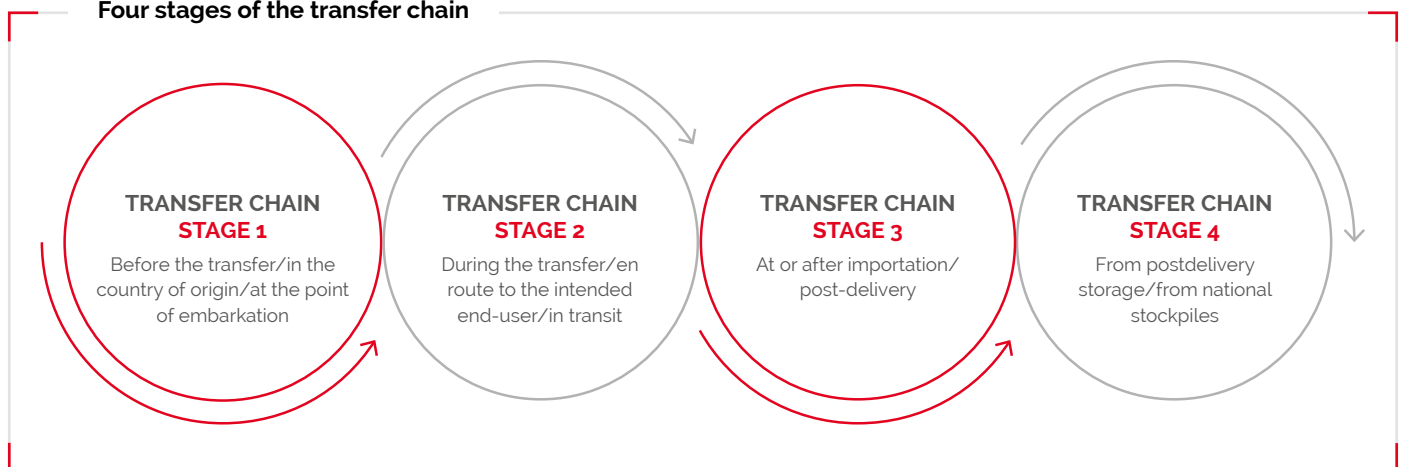
DIVERSION-PREVENTION MEASURES

CHARACTERISTICS OF DIVERSION

Forms of diversion



Four stages of the transfer chain



DIVERSION-PREVENTION MEASURES

Article 11 of the ATT addresses the responsibilities of States Parties in taking steps and implementing measures to prevent and address diversion. All parties concerned in an arms transfer should ensure that diversion-prevention measures are routinely implemented in the context of each proposed arms transfer at each stage in the transfer chain, including the examples below.

1. Before the 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.
- 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.

2. During the Transfer

- Transit/trans-shipment authorizations obtained in advance of any transfer/trans-shipment taking place and adequate security for shipments at transit/transshipment 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/transshipment states to interdict and/or impound suspect shipments.

3. Post-Delivery – at or after importation and from post-delivery storage

- 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. While concrete action to prevent diversion includes the provisions described above, mitigation measures are specific measures that can be adopted in response to identified risks of diversion in order to substantially lower these risks.

CONCLUSION

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, mitigation measures are specific measures that can be adopted in response to identified risks of diversion in order to substantially lower these risks.