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WORKING PAPER PRESENTED BY ARGENTINA**(THE PRESIDENT OF THE SIXTH CONFERENCE OF STATES PARTIES TO THE ATT)****TRANSPARENCY AND EXCHANGE OF INFORMATION:**
ITS ROLE IN THE PREVENTION OF DIVERSION

-Transparency and exchange of information between States are fundamental tools in preventing diversion. The data involved should help in identifying the principal weak points in the arms life cycle and its commercial channels, as well as the main risks of diversion to unauthorized uses and/or users. In addition, it may help with the development of good practices and lessons learned.

TRANSPARENCY AND EXCHANGE OF INFORMATION IN THE ATT

-In the framework of the Arms Trade Treaty (ATT), transparency and exchange of information are envisaged in several provisions. With regard to transparency, the Treaty provides for the submission of annual reports concerning authorized or actual exports and imports (art. 13). In addition, it provides that States are encouraged to report on measures taken in addressing diversion (art. 11.6).

-The Treaty provides for the designation of national points of contact to exchange information on matters related to its implementation, including in this point matters related to implementation of a national system and list of controls (art. 5.6). Similarly, the provisions on exports and imports envisage cooperation between the States involved in commercial trade. Thus, each exporting State Party will make available appropriate information about the authorization in question, upon request, to the importing State Party and to the transit or trans-shipment States Parties, subject to its national laws, practices or policies (art. 7.6). In addition, the Treaty encourages States party to exchange information if it is considered necessary to reassess the authorization previously granted (art. 7.7). For its part, the importing State must take measures to provide appropriate and relevant information to the exporting State, on request, to assist national assessment of the export (art. 8.1).

-The Treaty also provides that States should cooperate to effectively implement its provisions (art. 15). Among the forms of cooperation, particular mention should be made of exchange of information and consultations on matters related to the practice and application of the Treaty, illegal activities and actors in order to prevent and eliminate diversion, and investigations, prosecutions and judicial proceedings relating to violations of national measures adopted in accordance with the Treaty.

THE ROLE OF TRANSPARENCY AND EXCHANGE OF INFORMATION IN PREVENTING DIVERSION

-In the particular case of diversion, article 11 provides that importing, exporting, transit and trans-shipment States shall exchange information in order to mitigate the risk of diversion of arms transfers. In addition, it encourages the implementation of specific measures where diversion is detected, including alerts to transit or trans-shipment and importing States, and follow-up measures and

application of the law. 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 (art. 11.5). The forms of cooperation on matters of diversion were also included in article 15.

-Various options and possibilities have been discussed in the framework of the Working Groups. In particular, the Subgroup on Diversion of the Working Group on Implementation discussed the importance of cooperating and exchanging information to reduce the risks of diversion. However, it was in the Working Group on Transparency that concrete progress was made in the possible implementation of a mechanism to facilitate the exchange of information and discussion of specific cases. In particular, a three- tier approach was proposed, involving a subgroup for the exchange of policies, exchange of information on policies and operational implementation and a mechanism for informal meetings to discuss specific cases of diversion detected or suspected under national legislation while preserving the confidentiality of the information.

-Transparency and exchange of information are of importance at all times, from manufacture, through marketing and sale, to delivery of the arms. Some measures to mitigate the risks of diversion may involve consultations between States to check import and export documentation, the legality of users and/or final uses, entities or actors involved in transit or trans-shipment, verification and communication of exports, and the despatch and receipt of material.

POSSIBLE RECOMMENDATIONS FOR APPROVAL AT CSP

- 1) States Parties and Signatory States are encouraged to actively use the Diversion Information Exchange Forum as a mean to facilitate international cooperation in order to prevent and eradicate diversion.
- 2) States are encouraged to use all available tools to exchange information, especially the IT platform in the restricted access section of the Treaty Website, with the objective of establishing free-flowing, fast and effective channels of communication.
- 3) States are encouraged to designate, communicate and update national points of contact, as appropriate, in order to rapidly and easily identify national counterparts for consultations and exchange of information Likewise, States are encouraged to submit updates to their initial reports regarding changes in their national control systems as required by Article 13.1 and, in particular, about changes in the implementation of Articles 11 and 15.
- 4) States are encouraged to hold consultations and exchange information with the objective of verifying the authenticity of the import, export, transit and/or trans-shipment documentation in cases of international transactions.
- 5) States are recommended to hold consultations and exchange information to verify the legality of users and final uses, as well as the entities and actors involved in international transit and transshipment.
- 6) States are encouraged, taking into account their national capacities, to carry out on-site verifications of exports and imports and to exchange information on issued authorizations and the mentioned verifications with the States involved in the operation in order to facilitate early detection of diversion during international transactions.
- 7) It is recommended that, within the context of the operation of Diversion Information Exchange Forum, the States involve the different state actors that can intervene in the detection of

diversion cases, including export licensing and law enforcement officers in each State, as well as, where appropriate and in accordance with paragraph 8 of the Terms of Reference of the Diversion Information Exchange Forum , expand cooperation with civil society, industry, academia, and other relevant non-state actors. In the same line, and under the same restrictions, the actors involved in transit and transshipment, importers, exporters, brokers, as well as States from which the transportation is organized, may also collaborate in the operation of the Diversion Information Exchange Forum.

8) States are encouraged to exchange information at the bilateral, subregional, and regional levels in other multilateral contexts related to the ATT. Likewise, States are encouraged to establish mechanisms to share information from the ATT in order to promote the exchange.
