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Submitted by: Argentina, Belgium, Colombia, Finland, France, Germany, Netherlands, Mexico, Republic of Korea, Sweden

ARMS TRADE TREATY

Preventing and fighting the diversion of legally transferred weapons

Submitted by Argentina, Belgium, Colombia, Finland, France, Germany, Netherlands, Mexico, Republic of Korea, Sweden

The Arms Trade Treaty (ATT) has two main goals: the first one is to “regulate or improve the regulation of the international trade in conventional arms” and the second one is to “prevent and eradicate the illicit trade in conventional arms and prevent their diversion” (Article 1). **These two pillars of the ATT are interdependent.**

The fight against the diversion of conventional arms is a cross-cutting issue that concerns all actors, and a shared responsibility requiring the cooperation of all States parties (exporters, importers, transit States). It is therefore particularly relevant to foster **exchanges between States on these issues**, as provided for by the Treaty itself in Articles 11.5, 15.4 and 15.7¹.

Based on these elements, **this non-paper sets out concrete and practical proposals** to structure discussions on preventing and combating diversion in the framework of the Arms Trade Treaty. These may be explored within the **working group on Effective Treaty Implementation (WGETI), in order to stimulate exchanges between States** and facilitate the implementation of ATT provisions, especially those of Article 11.

PROPOSALS

1) Stimulate exchanges on the issue of preventing and combating the diversion of conventional weapons

¹ Cf. Article 11.5 : “In order to better comprehend and prevent the diversion of transferred conventional arms covered under Article 2 (1), States Parties are encouraged to share relevant information with one another on effective measures to address diversion. Such information may include information on illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organized groups engaged in diversion.”; Article 15.4: “States Parties are encouraged to cooperate, pursuant to their national laws, in order to assist national implementation of the provisions of this Treaty, including through sharing information regarding illicit activities and actors and in order to prevent and eradicate diversion of conventional arms covered under Article 2 (1).” And Article 15.7: “States Parties are encouraged to exchange experience and information on lessons learned in relation to any aspect of this Treaty.”

a. Systematically include the issue of diversion on the agenda of the WGETI

Preventing and combating the illicit trade in conventional arms is the second goal of the ATT, and is of interest to all States Parties to the Treaty, be they importers, exporters or transit countries. As such, **this issue should systematically be on the agenda of all WGETI meetings, on the same terms as measures taken by States aiming at a better regulating the arms trade** (implementation of Articles 6 and 7, brokering and transit controls, etc.).

b. Foster thematic exchanges and facilitate participation of National Points of Contact and specialized governmental experts

The diversion of legally transferred weapons can be observed at various stages: during transport, upon import, during transit, at storage locations, etc. In order to address this intrinsically **multifaceted issue, thematic exchanges** should be prioritized (such as on securing transport, corruption and diversion, illicit brokering, etc) in accordance with the provisions of Article 11.5 (*"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"*). All exchanges would be held on a voluntary basis.

These discussions would aim at establishing an interactive communication and a cooperation dynamic among national authorities. Additional exchanges between National Points of Contact could take place right before or during the CSP in addition to WGETI discussions, to ensure continued mobilization and mutual contribution. .

The theme to be discussed could be selected annually by the Conference of State Parties, taking into account needs identified by States as priorities (as expressed within the WGETI, during the CSP, but also through assistance requests submitted to the VTF).

The specific topics addressed in this framework should **be communicated to States Parties sufficiently in advance to enable participation of National Points of Contact and Authorities and other governmental experts specialized in these issues** (such as judges, customs officers, police, and so on) and exchange of national non-papers or any other documents deemed relevant.

c. Draw on the expertise of private sector actors and civil society

A specific session could be dedicated to presentations by civil society representatives (research centers, non-governmental organizations) of their thematic studies on the topic and their main recommendations to prevent and combat the diversion of conventional arms.

Exchanges with private sector representatives (banks, arms manufacturers, transport companies) could also be suggested in order to benefit from their expertise and also discuss measures taken and best practices adopted to prevent and fight the diversion of conventional weapons.

d. Seek complementarity with existing initiatives

Representatives of relevant international, multilateral, regional and subregional organizations could present measures they implemented and/or good practices they adopted as prevention means to prevent and combat diversion.

2) *In the framework of the ATT WGETI, elaborate a compilation of measures to prevent and combat the risk of diversion of legally transferred weapons.*

The above-mentioned annual thematic discussions and the exchanges between National Points of Contact feeding into this cooperation dynamic could, in the spirit of Article 11 and in accordance with the provisions of Article 15 of the ATT², help both to **improve our understanding of the phenomenon of diversion** (illicit routes, actors, sources, etc) as well as to **jointly identify measures** in order to effectively combat diversion.

On the basis of these exchanges of experiences and national practices, **concrete measures** (technical, administrative, regulatory) **taken by States and likely to provide useful elements to other Parties** could be identified.

This set of possible measures would be intended to **support States** in the implementation of the Treaty, especially of the provisions of Article 11. **It would not seek to impose measures, or replace provisions of the ATT.** Each State could draw on these measures taking into account their own specific national needs.

The measures identified could be categorized based upon a particular theme, hence helping address a specific aspect of diversion (measures to prevent diversion during transit, measures to fight diversion during transport, etc.).

On this basis, a set of thematic measures could be compiled annually by the WGETI and presented to the Conference of State Parties before being made available to the State Parties.

3) *Foster the implementation of assistance programs aimed at strengthening the ability of States to prevent and combat diversion of legally transferred weapons*

Relevant themes and measures identified in the WGETI **could provide a basis for work on cooperation, assistance and capacity building programs** aimed at fighting the diversion of conventional weapons.

Resources of the Voluntary Trust Fund could usefully be mobilized to support projects focused on combatting diversion and taking into account the thematic aspects and measures identified in the work of the WGETI, in accordance with the Terms of Reference of the VTF.

In doing so, it would be valuable to **ensure the complementarity of assistance efforts to the implementation of measures and good practices in the fight against the diversion of weapons**, fostering coordination with other relevant programs or instruments.

² Cf 11.5 “In order to better comprehend and prevent the diversion of transferred conventional arms covered under Article 2 (1), States Parties are encouraged to share relevant information with one another on effective measures to address diversion.”; Article 15.4: “States Parties are encouraged to cooperate, pursuant to their national laws, in order to assist national implementation of the provisions of this Treaty, including through sharing information regarding illicit activities and actors and in order to prevent and eradicate diversion of conventional arms covered under Article 2 (1).” And Article 15.7: “States Parties are encouraged to exchange experience and information on lessons learned in relation to any aspect of this Treaty.”