

## ANNEX C. REVISED MULTI-YEAR WORK PLAN FOR THE WGETI SUB-WORKING GROUP ON ARTICLE 11 (DIVERSION)<sup>1</sup>

1 <sup>st</sup> CSP5 Preparatory Meeting, 30 January 2019	
<b>10.00-11.00</b>	<p><b>Draft Multi-year Work Plan</b></p> <p>Introduction by facilitator</p> <p>Open discussion</p> <p><i>In reviewing the draft proposed multi-year plan, participants are invited to consider, amongst others, the following questions:</i></p> <ul style="list-style-type: none"> <li>a. <i>Has sufficient time has been allocated to each topic?</i></li> <li>b. <i>Have any topics been omitted that should be included?</i></li> <li>c. <i>Has any consideration been omitted?</i></li> </ul>
<b>Transfer chain stage 1: Before the transfer</b>	<p><b>11.00-13.00</b></p> <p><b>1. Import documentation<sup>2</sup></b></p> <p><i>This discussion will explore the types of written documentation submitted as part of an application for an export licence from the exporting State (such as contracts or agreements, international import certificates, transit approvals, end-use/r certificates (EUCs), and various other assurances). It will consider:</i></p> <ul style="list-style-type: none"> <li>- <i>What types of written documents exist?</i></li> <li>- <i>How are such documents prepared? Which ministries and agencies are involved?</i></li> <li>- <i>What is the role and/or responsibilities of the importing State regarding such documents?</i></li> <li>- <i>What is the role and/or responsibilities of the transit/transhipment State(s)?</i></li> <li>- <i>What is the role and/or responsibilities of the brokering State(s)?</i></li> <li>- <i>What is the role of the exporting State (i.e. verification and authentication as part of diversion risk assessment)?</i></li> <li>- <i>In practice, what are the common elements of such documents? What assurances are provided? What is the minimum that should be required?</i></li> </ul> <p><i>It will also examine the role of <b>information exchange</b> in verifying and authenticating import documentation and identify the types of information exchange that are relevant and necessary.</i></p>

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<sup>1</sup> A version of the multi-year work plan for the WGETI Sub-working Group on Article 11 was welcomed by the Fifth Conference of States Parties to the Arms Trade Treaty in 2019. This revised version of the multi-year work plan for the WGETI Sub-working Group on Article 11 was welcomed by States Parties via silence procedure in March 2021 as a living document of a voluntary nature to be reviewed and updated regularly by the Working Group on Effective Treaty Implementation, as appropriate, and taking account of work undertaken by the different Working Groups, and to be posted on the ATT website. The multi-year work plan for the WGETI Sub-working Group on Article 11 is of a rolling nature and will be adjusted, if circumstances require it, to ensure its comprehensiveness and sequencing is retained.

<sup>2</sup> Paragraphs 3, 6 and 7 of the Sub-working group paper : [Possible measures to prevent and address diversion](#) (available in other languages [here](#)).

Transfer chain stage 1: Before the transfer	<p><b>3 hours</b></p> <p><b>2. Import documentation<sup>3</sup> (continued)</b></p> <p><i>This discussion will continue to explore the types of written documentation submitted as part of an application for an export licence from the exporting State (such as contracts or agreements, international import certificates, transit approvals, end-use/r certificates (EUCs), and various other assurances). The Facilitator will circulate a background paper in advance of the 2<sup>nd</sup> series of CSP5 meetings to facilitate discussion, including the following elements:</i></p> <ul style="list-style-type: none"> <li>- <i>What types of written documents exist?</i></li> <li>- <i>How are such documents prepared? Which ministries and agencies are involved?</i></li> <li>- <i>What is the role and/or responsibilities of the importing State regarding such documents?</i></li> <li>- <i>What is the role and/or responsibilities of the transit/transhipment State(s)?</i></li> <li>- <i>What is the role and/or responsibilities of the brokering State(s)?</i></li> <li>- <i>What is the role of the exporting State (i.e. verification and authentication as part of diversion risk assessment)?</i></li> <li>- <i>In practice, what are the common elements of such documents? What assurances are provided? What is the minimum that should be required?</i></li> <li>- <i>What sanctions do exporting States impose for non-compliance with end-use/r assurances and undertakings?</i></li> </ul> <p><i>It will also examine the role of <b>information exchange</b> in verifying and authenticating import documentation and identify the types of information exchange that are relevant and necessary.</i></p> <ul style="list-style-type: none"> <li>- <i>How do exporting States verify and authenticate import documents as a part of a broader risk assessment framework?</i></li> <li>- <i>What mechanisms are used?</i></li> <li>- <i>Which agencies are involved?</i></li> <li>- <i>How long does it take?</i></li> <li>- <i>What steps are taken if the documentation is found to be fraudulent?</i></li> </ul>
	<p><b>1 hour</b></p> <p><b>3. The role of the private sector in import documentation</b></p> <p><i>This discussion will explore the role of the private sector, including arms manufacturers/industry and civil society, in mitigating diversion risk before the physical transfer takes place. It will also examine the role of internal export control compliance programmes.</i></p> <ul style="list-style-type: none"> <li>- <i>What is the role of industry in helping State agencies verify and authenticate import documentation?</i></li> <li>- <i>What could be done to encourage industry to develop internal control compliance programmes?</i></li> </ul>

<sup>3</sup> Paragraphs 3, 6 and 7 of the Sub-working group paper : [Possible measures to prevent and address diversion](#) (available in other languages [here](#)).

Transfer chain stage 1: Before the transfer	3 hours	<p><b>4. Assessing the risk of diversion<sup>4</sup></b></p> <p><i>This discussion will explore the practicalities (including resource requirements and challenges) associated with assessing the risk of diversion of an export and the possible establishment of mitigation measures. The Facilitator will circulate a background paper in advance of the 1<sup>st</sup> series of CSP6 meetings to facilitate discussion, including the following elements:</i></p> <ul style="list-style-type: none"> <li>a. <i>How to undertake consistent and objective transfer risk assessments that take into account the risk of diversion (Articles 7(1) and 11(2));</i></li> <li>b. <i>How to identify certain diversion risk indicators;</i></li> <li>c. <i>How to establish 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));</i></li> <li>d. <i>How to examine the risks arising from the proposed shipment arrangements;</i></li> <li>e. <i>How to assess the reliability of controls in the importing country and the transit country (if applicable); and</i></li> <li>f. <i>How to examine the risk that a conventional arms transfer would increase the risks of diversion of the existing holdings of the end- user.</i></li> <li>g. <i>What are the options for mitigating detected risk(s)?</i></li> </ul> <p><i>It will also examine the role of information and <b>information exchange</b> in conducting a risk assessment and identify the types of information and mechanisms of information exchange that are relevant and necessary.</i></p>
	1 hour	<p><b>5. The role of the private sector in mitigating diversion risk</b></p> <p><i>This discussion will explore the role of the private sector, including arms manufacturers/industry and civil society, in mitigating diversion risk before the physical transfer takes place. It will also examine the role of internal export control compliance programmes.</i></p>

<sup>4</sup> Paragraph 5 of the Sub-working group paper : [Possible measures to prevent and address diversion](#) (available in other languages [here](#)).

2nd CSP6 Preparatory Meeting, (cancelled)		
	3 hours	<i>Meeting cancelled due to the COVID-19 crisis.</i>
CSP7 Preparatory Meeting, (date TBC)		
	<i>tbc</i>	<p><b>6. Discussion on paper outlining elements of a process for assessing the risk of diversion</b>  <i>The Facilitator will circulate a paper in advance of the CSP7 meeting outlining the elements of a process for assessing the risk of diversion, based on the discussion that took place during the 1<sup>st</sup> meeting, for consideration and possible adoption at CSP7.</i></p>
<b>Transfer chain stage 1: Before</b>	<i>tbc</i>	<p><b>7. Assessing the risk of diversion<sup>5</sup> (continued)</b></p> <p><i>This discussion will continue to explore the practicalities (including resource requirements and challenges) associated with assessing the risk of diversion of an export and the possible establishment of mitigation measures, including the following elements:</i></p> <ul style="list-style-type: none"> <li>- <i>How to undertake consistent and objective transfer risk assessments that take into account the risk of diversion (Articles 7(1) and 11(2));</i></li> <li>- <i>How to identify certain diversion risk indicators;</i></li> <li>- <i>How to establish 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));</i></li> <li>- <i>How to examine the risks arising from the proposed shipment arrangements;</i></li> <li>- <i>How to assess the reliability of controls in the importing country and the transit country (if applicable); and</i></li> <li>- <i>How to examine the risk that a conventional arms transfer would increase the risks of diversion of the existing holdings of the end-user.</i></li> <li>- <i>What are the options for mitigating detected risk(s)?</i></li> </ul> <p><i>It will also examine the role of information and <b>information exchange</b> in conducting a risk assessment and identify the types of information and mechanisms of information exchange that are relevant and necessary.</i></p>

<sup>5</sup> Paragraph 5 of the Sub-working group paper : [Possible measures to prevent and address diversion](#) (available in other languages [here](#)).

**Next session of the Sub-working Group on Article 11, (date TBC)**

<p><b>Transfer chain stage 2: During the transfer</b></p>	<p><b>3 hours</b></p> <p><b>1. The role of transit and transhipment States in preventing diversion</b></p> <p><i>This discussion will explore the measures that can and are being taken by transit and transhipment States to mitigate the risk of diversion during a transfer. The Facilitator will circulate a background paper in advance of the 1<sup>st</sup> series of CSP7 meetings to facilitate discussion, including the following elements:</i></p> <ul style="list-style-type: none"> <li>- <i>Issuing delivery notification (through delivery receipts signed by the importations customs service, delivery verification certificate, etc.) (Article 11(3));</i></li> <li>- <i>Conducting routine risk assessment or due diligence checks on conventional arms shipments, in cooperation with local, regional or international law enforcement organizations and other regulatory agencies, prior to approval of transfers; and</i></li> <li>- <i>Monitoring and protecting conventional arms shipments, in cooperation with customs service, law enforcement and other industry parties involved (e.g. freight forwarders/intermediate consignees, transporters etc).</i></li> </ul> <p><i>It will also examine the practical and legal challenges faced by transit and transhipment States in preventing diversion during transit (by sea, air or land – road and rail), as well as the role of cooperation and <b>information exchange</b> among States involved in a transfer during the transfer phase and identify the types of information exchange that are relevant and necessary.</i></p> <ul style="list-style-type: none"> <li>- <i>What mechanisms are used in ensuring cooperation and information exchange to mitigate diversion?</i></li> <li>- <i>Which ministries or agencies are involved in the information exchange process?</i></li> <li>- <i>Are there national legal restrictions that can impact the information exchange process?</i></li> </ul>
<p><b>1 hour</b></p>	<p><b>2. The role of the private sector and civil society in mitigating diversion risk</b></p> <p><i>This discussion will explore the role of the private sector and civil society, in particular transporters (road, rail, air and sea), freight forwarders/intermediate consignees, etc mitigating diversion risk during transfer.</i></p>

## Next session of the Sub-working Group on Article 11, (date TBC)

Transfer chain stage 3: At or after importation / Post-delivery	2 hours	<p><b>1. The role of importing States in preventing diversion</b></p> <p><i>This discussion will explore the measures that can and are being taken by importing States to mitigate the risk of diversion post-delivery, including</i></p> <ul style="list-style-type: none"> <li>- <i>Issuing 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));</i></li> <li>- <i>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)); and</i></li> <li>- <i>Ensuring robust stockpile management procedures (including routine security inspections and audits of the conventional arms stockpiles of all end users). Note: it is anticipated that the topic of post-delivery storage and stockpile management would be discussed as part of a future multi-year work plan that will address Transfer chain 4.</i></li> <li>- <i>Effective legislation for investigating and/or punishing diversion-related offences.</i></li> </ul>
	1 hour	<p><b>2. Post-delivery cooperation</b></p> <p><i>This discussion will explore the possibility of 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. It will examine the political and resource implications of such checks.</i></p> <ul style="list-style-type: none"> <li>- <i>What are some challenges/concerns regarding post-delivery cooperation?</i></li> <li>- <i>What are some of the options for strengthening cooperation between exporters and importers?</i></li> </ul>
	1 hour	<p><b>3. The role of the private sector and civil society in mitigating diversion risk post-delivery</b></p> <p><i>This discussion will explore the role of private sector and civil society in order to prevent diversion at or after importation.</i></p>

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