
Arms Trade Treaty
Fourth Conference of States Parties
Tokyo, 20 – 24 August 2018

**ATT WORKING GROUP ON EFFECTIVE TREATY IMPLEMENTATION
CHAIR'S DRAFT REPORT TO CSP4**

Introduction

1. This Draft Report to the Fourth Conference of States Parties (CSP4) is presented by the Chair of the Working Group on Effective Treaty Implementation (WGETI) to reflect on the work carried out by the WGETI since CSP3 and to put forward both conclusions and recommendations for consideration by CSP4.

Background

2. The Second Conference of States Parties (CSP2) established an ad hoc open-ended Working Group on 'Effective Implementation of the Arms Trade Treaty' with the objective of sharing experiences, challenges and best practices on the national implementation of the Treaty's provisions. The Third Conference of States Parties (CSP3) decided to establish a *standing* Working Group on Effective Treaty Implementation (WGETI) to operate under the Terms of Reference contained in Annex A of the Co-chairs' report to CSP3 ([ATT/CSP3.WGETI/2017/CHAIR/158/Conf.Rep](#)), including a mandate to serve as an ATT continuous platform to:

- a. exchange information and challenges on the practical implementation of the Treaty at the national level;
- b. address, in detail, specific issues set by CSP as priority areas (topics) to take Treaty implementation forward; and
- c. identify Treaty implementation priority areas for endorsement by CSP to be used in Treaty implementation support decisions e.g. ATT Voluntary Trust Fund.

3. The Conference further endorsed the Work Plan highlighting priority topics for discussion by the Working Group in the period running up to CSP4, as contained in Annex B of the Co-chairs report. With due regard to the complexity and the long term nature of Treaty implementation, CSP3 directed the Working Group to further refine the order of the priority topics taking into account the suggestions from the working papers (paragraph 21, CSP3 Final Report, [ATT/CSP3/2017/SEC/184/Conf.FinRep.Rev1](#)).

Appointment of WGETI Chair

4. On 12 December 2017, the President of CSP4 appointed Ambassador Sabrina DALLAFIOR of Switzerland as Chair of the WGETI for the period between CSP3 and CSP4.

WGETI Sub-working Groups and appointment of facilitators

5. After careful consideration, consultations, and in response to the CSP3 recommendation that the WGETI focus on a subset of priorities, the Chair of the WGETI decided to focus work until CSP4 on three priority issues to be addressed in sub-working groups led by dedicated facilitators as below:

- a. Article 5 (General Implementation) facilitated by Mr. Leonard TETTEY of Ghana.
- b. Articles 6 (Prohibitions) and 7 (Export and Export Assessment) facilitated by Mr. Daniel NORD of Sweden.
- c. Article 11 (Diversion) facilitated by Mr. Damien CHIFLEY and later Ms. Tina MATTHEWSON of Australia.

6. This approach was adopted in order to align the work of the WGETI with the objective of achieving concrete results.

Preparation for the Work of the WGETI

7. In order to facilitate the work of WGETI, on 28 February 2018, the Chair issued a Letter of the Chair, which included an Agenda and work plans for the sub-working groups. In addition, Switzerland submitted two working papers to the meeting: *Food for thought Paper on practical measures to conduct likelihood assessments under Articles 6 and 7 of the Arms Trade Treaty* and *Food for thought paper on the topic of the prevention of diversion (Article 11)*. A group of States Parties comprising of Argentina, Belgium, Colombia, Finland, France, Germany, Netherlands, Mexico, South Korea, and Sweden also submitted a working paper to the meeting: *Preventing and fighting the diversion of legally transferred weapons*.

First Meeting of WGETI

8. The WGETI sub-working groups held their first set of meetings from 6-7 March 2018 in Geneva, at the CICG, in the context of the preparatory process for CSP4. The WGETI meeting was attended by representatives of 61 States, 3 international organisations and 3 civil society organisations.

9. During this meeting, the three WGETI sub-working groups considered implementation of a) ATT Article 5 (general implementation), b) Articles 6 (prohibition) and 7 (export and export assessment) as well as c) Article 11 (diversion) on the basis of the work plans developed by the Facilitators.

10. In general, the WGETI sub-working group meetings were characterized by active participation of many delegations from diverse backgrounds. This led to a robust and balanced dialogue on how the issues contained in the Facilitators' work plans could be further explored in the next round of meetings with a view to making concrete recommendations to CSP4.

Sub-working group on Article 11

11. Regarding the scope of diversion, there was general acknowledgement among participants that diversion can take place at any stage in the life cycle of a weapon, and that the sub-working group

should consider the issue of preventing diversion that takes place during transfer (i.e. in-transfer diversion) as well as diversion of items after they have been delivered (i.e. post-delivery diversion). While the *measures* taken to prevent and address in-transfer diversion may differ from those taken to prevent and address post-delivery diversion, it is necessary to assess the risk of diversion at every stage of the life-cycle of the arms, noting that risks are different at each stage of the life-cycle.

12. Regarding the issues of preventing and addressing diversion, participants shared their approaches to assessing the risk of diversion, noting that diversion risk is very difficult to judge and is one of the most common reasons for deciding not to issue an export licence. They discussed some of the sources of information that can help to conduct assessments, including UN expert panel reports, NGO databases, and bilateral exchanges.

13. States discussed some of the prevention measures that are taken by exporters to mitigate the risk of diversion, from end-use or end-user assurances, document verification, and GPS tracking, to post-delivery verification measures and other post-shipment controls, as well as the imposition of sanctions for violations. States also discussed the challenges they face in preventing the diversion of arms once they reach their territory, including stockpile leakage and porous borders. They shared information on preventive measures relating to marking, record keeping, tracing, stockpile management and safe and secure disposal of weapons.

14. A working paper on “Preventing and fighting the diversion of legally transferred weapons”, submitted by France (together with nine other countries), and a food for thought paper on “The prevention of diversion”, submitted by Switzerland, were also presented and discussed.

15. During the discussions, participants considered examples of prevention measures as well as diversion challenges relating to all stages of the life cycle of a weapon. Participants stressed the importance of information sharing and of establishing mechanisms and guidance for information exchange to help prevent and address diversion. They highlighted some of the mechanisms already in place at the regional level as well as bilateral exchanges. But they all recognized this is a central issue for Article 11 and there is a need for further exploration of options and approaches to enhance information sharing in this context.

16. The sub-working group discussed possible areas of work that the Sub-working Group could take forward. These included compiling a list of guidance documents already available to help States prevent and address diversion; looking more closely at where and how diversion is occurring, as well as the challenges associated with addressing diversion; focusing on the points in the life-cycle of a weapon when diversion can occur, and identifying the challenges associated with the risk of diversion at each stage of the life-cycle and possible measures to mitigate or prevent diversion at the various stages; considering possible mechanisms for exchanging information and establishing (or better utilizing) national focal points for information exchange on diversion issues; and compiling experiences discussed as well as reviewing States Parties’ Initial Reports, with the aim of eventually developing a compilation of national practices in this area to help States Parties effectively implement Article 11.

Sub-working group on Articles 6 and 7

17. Export control practitioners from Sweden gave a practical presentation on implementation of Articles 6 and 7 that resulted in an interactive discussion with questions, comments and reflections from participants. Participants acknowledged that States Parties implemented Articles 6 and 7 from different baselines. Some States Parties have an established arms export control system that has been operative for many years, while other States Parties have only recently established such structures or are in the process of doing so.

18. In addition, some States Parties have a sizable arms industry and arms exports whereas others do not produce or export conventional arms. So, the level of resources needed and being made available for the national export control authority will vary accordingly. Practical experience also differs greatly between those States Parties handling cases on a day-to-day basis and those doing so on a more irregular basis. Nevertheless, there was general agreement that sharing experiences of a more generic nature of implementing Articles 6 and 7 were valuable for States Parties, regardless of their respective situation.

19. The importance of having access to necessary information in order to carry out a proper risk assessment and the need for clear structures and mandates were also raised, as well as the need to establish and maintain inter-agency cooperation, which can be a challenge. With regard to sources of information to be used in the risk assessment, participants discussed the utility of different types of both classified and open source information. It was felt that the identification of possible sources of information to carry out risk assessment could be useful to provide support to States Parties' implementation of the treaty.

20. On the implementation of arms embargoes as a prohibition to export arms, as mandated in Article 6 (1), it was generally understood that a national legal framework needs to be in place in order to ensure the implementation of this obligation.

21. With respect to the discussion of Gender Based Violence and Article 7(4), the discussion was fairly limited due to time restriction. The importance of the obligation was underlined by participants from both States Parties and civil society organizations. It was also recognized by several participants that more work was needed on this matter to support States Parties' implementation.

22. The sub-working group on Articles 6 and 7 discussed possible areas of work that it could take forward. These included inviting export control practitioners from other States Parties to share their practical experience on the implementation of Article 6 and 7; addressing in detail specific aspects from the list of guiding questions; as well as developing documents providing support for Articles 6 and 7 implementation.

Sub-working group on Article 5

23. With respect to competent national authorities, participants shared their experience of establishing new agencies responsible for ATT implementation, as well as adapting and expanding existing agencies to take on this role. They also provided examples of the range of Ministries and Government agencies that have been designated as competent national authorities for ATT implementation.

24. Participants explored mechanisms available to establish competent authorities, and the types of mandates and powers that competent authorities need in order to effectively implement the ATT. They also discussed the critical role that political support plays in establishing and maintaining competent authorities. Participants explored the needs of competent authorities with regard to human resources, technical competence, and other related capacity needs. Other challenges mentioned included job rotation and institutional memory, as well as inter-agency cooperation. Participants generally agreed that there is no 'one size fits all' for a national system to implement the ATT. The sharing of national experience was considered to be useful, but questions were raised about the possibility of using existing national practices as 'models'.

25. Regarding national control lists, many participants expressed the view that the items covered by Articles 2 (1) and 3 should be viewed as the minimum requirement not a ceiling. They also noted

that control lists that define conventional arms to be subject to transfer controls which have been developed in multilateral settings, in particular the Wassenaar Arrangement Munitions List and the EU Common Military List, could be considered as a reference source or basis for States Parties that do not currently have national control lists. It was acknowledged that not all of the items contained on the Wassenaar Arrangement Munitions List and the EU Common Military List will be of relevance for all States Parties. This last point applies notably to States Parties with no arms transfer profile and the Control List developed by New Zealand for use by such States was noted. Discussions addressed also the possibility of having different control lists according to the type of transfer or type of items. Participants also discussed the importance of updating control lists, and possible timeframes and methods for doing this. In this context, it was noted that control lists should, preferably, be established in secondary rather than primary legislation to facilitate amendments and updating.

26. In the discussions on national legislation, participants discussed the importance of conducting a 'gap analysis' of existing legislation to determine compliance with ATT requirements, and discussed possible approaches and existing tools for this. They highlighted the potential role of model laws for developing or consolidating national legislation.

27. The sub-working group on Article 5 discussed possible areas of work that could be taken forward. They included: inviting a representative from the Wassenaar Arrangement to present the Munitions List and UNODA to present the categories covered by UNROCA; looking specifically at challenges faced by States Parties that are not traditionally exporting States in implementing Article 5; and developing a welcome pack for new States Parties to help them begin the process of assessing what they need to do to implement the Treaty, a basic guide for establishing a national control system, and a list of reference documents for Article 5 implementation.

Preparation for the Second Meeting of the WGETI

28. On 23 March 2018 the Chair issued a *Chair's Summary Report and Way Forward* as well as a cover letter inviting ATT stakeholders to provide inputs to the proposed way forward included in the summary report

29. On 15 May 2018, the President of CSP4 circulated documentation for the second series of Working Group meetings including a [Letter from the WGETI Chair](#) and work plans for each of the three sub-working groups in anticipation of the second WGETI meeting. In addition, Japan submitted a working paper to the meeting: [Addressing Diversion of Conventional Arms](#).

Second Meeting of WGETI

30. The WGETI held its second meeting on 29-30 May 2018 in Geneva, at the CICG, in the context of the preparatory process for CSP4. The WGETI meeting was attended by representatives of 63 States, 3 international organisations and 18 civil society organisations.

31. During this meeting, the three WGETI sub-working groups continued the focused discussion on a) ATT Article 5 (general implementation), b) Articles 6 (prohibition) and 7 (export and export assessment) and c) Article 11 (diversion). The purpose of the WGETI sub-working groups meetings was to address a number of key issues identified in the work plans circulated by the facilitators as well as to consider draft voluntary supporting documents for ATT implementation to be submitted to CSP4 for potential validation.

Sub-working group on Article 11

32. The meeting of the sub-working group on Article 11 was facilitated by Ms. Tina MATHEWSON of Australia, who replaced Damien CHIFLEY. In the introductory session on *where* and *how* diversion occurs, presenters from Conflict Armament Research and Saferworld outlined different forms of diversion, providing brief case studies, including diversion resulting from inadequate stockpile management, state collapse, battlefield capture, unauthorised state-sponsored delivery to non-State armed groups, unauthorised re-transfer and gifting. State participants also shared examples of diversion in-transfer and post-delivery from their own national contexts and their responses. Refusal to grant future licences to recipients involved previously in diversion was a common responses.

33. Participants considered the draft list of ‘measures to prevent and address diversion’ and the draft list of ‘reference documents on diversion measures’ prepared by the facilitator and annexed to the Work Plan of the Sub-working Group ([ATT/CSP4.WGETI/2018/CHAIR/303/M2.WorkPlanArt11](#)). The facilitator emphasised that both lists were compilations of options from which States could choose according to their national context, and neither list was mandatory. Participants indicated broad support for the lists, with some recommending structural and substantive changes to the list of measures and others suggesting additions to the list of reference documents. Some participants suggested there needed to be clearer indication of which measures related to legal obligations under the ATT, and distinction between essential and optional measures. Participants also considered a working paper on “Addressing diversion of Conventional Arms” presented by Japan.

34. The sub-working group also addressed mechanisms for information exchange on diversion, while acknowledging this issue was also being dealt with in the WGTR. Participants highlighted existing channels for information exchange at the bilateral and regional levels, as well as through the WGETI. Some participants suggested new mechanisms for information exchange, including using national points of contact, the ATT website and new voluntary informal intersessional meetings of States Parties focused on operational aspects of diversion.

35. Participants supported continued consideration of diversion in future CSP cycles and also supported the suggestion that the ‘draft lists of possible measures’ and ‘list of possible reference documents’ should be validated by CSP4 and kept as living documents, to be the basis for further work and updating in future CSP cycles. Participants supported coordination between the WGETI and WGTR on the issue of information exchange. Participants were cautious about elevating projects on diversion above other priorities to be supported by the VTF.

36. In conclusion, the strong support for continued consideration of diversion suggests that Article 11 should remain a key focus of the WGETI following CSP4. Issues that appeared to attract particular interest in the diversion sub-working group, which the WGETI might consider addressing after CSP4 included: risk assessments for diversion; end use/r certification; the role of transit States in combatting diversion; the role of the private sector in mitigating diversion risk; and diversion through re-transfer post-delivery. For their part, the lists of measures and reference documents presented to CSP4 for endorsement as compilations of options that can be used by States Parties in their efforts to prevent diversion are living documents which can be further updated and drawn on for topics for discussion in future CSP cycles. Finally, the question of information exchange also requires further discussion, including the subsequent suggestion made in the WGTR that the WGETI should focus on policy-level exchange of good practices and experience, whereas the WGTR should focus on mechanisms for reporting diversion.

Sub-working group on Articles 6 and 7

37. Following reflections by the facilitator on the discussions at the previous meeting in March, Japan's Ministry of Economy, Trade and Industry gave a presentation of Japan's security export control system. This was followed by an interactive discussion with comments, reflections and questions from delegations. Issues that were covered included the structure of the export control process and the respective role of the different governmental bodies involved in it as well as their internal organizational structure. They also included the possibility of and reason for having financial fines for possible violations of applicable rules and necessary measures to ensure that the required expertise was available for the processing of applications, including risk assessment.

38. The sub-working group then addressed the draft document on guidance and support in implementing the obligation contained in Article 6(1). Discussions also included a presentation by Argentina of its recent legislation regarding UN arms embargoes and consideration of a draft voluntary supporting document on possible sources to be used for risk assessment under Article 7, prepared by the facilitator and annexed to the work plan of the sub-working group ([ATT/CSP4.WGETI/2018/CHAIR/301/M2.WorkPlanArt6&7](#)). There was general support among participants to take these draft documents be forwarded for consideration by CSP4, subject to amendments and caveats arising from the discussions.

39. The sub-working group also discussed Article 7(4) of the Treaty, with an opening presentation provided by Ireland with some recommendations on the way forward on this issue. Participants accepted the facilitator's proposal that the sub-working group should seek a mandate from CSP4 to take a more operationally focused approach to this issue in the next intersessional period.

40. In conclusion, discussions in the sub-working group confirmed that there was a general agreement among participants of the value in continuing the discussions on implementation of Articles 6 and 7 and that work on these two articles was far from finished. Participants also underlined the importance of Article 7(4) on GBV and the need to discuss that article in more detail. The proposal that the sub-working group allocate sufficient time during the cycle between CSP4 and CSP5 to allow for more focused discussions on implementation of Article 7(4) received broad support. Delegations also welcomed that State Parties were willing to present their national systems and engage in a dialogue thereon, as Sweden and Japan have done. They saw this as a useful method to discuss effective Treaty implementation and there was a broad sense that there would be value in continuing this practice.

Sub-working group on Article 5

41. The meeting of the sub-working group on Article 5 opened with two presentations. The Wassenaar Arrangement gave a presentation on the Wassenaar Arrangement Munitions List, and the process for updating and amending the List. Second, New Zealand presented the Model Control List for use by Pacific Island States, which was developed in collaboration with Control Arms and draws upon, but is more limited in scope, than the Wassenaar Munitions List. Exchanges underlined that States Parties underlined that existing control lists can be tailored to meet arms trade profiles, national needs and capacities, noting that being able to access expertise would be useful for States in the process of establishing or reviewing their national control list.

42. Presentations were delivered by three States Parties which are not traditional arms exporters, on their experiences of implementing Article 5 – Côte d'Ivoire, Costa Rica and Jamaica. These presentations helped to improve understanding of the challenges faced by States Parties that have different arms trade and diversion experiences. The presentations highlighted, among other things, the importance of having a clear strategy for the establishment of an appropriate and effective national control system, and the advantages of setting a number of sequential steps in order to achieve this

goal. Such presentations were beneficial for helping other States Parties with similar profiles that are also in the process of establishing a national control system, as well as for signatories and States seeking to accede to the Treaty. The presentations and subsequent discussions underlined the importance of the role played by international assistance in developing a national control system. This also applies to different forms of support for States Parties' implementation efforts, such as model laws.

43. Participants discussed the facilitator's proposal regarding tools to be developed, including a 'welcome pack' for new States Parties to help them begin the process of assessing what they need to do to implement the Treaty and a 'basic guide to establishing a national control system', annexed to the work plan of the sub-working group ([ATT/CSP4.WGETI/2018/CHAIR/301/M2.WorkPlanArt6&7](#)). They supported the proposal that these tools be developed during the next cycle of the WGETI, while expressing a desire to ensure that the guides are user-friendly and do not overwhelm new and potential States Parties. They also welcomed the 'draft list of possible reference documents' to support implementation of Article 5', which was annexed to the work plan.

44. In conclusion, exchanges in the sub-working group confirmed that Article 5 implementation will require continued and sustained attention. Effective implementation of Article 5 constitutes, in many respects, a prerequisite for the implementation of the Treaty. There is merit in the continued exchange of experience in establishing an effective national control system. Reports by VTF recipients that have received funding for projects involving Article 5 implementation may contribute to such an exchange. In terms of practical work, there is particular value in taking forward the development of a 'welcome pack' and 'basic reference document to establishing a national control system', as described in paragraph 43 and on the basis of their updated list of contents annexed to this report (Annex F and Annex G). A State Party or a group of States Parties may be invited to prepare an initial draft of these documents for consideration by the WGETI in the preparatory process to CSP5.

WGETI Conclusions and Recommendations

45. On the strength of the exchange of views and discussions during the meetings of the WGETI Sub-working groups, the WGETI Chair draws the following conclusions:

- a. The WGETI approached its work in the preparatory cycle to CSP4 with a view to conducting targeted work in order to produce concrete results. This approach has been broadly welcomed, including the establishment of sub-working groups in order to address the implementation of specific ATT articles led by dedicated facilitators. Time available to address implementation is limited and working intersessionally has proven beneficial. Other measures would reinforce the efficiency of the WGETI, such as the early nomination of the Chair(s), which would facilitate pre-sessional work.
- b. Discussions in the sub-working groups were constructive and enabled progress in taking forward implementation of Articles 5, 6, 7 and 11, including concrete outcomes in the form of reference documents. Work on these ATT articles is however far from being exhausted and requires further attention. A number of specific areas that would require further work are identified in this report in the conclusions of each sub-working group. There would be value in duly considering these elements when drawing up the WGETI work plan for the period between CSP4 and CSP5.

43. On the basis of the exchange of views and discussion during the meetings of the WGETI sub-working groups, the following recommendations are presented for consideration and adoption by CSP4:

- a. To endorse the documents listed below, which have been consolidated on the basis of comments received, as living documents to be reviewed and updated regularly, as appropriate:
 - i. List of possible reference documents to be considered by States Parties in Article 5 implementation, (Annex A),
 - ii. List of possible reference documents to be considered by States Parties in conducting risk assessment under Article 7, (Annex B),
 - iii. List of possible reference documents to be considered by States Parties to prevent and address diversion (Annex C),
 - iv. Possible measures to address diversion, (Annex D),
 - v. Possible guiding and supporting elements in implementing obligations under Article 6 (1), (Annex E),
 - vi. Elements of a 'welcome pack' for new States Parties, (Annex F),
 - vii. Elements of reference documents to establish a national control system under Article 5, (Annex G).
- b. To welcome the posting of these documents on the ATT website.

ANNEX A

LIST OF POSSIBLE REFERENCE DOCUMENTS TO BE CONSIDERED BY STATES PARTIES IN ARTICLE 5 IMPLEMENTATION

The following public documents with associated links are referenced as optional sources that States Parties may choose to draw from, when relevant and useful in implementing Article 5. Use of these documents is not as mandatory. A State Party may also draw from other sources of information to assist in implementing its obligations under this article.

The list is not exhaustive and the fact that an organization is referenced on the list does not in itself imply that States Parties endorse its findings.

A. General references pertinent for Article 5

ATT

- ATT Secretariat. 2016. Exchange of views on the treaty implementation: Guidance for Discussion. ATT – Second Conference of States Parties. Submitted by Costa Rica and Finland, ATT/CSP2/2016/WP/2, 16 June 2016, http://thearmstradetreaty.org/images/Discussion_Guiding_Paper-Treaty_Implementation-16_June_2016.pdf

UN agencies

- UNODA (United Nations Office for Disarmament Affairs). n.d. ATT Implementation Toolkit. Access via: <https://www.un.org/disarmament/convarms/att/>
- UN CASA (United Nations Coordinating Actions on Small Arms). 2014. National Controls over the International Transfer of Small Arms and Light Weapons. International Small Arms Control Standard (ISACS) 03.20 (Version 1.0), 17 June 2014, <http://www.smallarmsstandards.org/isacs/0320-en.pdf>
- UNLIREC (United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean). n.d. Arms Trade Treaty Implementation Course (ATT-IC). (Available from UNLIREC)

Non-governmental

- Casey-Maslen, Stuart, Andrew Clapham, Gilles Giacca, and Sarah Parker. 2016. The Arms Trade Treaty: A Commentary. Oxford: Oxford University Press.
- Da Silva, Clare and Brian Wood (eds.). 2015. Weapons and International Law: The Arms Trade Treaty. Brussels: Larcier.
- GCSP (Geneva Centre for Security Policy). 2017. The ‘Treaty Implementation Matrix’: A Tool for Effective ATT Implementation. Working Paper by Geneva Centre for Security Policy (GCSP), 3 February 2017. http://thearmstradetreaty.org/images/CSP3_Documents/GCSP_Working_Paper_Implementation_Matrix.pdf

- Parker, Sarah (ed.). 2016. The Arms Trade Treaty: A Practical Guide to National Implementation. Geneva: Small Arms Survey, August 2016. <http://www.smallarmssurvey.org/publications/by-type/handbooks/att-handbook.html>
- Saferworld. 2016. Ensuring effective implementation of the Arms Trade Treaty: a National Assessment Methodology. London: Saferworld, August 2016. <https://www.saferworld.org.uk/resources/publications/1085-ensuring-effective-implementation-of-the-arms-trade-treaty-a-national-assessment-methodology>
- Saferworld. 2016. *Implementing the ATT: Essential elements of an effective arms transfer control system*. Expert Group on ATT Implementation Briefing No. 5. London: Saferworld, July 2016. <https://www.saferworld.org.uk/resources/publications/1081-implementing-the-att-essential-elements-of-an-effective-arms-transfer-control-system>
- Spano, Laura and Philip Alpers. 2017. *Implementing the Arms Trade Treaty and the UNPoA. A Guide to Coordinating an Effective Arms Control System*. Sydney, Australia: The Centre for Armed Violence Reduction, October 2017. <http://www.armedviolencereduction.org/wp-content/uploads/2017/10/Implementing-the-Arms-Trade-Treaty-and-the-UNPoA-A-Guide.pdf>
- IPIS (International Peace Information Service). n.d. Arms Trade Treaty E-Learning Modules. Access via: <http://ipisresearch.be/e-learning/>

B. National control lists

[See relevant sections in materials listed in general references.](#)

Government

- New Zealand Government, Modes control list of *List of Goods controlled under the ATT*

ATT

- ATT website – link to national control lists provided by States Parties [forthcoming]

UN agencies

- UNODA (United Nations Office for Disarmament Affairs). n.d. United Nations Register of Conventional Arms: Categories. <https://www.unroca.org/categories>
- UNGA (United Nations General Assembly). 2005. International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons. Report of the Open-ended Working Group to Negotiate an International instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons. UN Document A/60/88, 27 June 2005, Article 4. [http://www.un.org/events/smallarms2006/pdf/A.60.88%20\(E\).pdf](http://www.un.org/events/smallarms2006/pdf/A.60.88%20(E).pdf)

Regional and other multilateral organizations/mechanism

- EU (European Union). 2018. Common Military List of the European Union adopted by the Council on 26 February 2018 (equipment covered by Council Common Position 2008./944/CFSP defining common rules governing the control of exports of military technology and equipment). Official

journal of the European Union, C 098, 15 March 2018. https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1521098021619&uri=OJ:JOC_2018_098_R_0001

- Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies. 2017. Munitions List. http://www.wassenaar.org/wp-content/uploads/2017/12/2017_List_of_DU_Goods_and_Technologies_and_Munitions_List-1.pdf

C. References regarding national authorities

[See relevant sections in materials listed in general references.](#)

UN agencies

- UNLIREC (United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean). n.d. Conformation of National Control Authority Guidelines. (Available in Spanish from UNLIREC)

D. References regarding national legislation

[See relevant sections in materials listed in general references.](#)

Non-governmental

New Zealand and the Small Arms Survey. 2014. Arms Trade Treaty: Model Law for Pacific States. <http://www.smallarmssurvey.org/fileadmin/docs/E-Co-Publications/SAS-NZ-Gov-Arms-Trade-Treaty-Model-Law.pdf>

ANNEX B**LIST OF POSSIBLE REFERENCE DOCUMENTS TO BE CONSIDERED BY STATES PARTIES
IN CONDUCTING RISK ASSESSMENT UNDER ARTICLE 7**

The following public documents with associated links are referenced as optional sources that States Parties may choose to draw from, when relevant and useful in conducting risk assessment process under Article 7. Use of these documents is not mandatory. A State Party may also draw from other sources of information to assist in implementing its obligations under this article, such as reports from Government agencies, Embassies, foreign Government as well as international and regional organisations.

The list is not exhaustive and the fact that an organization is referenced on the list does not in itself imply that States Parties endorse with its findings.

A. Information provided by importing state party upon request by exporting state party - Art 8.1

Upon request, the importing state party shall ensure that appropriate and relevant information is provided, pursuant to its national laws, to assist the exporting state party in its national export assessment.

B. Contribute to or undermine peace and security – Art 7.1.a

- United Nations, <http://www.un.org>
- UNSC 1540 Committee , <http://www.un.org/en/sc/1540/>
- International Crisis Group CrisisWatch and country reports, <http://www.crisisgroup.org/>
- Center for Systemic Peace ‘State Fragility Index’, <http://www.systemicpeace.org/inscr/inscr.htm>
- Institute for Economics and Peace “Global Peace Index”, <http://economicsandpeace.org/>
- Uppsala University Conflict Data Programme, <http://www.pcr.uu.se/research/UCDP/>

C. Commit or facilitate a serious violation of international humanitarian law – Art. 7.1.b.i

- United Nations, <http://www.un.org>
- International Committee of the Red Cross, <http://www.icrc.org>
- Human Rights Watch ‘World Report’ and country reports, <http://www.hrw.org/home>
- International Criminal Court, <http://www.icc-cpi.int/>
- Coalition to Stop the Use of Child Soldiers, <http://www.child-soldiers.org/>

D. Commit or facilitate a serious violation of international human rights law – Art. 7.1.b.ii

- United Nations Office of the High Commissioner for Human Rights Report, <http://www.ohchr.org>
- United Nations Human Rights Council reports as part of the Universal Periodic Review, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx>
- United Nations Development Programme (UNDP) Human Development Reports, <http://hdr.undp.org/en>
- Amnesty International Annual Report 'The State of the World's Human Rights' and country reports, <http://www.amnesty.org/en/human-rights>
- Human Rights Watch 'World Report' and country reports, <http://www.hrw.org/home>
- Cingranelli-Richards (CIRI) Human Rights Dataset, <http://ciri.binghamton.edu/>
- Fédération internationale des ligues des droits de l'homme, <http://www.fidh.org>
- Organisation mondiale contre la torture, <http://www.omct.org>
- Association for the Prevention of Torture, <http://www.apr.ch>
- International Commission of Jurists, <http://www.icj.org>
- Political Terror Scale Database, <http://www.politicalterroryscale.org>

E. Commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party – Art. 7.1.b.iii

- UN Security Council Counter Terrorism Committee, <http://www.un.org/en/sc/ctc/>
- UN Office of Counter Terrorism, <http://www.un.org/en/counterterrorism/>
- UNSC 1540 Committee, <http://www.un.org/en/sc/1540/>

F. Commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party – Art.7.1.b.iv

- United Nations Convention against Transnational Organized Crime
- UN Office on Drugs and Crime, <http://www.unodc.org/>
- Interpol, <https://www.interpol.int/en/Internet>
- Small Arms Survey, <http://www.smallarmssurvey.org/>

G. Commit or facilitate serious acts of gender based violence or serious acts of violence against women and children – Art. 7.4

- UN Security Council resolution 1325 (2000) and related resolutions, for reports on national implementation
- International Convention on the Elimination of Discrimination Against Women (CEDAW) and other relevant UN human rights treaty monitoring bodies, for Reports and concluding observations
- UN Special Rapporteur on violence against women, its causes and consequences
- UN Secretary General annual reports on conflict related sexual violence (pursuant to paragraph 18 of UNSCR 1960 (2010)).
- Office of the Special Representative on Sexual Violence in Conflict, including the early warning matrix for sexual violence and its Annex

H. General information on international arms transfers

- Reports of the UN-appointed groups or panels of experts that monitor UN Security Council sanctions, <http://www.un.org/sc/committees/>
- Stockholm International Peace Research Institute (SIPRI), <http://www.sipri.org/>
- Small Arms Survey, <http://www.smallarmssurvey.org/>
- Other research institutes

I. Other sources of information

- Judgments and reports by the International Criminal Court and ad hoc tribunals
- International agencies operating in the recipient state
- Local media reports
- Reports by NGOs on country situations, which may include relevant information regarding compliance with international humanitarian law
- Military doctrine, manual and instructions

ANNEX C

LIST OF POSSIBLE REFERENCE DOCUMENTS TO BE CONSIDERED BY STATES PARTIES TO PREVENT AND ADDRESS DIVERSION

The following public documents with associated links are referenced as optional sources that States Parties may choose to draw from, when relevant and useful, to assist them to prevent and address diversion. Use of these documents is not to be seen as mandatory. A State Party may also draw on other sources of information to assist it in implementing its obligations, such as reports from Government agencies, Embassies, foreign Governments, international and regional organizations.

The list is not exhaustive and the fact that a document is referenced on the list does not imply that States Parties endorse its findings.

A. INTERNATIONAL ORGANISATIONS

- United Nations Office for Disarmament Affairs (UNODA) [ATT Implementation Toolkit](#): Module 10: Preventing diversion

B. REGIONAL ORGANISATIONS AND OTHER MULTILATERAL ORGANISATIONS/MECHANISMS

- **European Union (EU)** [EU Common Position on Arms Exports](#)
[User's Guide to the EU Common Position on Arms Exports](#)
- **International Small Arms Control Standards (ISACS)** The ISACS has produced a number of [Standards Modules](#) on small arms and light weapons, including, of particular relevance:

[National controls over the international transfer of small arms and light weapons](#)

[National controls over the end-user and end-use of internationally transferred SALW](#)
- **Organisation for Security and Cooperation in Europe (OSCE)** The OSCE has produced a range of [guidance documents on small arms and light weapons](#), including, of particular relevance:

[OSCE Handbook of Best Practices on Small Arms and Light Weapons](#)

[OSCE Decision on introducing best practices to prevent destabilizing transfers of small arms and light weapons through air transport and on an associated Questionnaire](#)

[Standard elements of end-user certificates and verification procedures for SALW exports](#)

- **Regional Centre on Small Region, the Horn of Africa and Bordering States (RECSA)** Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light and Light Weapons

- **Wassenaar Arrangement** The Wassenaar arrangement has also collated a range of [Best Practices and Guidelines on Arms Transfers](#), including, of particular relevance:
 - [Best practice guidelines for exports of small arms and light weapons](#)
 - [Introduction to End User/End Use Controls for Exports of Military-List Equipment](#)
 - [Statement of Understanding on Implementation of End-Use Controls for Dual-Use Items](#)
 - [End-Use Assurances Commonly Used – Consolidated Indicative List](#)
 - [Elements for objective analysis and advice concerning potentially destabilising accumulations of conventional weapons](#)
 - [Best Practices to Prevent Destabilising Transfers of Small Arms and Light Weapons \(SALW\) through Air Transport](#)

ANNEX D

POSSIBLE MEASURES TO PREVENT AND ADDRESS DIVERSION

States Parties to the Arms Trade Treaty involved in the transfer of conventional arms have a legal obligation to take measures to prevent their diversion (Article 11(1)). This paper presents a non-exhaustive list of practical measures which States Parties may draw from, where relevant, useful and feasible within the available resources of each State, to prevent diversion as it may occur in their particular national context.

The measures have been drawn from a range of sources, including documents in the “List of possible reference documents on diversion” and input from States Parties and civil society. Some measures relate directly to specific legal obligations or guidance in the text of the Treaty. In these cases, the measures listed are to be understood only as suggested options for implementation of the relevant obligations or guidance. The measures are not intended to reinterpret, add to, or derogate from relevant obligations in any way.

Transfer chain stage 1: Before the transfer/Country of origin/point of embarkation

1. Requiring all conventional arms transfers to be subject to prior authorisation (Article 5).
2. Performing consistent and objective transfer risk assessments that take into account the risk of diversion (Articles 7(1) and 11(2)).
3. Requiring that importing States provide proper documentation (such as contracts or agreements, international import certificates, transit approvals, end-use/r certificates (EUCs), and various other assurances) to the competent authorities in exporting States, upon request (Articles 8(1) and 11(2)).
4. Not authorising the export if a significant risk of diversion is detected (Article 11(2)).
5. Including the following measures in their consistent and objective transfer risk assessments:
 - Establishing the legitimacy and credibility of all parties involved in the transfer, such as the exporter, brokers, shipping agents, freight forwarders/intermediate consignees and stated end-use/r (Article 11(2)).
 - Also examining the risks:
 - Arising from the proposed shipment arrangements.
 - Arising from the potential unreliability of controls in the importing country and the transit country (if applicable).
 - Arising from insufficient resources to allow for effective enforcement of national laws concerning the transfer of conventional arms.
 - Arising from political instability in the importing country.
 - That a conventional arms transfer would increase the risks of diversion of the existing holdings of the end-user.

- Utilising interdepartmental / inter-agency examination of the exportation requests, enabling analysis of diversion risks to be based on reliable information, from diverse sources (diplomatic, customs, intelligence unit, UN experts' reports, information exchanges between States).
 - Maintaining and/or consulting national databases identifying natural or legal persons previously sanctioned and /or involved in illicit trafficking.
6. Conducting a thorough review of the proper documentation (such as contracts or agreements, international import certificates, transit approvals, end-use/r certificates (EUCs), and various other assurances) (Articles 8(1) and 11(2)) provided by importing States, including:
- Authentication of documentation (including checks for forged or inauthentic documentation, including authentication of EUCs through diplomatic channels or the importing country's national authority by using the declared Point of Contact).
 - Verification of contents of the documentation through establishing the legitimacy and credibility of the stated end-use/r.
 - To prevent any falsification risk, importing States could institute national procedures for issuing EUCs for government and private end-users.
7. Including the following details in EUCs (Articles 8(1) and 11(2)), required for the contents of the documentation to be verified for end-use and user, as well as to inform a risk assessment:

Element	Essential	Optional
Parties involved in the transfer	<ul style="list-style-type: none"> • details of the exporter and end-user, such as name, business name, address, phone, etc. 	<ul style="list-style-type: none"> • details of the intermediate consignee and final consignee
Goods to be transferred	<ul style="list-style-type: none"> • description; • reference to contract, purchase order, invoice or order number; • quantity and/or value. 	
End-use	<ul style="list-style-type: none"> • indication of end-user; • undertaking, where appropriate, that the goods will not be used for purposes other than the declared end-use and/or used for Chemical Biological Radiological and Nuclear (CBRN) etc. 	
Location		<ul style="list-style-type: none"> • certification that goods are to be installed at/used at premises of end-user;

		<ul style="list-style-type: none"> • agreement to on-site inspections.
Documentation	<ul style="list-style-type: none"> • signature, name, title of consignee/end-user representative; • original or legally-certified copy. 	<ul style="list-style-type: none"> • signature and certification by government of final consignee/end-user and only by specific representatives of that government; • unique identifier/number provided by the government authority; • validity terms and date of issue; • kept with conventional arms all along the transfer
Re-export / diversion		<ul style="list-style-type: none"> • an undertaking not to re-export/transship at all, or at least not without notification or express permission from original exporting state's competent authorities
Delivery verification		<ul style="list-style-type: none"> • provide a Delivery Verification Certificate / proof of arrival

8. Encouraging all parties involved in conventional arms transfers (exporters, freight forwarders/intermediate consignees, brokers (Article 10), shipping agents, and end-users) to be registered with national authorities.

9. Applying the following measures when they are transit, trans-shipment, or importing States in an international transfer:

- Requiring prior authorisation for the transit and importation of conventional arms through and to their territory (Article 9).
- Requesting or providing documents that indicate whether the transfer has been authorised or is subject to any objection (Article 11(3)).

10. Requiring particular conditions to be met prior to export authorisation, such as:

- Provision of information related to transport prior to the grant of the exportation authorisation: mode of transport, name of the transporter, nationality, route to be taken.
- Agreement to specific conditions on storage facilities (location, conditions, specific management measures and security).
- Verification through physical inspections of the adequacy of the recipient's storage facilities.

- Enforcement of technical conditions to secure conventional arms, such as systematic marking and implementation of systems preventing use by non-authorized persons.
- Agreement to particular disposal requirements (e.g. conditioning the sale of new small arms and light weapons on the verified destruction of old stocks).

11. Including concrete, unambiguous suspension or cancellation clauses in the wording of all conventional arms contracts other relevant documentation / inter-governmental agreements.

12. Encouraging parties involved in conventional arms transfers to introduce internal export control compliance programs to assist them in complying with national export control legislation and regulations, and increase awareness and mitigation of diversion risks.

- Internal compliance programs could include provisions for parties to conduct their own risk assessments, record-keeping on international commercial operations, and cooperation and information sharing with competent authorities (e.g. regular reporting on licences used, cooperation with compliance visits by government agencies etc.).

Transfer chain stage 2: During the transfer / En route to the intended end-user / In transit

1. Ensuring close cooperation and information sharing, pursuant to their national laws, where appropriate and feasible, with the governments of transit States (Article 11(3)).

2. Requiring or encouraging delivery notification by any transit countries (through delivery receipts signed by the importations customs service, delivery verification certificate, etc.) (Article 11(3)).

- Note that in the case of delivery by air, the exporter may be required to provide a 'certificate of unloading' to confirm delivery.

3. Monitoring and protecting conventional arms shipments, in cooperation with industry parties involved (e.g. freight forwarders/intermediate consignees, transporters etc) from the time the arms leave the warehouse in the exporting state until the intended end-user receives them (and verifies delivery), including through:

- Physically accompanying the shipment or remote monitoring via satellite.
- Stringent physical security requirements (such as ensuring that arms and ammunition are transported in separate vehicles, the use of alarm systems on transport vehicles and container seals, and physical inspection during transit and at the point of delivery).
- Scrutiny of arms shipments and documentation by customs agents in all the States involved in the transfer (exporting, transit, and importing States).

Transfer chain stage 3: At or after importation / Post-delivery

1. Requiring or encouraging delivery notification by the importing State (through delivery receipts signed by the importations customs service, delivery verification certificate, etc.) (Articles 8(1) and 11(3)).

- Note that in the case of delivery by air, the exporter may be required to provide a 'certificate of unloading' to confirm delivery.
2. For exporting States: conducting post-delivery checks in cooperation with competent authorities in the importing State to verify compliance with end-use conditions, such as the condition that no re-export can take place without prior notification to the country of origin, including through:
 - Checking end-use certificates by, for instance, checking delivery signatures against the list of authorised signatories by directly contacting such signatories using contact information provided in advance of the certificate.
 - Organising regular on-site visits to verify the ongoing use(r) of the arms.
 - Conducting physical inventories of exported conventional arms to ensure they are properly accounted (Article 12(1)).
 - Investigating suspected violations of end-use and re-transfer conditions agreed to by the end-user.
 3. For importing States: registering and maintaining records of conventional arms entering their national territory, as well as the secure transfer of these to the authorised end-user (Article 12 (2)).
 4. For exporting and importing States: initiating and responding in a timely manner to tracing requests, including through utilisation of existing tools such as the INTERPOL Illicit Arms Records and Tracing Management System (iARMS).

Transfer chain stage 4: Post-delivery storage / National stockpiles

1. Establishing and maintaining robust stockpile management procedures for the safe storage of conventional arms and ammunition, including by:
 - Establishing and conducting inventory management and accounting procedures (including centralized record-keeping, which entails storing records of transactions made by all departments in a single, central authority).
 - Controlling access to stockpiles.
 - Applying physical security measures (such as fencing and locking systems).
 - Ensuring the security of stockpiles that are in transport.
 - Destroying all surplus arms and ammunition in accordance with international norms and standards.
 - Ensuring appropriate staff training in safe and secure stockpile management procedures.
 - Note useful guidance provided in the ISACS Module on 'Stockpile management' and the International Ammunition Technical Guidelines (IATG).

2. Ensuring adequate border controls and patrols.

Other comprehensive measures applicable across the transfer chain

1. Establishing a strong national control system for of the authorisation of international transfers of conventional arms (including transit and trans-shipment), and the enforcement of national laws and regulations (Articles 5 and 14).
2. Ensuring that when a diversion is detected, appropriate legal and administrative measures are taken to address the diversion, enabling the competent national authorities to seize the illicit conventional arms (Article 5).
3. Ensuring close cooperation and information-sharing with other States involved in the arms transfer chain, including information on: weapons transportation providers; denials of export and import licences export/import, transit/trans-shipment licence/authorisation; end-user certificates data; international trafficking routes; illicit brokers, sources of illicit supply and methods of concealment (Articles 8(1), 11(3), 11(4), 11(5), and 15(4)).
4. Sharing information with other States on measures taken that have been proven effective in addressing the diversion, including through: the ATT Secretariat; other mechanisms such as the Working Group on Effective Treaty Implementation; and databases for information exchange such as the ATT website (Article 13(2)).
5. Taking the following measures when a diversion is detected:
 - Alert potentially affected States Parties.
 - Examine diverted shipments of conventional arms.
 - Take follow-up measures through investigation and law enforcement, including the establishment of criminal offences and the capacity for sanctioning violators in relation to diversion detected during post-delivery checks or at any time during an arms transfer (Article 11(4)). It is recommended that available sanctions should be both administrative (including confiscation of conventional arms) and criminal (sufficiently high to serve as deterrents).
6. Ensuring that officers responsible for administering the national control system are trained in the detection of fraudulent behaviour across the different stages of the transfer chain.
7. Maintaining open communication and cooperation across licensing, customs, law enforcement, intelligence and other government agencies domestically and amongst States.
8. Providing sufficient resources to national authorities, especially customs authorities, to ensure they have effective control over conventional arms flows into and out of their territory.
9. Pursuing cooperation through regional and sub-regional groups, such as the EU.
10. Ensuring effective legislation for investigating and punishing theft, corruption, and other diversion-related offences.
11. Running industry outreach programmes (such as with industry associations) to share diversion risk assessment guidance and encourage industry to play a cooperative role in risk assessment and management.

12. Reinforcing cooperation between national authorities and the private sector (armament industry, transporters, banks, etc.) to ease the detection and the interception of the illicit flows.
13. For both exporting and importing States: jointly developing and agreeing programmes to identify challenges identified, which may take various forms depending on the challenges identified (Article 11(2)).
 - For example, the exporting and importing States could collaborate on measures to improve the security of stockpiles and the disposal of surplus stocks, or to eradicate organised criminal activity and combat corrupt practices
14. Ensuring transparency through communicating information on authorised or completed- legal transfers of conventional arms in annual reports (Article 13(3)).

ANNEX E

POSSIBLE VOLUNTARY GUIDING AND SUPPORTING ELEMENTS IN IMPLEMENTING
OBLIGATIONS UNDER ARTICLE 6 (1)

Article 6(1) of the ATT prohibits international transfers of conventional arms, their ammunition and parts and components to entities that are subject to UN arms embargoes – using the definition of transfer provided in ATT Article 2. The purpose of the sub-paragraph is to ensure in particular that the sanctions adopted by the UNSC are respected. All export licences should be assessed on a case-by-case basis and consideration must be given to Article 6 (1).

A) What to do

States Parties should control the stated or probable destination of export and the location of end-user against the embargoes enforced by the UN. As the list of embargoed countries, non-state entities and individuals (such as terrorist groups and individual terrorists) is subject to regular changes, it is important to take recent developments into account and consult with updated lists of arms embargoes in force.

While fully acknowledging that States Parties themselves decide what sources they will use in carrying out the risk assessment under art 6.1, which also involves the risk of diversion art. 11, the following non-exhaustive list of sources of information could be of value:

- Foreign affairs desk officers dealing with the particular country and with respective disarmament, SALW or export control agreements.
- Information from State Parties' diplomatic missions and other governmental institutions, including police, customs and intelligence sources.
- Information provided through regional organisations, if applicable.
- Information provided through export control arrangements, if applicable.
- UN Sanctions Committee Implementation Assistance Notices (provides information on the detection of an attempted violation of UN Arms embargoes – identifying entities involved in the violation, route, vessel, types of items concealed and method for concealment)
- Reports of UN Panels or Groups of experts mandated to monitor the implementation of UN sanctions and investigate alleged violations
- iTrace <http://www.conflictarm.com/itrace/>
- Non-governmental research organizations

Non-exhaustive list of where information about embargoes in force can be found:

United Nations - <https://www.un.org/sc/suborg/en/sanctions/information>

SIPRI - <http://www.sipri.org/databases/embargoes>

GRIP - <https://www.grip.org/fr/node/1558>

B) The importance of legal and structural framework to implement UNSC arms embargoes and accordingly ATT Article 6(1)

Proper implementation of an arms embargo decided by the UNSC is facilitated if the necessary national legal and structural framework is in place in the State Party. Otherwise there is a risk that national authorities may not be able to implement the obligations under the arms embargo.

When reviewing States Parties' initial reports to the ATT, there seems to be two main options that can be identified, that each provide a clear legal basis for implementation of UNSC arms embargoes:

1. Specific United Nations Act, which enables the 'fast-track' introduction of government regulations (decree) for specific sets of sanctions imposed by UNSC
2. Strategic trade control (export control) legislation that prohibits the issuing of licences for export, import, transit, brokering, technical assistance etc. if the end user is subject to an UNSC arms embargo.

Furthermore, some States Parties use policy guidelines to ensure transfers to embargoed entities are prohibited, instead of a UN Act or strategic trade control legislation. While this method on its own may provide less legal clarity, it can of course also be combined with legislation to provide more specific guidance within an existing legal framework.

But when going through the ATT database of initial reports, as well as other open sources (such as Council of Europe's Committee of Legal Advisers on Public International Law Database on how UN sanctions, including arms embargoes, are implemented <http://www.caheidatabases.coe.int/Search/Index/>), there are States Parties that declare a respect for UN arms embargoes in their initial report, but for whom it is difficult to identify the legal basis to implement the provisions, enforce the arms embargo, or impose penalties and sanctions on entities identified as violating UN arms embargoes.

Way forward to strengthen implementation of Article 6.1

It would therefore be valuable if States Parties to the ATT ensure that the necessary national legal framework is in place to properly implement art 6.1 of the treaty.

International work on how to improve design and national implementation of UNSC arms embargoes is nothing new and States Parties to the ATT need not invest time and resources to develop proposals on legal mechanisms and practical measures to improve implementation. Examples of previous international processes to strengthen UNSC arms embargoes are:

- Bonn/Berlin Process on Design and Implementation of Arms Embargoes and Travel and Aviation Related Sanctions
- Stockholm Process on Implementation of UN Sanctions

The two processes were initiated and funded by Germany and Sweden respectively and were international efforts involving some 70 States and organisations with a wide geographic distribution, aimed at strengthening UNSC sanctions and improve their implementation. The reports contain examples of model national legislation for the implementation of UNSC arms embargoes as well as practical guidance on what type of resources and organisational structure which are useful or needed for the implementing authority. The reports date from 1999 and 2001 respectively, but the vast majority of the recommendations are still valid.

States Parties to the ATT which would like to strengthen their national legal and structural framework to implement article 6.1, may decide to look at these reports, or others not mentioned, for guidance and inspiration.

Included in the legal framework important to fully implement arms embargoes is the need to ensure enforcement of violations of the arms embargoes. It will be necessary to be able to assess whether a given transaction might be subject to an arms embargo in the context of a regular licensing process, but most transfers in violation of an arms embargo will not be the subject of a licence application; they will take place in an illicit context. In order to prevent such transfers, its important that States Parties set-up an enforcement regime, providing appropriate sanctions for violations of arms embargoes, but also providing enforcement agents such as customs and police with tools needed to detect transfers that are unlicensed and that might violate arms embargoes.

Interlinked with implementation of UNSC arms embargoes is the role that transit and trans-shipment States can play in detecting and averting transfers in violation of arms embargoes. They basically provide a second chance if an export in violation of an arms embargo has not been stopped by an exporting State, either because it was not detected by the authorities or happened without governmental consent, and the shipment passes through the territory of the transit or trans-shipment State. In that respect all States Parties need, where necessary and feasible, regulate transit and trans-shipment of arms which will allow for prevention of embargo violations.

Financial and other support

A possible source of funding for an activity or project to strengthen implementation of Art 6.1 could be the ATT Voluntary Trust Fund.

Furthermore, this could be an area in which assistance and cooperation could be rendered by States that have found effective solutions for implementing Article 6.1.

ANNEX FELEMENTS OF A 'WELCOME PACK' FOR NEW STATES PARTIES

1. Introduction
 - a. What is the ATT?
 - b. Adoption and entry into force
 - c. How many States have joined the ATT?
 - d. What is the scope of the ATT?
2. ATT benefits
 - a. Why was the Treaty adopted?
 - b. How will it help my State?
3. ATT process
 - a. Conferences of States Parties
 - b. Preparatory process
 - c. ATT bodies
 - i. President and Vice Presidents
 - ii. Management Committee
 - iii. Working Groups
 - iv. VTF Selection Committee
4. ATT obligations
 - a. What are the arms transfer control obligations under the Treaty?
 - b. What are the reporting obligations under the Treaty?
 - c. What are the financial obligations under the Treaty?
5. Assistance and support for ATT implementation
 - a. What is the role of the ATT Secretariat?
 - b. What financial assistance is available?
 - i. Voluntary Trust Fund
 - ii. UNSCAR
 - iii. EU ATT Outreach Project
 - iv. Bi-lateral assistance
 - v. Other
 - c. What technical assistance is available?
6. Other resources

ANNEX G**ELEMENTS OF REFERENCE DOCUMENTS TO ESTABLISH A NATIONAL CONTROL SYSTEM**

1. What is a national control system?
2. Why is a national control system necessary?
3. What are the elements of a national control system?
 - a. Legal and regulatory framework
 - i. Laws
 - ii. Regulations and administrative procedures
 - iii. National Control List
 - b. Institutions
 - i. Competent national authorities
 1. What is the role of the competent national authority?
 2. Which ministries and agencies should be included?
 - ii. National points of contact
 1. What is the role of the national point(s) of contact?
 2. What resources are available to guide the work of the national point(s) of contact?
 - c. Procedures
 - i. Authorization process
 - ii. Risk assessment
 - iii. Mitigation measures
 - iv. Decision-making
 - d. Documentation
 - i. Types of licences/permits
 - ii. End use(r) documentation
 - iii. Record-keeping
 1. What records need to be kept?
 2. How may records be stored?
 3. How long should records be stored?
 4. Who is responsible for keeping records?
 5. What is the role of record-keeping in reporting?

- e. Training and capacity building
- f. Enforcement
 - i. Laws, regulations and administrative procedures
 - ii. Institutions
 - iii. Procedures
 - iv. International assistance
