



Addressing diversion in arms transfers: End use and user control system

**Working Group on Effective Treaty Implementation
Arms Trade Treaty
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Why focus on end use/r controls?

- **End use/r controls** recognized as **effective mechanism to combat diversion**, pertinent to **Article 11**, but also to **Articles 7, 8, 9 and 10 of the Arms Trade Treaty**
- **End-use documentation is effective in the context of a broader control system:**
 - **comprehensive risk assessment** at the licensing stage
 - use of **assurances** as part of documentation
 - the **verification of end user documentation**
 - Follow up through **post-shipment cooperation**
- **Evidence from diversion** suggests that **differences among national end use/r control systems**, as well as the **lack of shared understanding on their application** pose a challenge to the effective use of end use/r controls.



Diversion and end use/r controls

- End use/r **documentation is not authenticated** by exporting States, and **forges** are used to acquire export licences to divert arms
- End use/r **documentation is not verified** by exporting States, with **information missing or not checked adequately**
- The importing State **lack adequate system for oversight** of arms imports
- **Assurances on end use are ignored** by the importing State, where **adherence to assurances is not monitored** by the exporting State or **actions are not taken when reports of violations** are presented
- Officials in importing States are **intentionally or accidentally undertaking an unauthorized re-transfer** of arms without the exporting State's prior consent

UNIDIR research focus

- To support the **strengthening of end use/r controls to prevent diversion**
- Where possible, to **work towards enhancing shared understanding** of key terms, elements and roles/responsibilities related to end use/r controls
- **To align standards**, in particular key elements to be contained in end use/r documentation and general principles for ensuring effective end use/r controls



Key findings



Areas of focus

- 1. Definition of key terms**
- 2. Information in end use/r documentation**
- 3. Assurances on use and re-transfer**
- 4. Roles and functions**
- 5. Exchange of information**
- 6. Post-delivery cooperation**



Key Terms

Key Terms

“End User / End Use controls are put in place for exports of military equipment in order to ensure that exported equipment is not diverted to unintended end users or end uses, as the case may be. **National systems for this purpose vary considerably, as does the terminology used**”

Wassenaar Arrangement, 2014

Key Terms

- The UNIDIR research examined the potential for:
 - **Shared understanding of definitions and terminologies in end use and end user controls**, including for users, items, types of documentations and processes

- **UNIDIR observed that:**
 - Terms not universal. Many States indicate **exchange on definitions as a good starting point** in dialogue on end use/r controls, examining existing definitions
 - **Particular challenges exist for definitions: ‘end user’** (e.g. ultimate vs final); **description of items**; **types of documentation** (IIC, EUS); and **processes** (e.g. certification / verification).

Information to be provided in end use/r documentation

End-use/r documentation

- The UNIDIR research examined the potential for:
 - **Synergies in information** to be provided in end use/r documentation.
- End use/r documentation support the purpose to **identify, authorize, commit to certain undertakings** and **verify delivery**
- **Essential elements in end-use/r documentation** include:
 - Details of **end user** and declared **end use**
 - Details of **items** being transferred, and potential end uses
 - Information on other **entities involved in the transfer** and the route
 - **Assurances** or undertakings on end use and re-export
- **States provide different end use/r documentation templates or checklists:**
 - Items (conventional arms; SALW; parts and components; dual-use items)
 - End users (State; non-Governmental entities)



End use/r documentation contents (Government end users)

Document contents	UN (MOSAIC)	EU	OSCE	WA
Exporter details	X	X	X	X
End user details	X	X	X	X
Contract number	X	-	X	X
Country of final destination	X	X	X	X
Description of items	X	X	X	X
Quantity / Value	X	X	X	X
End user representative details	X	X	X	X
Date of issue	X	X	X	X
Description of end use	X	X	X	X
Intermediary details	-	X	X	X
Government issuing agency details	X	-	X	X
Date of expiration / Period of validity	X	-	X	-
National register number for EUC	X	-	X	-
Seal / Apostille				



Challenges when checking information

- The **lack of reliable or verifiable information** in the end use/r documentation
- **Changing circumstances** in the country of import or changes regarding the declared end user
- **Complexity of supply chains:** Intermediaries, routes
- **Difficulties in identifying the competent authorities** in both recipient countries and third party/transit states
- **Lack of resources** (e.g. diplomatic representations in recipient States);
- **Lack of familiarity with end user control requirements,** misperceptions with regards to checks and compliance inquiries.



End use/r documentation

- **The UNIDIR research indicates potential to:**
 - **Consolidate the elements to be included in end use/r documentations, especially for Government end users**
 - **Examine more closely synergies in elements to be included based on particular end users and on particular items**
 - **Seek further synergies and cooperation in the verification of information provided in the end use/r documentation between the exporting and importing national authorities involved in the transfer**



Assurances



Assurances on end use and unauthorized re-transfer

- UNIDIR examined the potential for framework to strengthen:
 - Assurance on **end use**;
 - Assurance that the end user will be the ultimate recipient and **items will not divert or relocate to another destination or location in the importing state**;
 - Assurance not to **re-transfer**:
 - re-export under any circumstances
 - re-export without prior, written authorization from the original exporting State
 - Assurance on **post-shipment cooperation**



Assurances on end use/r

Type of assurance	UN (MOSAIC)	EU	OSCE	WA
The item(s) being exported will not be used for purposes other than the declared use	X	X	X	X
The item(s) will be installed at the premises of end user or will be used only by the end user	X	-	X	X
The importer/end user will not divert or relocate the item(s)	X	-	-	X
A clause prohibiting re-export of the item(s)	X	X	X	X
Re-export will only be carried out under the authority of the end user's export licensing authorities	X	X	X	X
Re-export will only take place after authorization has been received from the export licensing authorities of the original exporting State	X	X	X	X



Types of assurances

- **UNIDIR research indicates that:**
 - **States are familiar with assurances on end use, end user and re-export**; however the **familiarity decreases when responsibilities are diversified at national level**
 - Assurance **options differ depending on the end user and items**; indicating that further mapping on types and conditions useful
 - **Recordkeeping of documentation is essential** to better monitor and oversee adherence to assurances
 - Potential for **linking assurance and post-deliver cooperation**:
 - **Import marking, recordkeeping; Stockpile management; Disposal of surplus and/or obsolete weapons; Reporting on assurances**
 - **Assurances may be linked in the future closely to ATT provisions** in particular Articles 6, to strengthen process



Roles and functions

Roles and functions

- UNIDIR examined the potential for common understanding on roles and functions of national authorities in the following areas:
 - **Verification of the *bona fides* of the end user/consignee**
 - **Certification of relevant end use/r documentation** provided by a non-Governmental end user/consignee
 - **Authentication** of end use/r document
 - **Verification of content** in end use/r document
 - **Cooperation and exchange information:**
 - between competent State authorities
 - with transit/transshipment State competent authorities
 - with producers, brokers, transportation



Roles and functions

➤ UNIDIR has observed that:

- Most States seek to verify the details contained in documentation; but this is not always the case in practice, and the process to verify detail vary
- Not all States have in place dedicated entities or particular measures to prevent forgery and misuse of documentation
- In low capacity settings, centralization of importing authority has helped in mitigation of diversion
- Lack of shared understanding on the need to certify and authenticate documentation for non-Governmental end users
- Examining roles and responsibilities between national authorities and private sector actors merit further focus

Exchange of information

Exchange of information

- The UNIDIR examined the potential for:
 - **Exchange of end use/r documentation templates**
 - Agreement on **establishing an exchange of information** on agencies authorized to issue, certify and authenticate end use/r documentation
 - Exchange of information related to **risk indicators**

Exchange of information

➤ **UNIDIR research revealed:**

- **Many States willing to exchange template EUCs**
- **Challenges faced by States in methods to verify end use/r**
- **Sensitivity of information a challenge for exchange of information related to risk indicators** at regional and multilateral levels
- Ideas have been shared for **exchange of risk among operators and private sector**
- **maintenance of knowledge management database on diversion** to be held by intelligence and law enforcement
- **Use of tracing data and analysis** useful

Post-delivery cooperation

Post-delivery cooperation

- The UNIDIR research examined the potential for:
 - **Cooperation on delivery confirmation or verification** (e.g. DVC)
 - **Willingness of the importing authority to accept routine or ad hoc post-delivery checks**
 - **Cooperation on investigations into reports or allegations of diversion or unauthorized re-transfer**

Post-delivery cooperation

➤ UNIDIR's research indicates:

- Willingness of importing States to provide confirmation of delivery
- Low number of States consider the option to seek the possibility for on-site inspections;
- Measures for Gifts/Grants observed to be different from those purchased directly from manufactures/suppliers
- Shared understanding on risk-based post-delivery control for particular items and/or end users considered useful (e.g. import marking, recordkeeping, verification commitments)



Next steps



Generating ideas and facilitating dialogue on preventing diversion

**In cooperation with Small Arms Survey
and Conflict Armament Research**

Questions & Discussion

Contact Us

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