

# Reporting Authorized or Actual Exports and Imports of Conventional Arms under the ATT<sup>1</sup>

## Questions & Answers

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<sup>1</sup> Annex D to the ATT Working Group on Transparency and Reporting Co-chairs' Draft Report to CSP3  
([ATT/CSP3.WGTR/2017/CHAIR/159/Conf.Rep](https://www.un.org/peacekeeping/att/ATT/CSP3.WGTR/2017/CHAIR/159/Conf.Rep))

Table of contents

I.	Introduction.....	2
II.	Treaty obligation and other relevant ATT provisions.....	3
A.	Article 13 (3) – annual reporting obligation .....	3
B.	Article 2 (1) – scope .....	3
C.	Article 5 (3) – implementation .....	3
D.	Article 12 (3) – content of national records .....	3
III.	Complete list of questions.....	4
IV.	Questions and answers .....	7
A.	Basic requirements of the annual reporting obligation .....	7
B.	Scope of the annual reporting obligation.....	9
i.	“authorized or actual exports and imports” .....	9
ii.	“conventional arms covered under Article 2 (1)” .....	11
C.	Information to be reported .....	15
D.	Form of the report and utilization of reporting templates .....	19
E.	Procedures and formalities of the annual reporting obligation.....	20
F.	Enforcement of the annual reporting obligation .....	23
V.	Annex 1: UNROCA categories a-g.....	24
VI.	Annex 2: Relevant sources concerning definitions and categorization of conventional arms .....	26
VII.	Annex 3: UN descriptions of SALW .....	27
A.	International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons .....	27
B.	United Nations Register of Conventional Arms .....	27

## **I. Introduction**

This document provides guidance in the form of questions and answers to facilitate the preparation of the mandatory annual report, concerning authorized or actual exports and imports of conventional arms, that States Parties to the Arms Trade Treaty are required to submit to the ATT Secretariat in accordance with Article 13 (3) of the Treaty.

This 'FAQ'-type guidance document was proposed by Belgium during the meeting of the Working Group on Transparency and Reporting of 6 April 2017 and was recognized by States Parties as a valuable tool to improve compliance with the mandatory annual reporting obligation of the Treaty. It was consequently identified by the Working Group as a potential deliverable for the Third Conference of States Parties.

The document was initially drafted by Belgium in consultation with interested States Parties, civil society, and the ATT Secretariat.

The questions in this document are predominantly based on input received by the drafters from States Parties themselves, UN Regional Centres for Peace, Disarmament and Development, international assistance providers, and civil society.

The answers draw on several sources, most notably the Treaty itself.

Some guidance is also taken from the "Explanatory notes" included in the reporting template for the annual report, which was endorsed and recommended for use by States Parties during the Second Conference of States Parties (also referred to as ATT reporting template).

By nature this is an open-ended document. Proposals for alterations and additional questions and answers may be made at any time, but should be considered in the Working Group on Transparency and Reporting.

## II. Treaty obligation and other relevant ATT provisions

### A. Article 13 (3) – annual reporting obligation

Each State Party shall submit annually to the Secretariat by 31 May a report for the preceding calendar year concerning authorized or actual exports and imports of conventional arms covered under Article 2 (1). Reports shall be made available, and distributed to States Parties by the Secretariat. The report submitted to the Secretariat may contain the same information submitted by the State Party to relevant United Nations frameworks, including the United Nations Register of Conventional Arms. Reports may exclude commercially sensitive or national security information.

### B. Article 2 (1) – scope

This Treaty shall apply to all conventional arms within the following categories:

- (a) Battle tanks;
- (b) Armoured combat vehicles;
- (c) Large-calibre artillery systems;
- (d) Combat aircraft;
- (e) Attack helicopters;
- (f) Warships;
- (g) Missiles and missile launchers; and
- (h) Small arms and light weapons.

### C. Article 5 (3) – implementation

Each State Party is encouraged to apply the provisions of this Treaty to the broadest range of conventional arms. National definitions of any of the categories covered in Article 2 (1) (a-g) shall not cover less than the descriptions used in the United Nations Register of Conventional Arms at the time of entry into force of this Treaty. For the category covered in Article 2 (1) (h), national definitions shall not cover less than the descriptions used in relevant United Nations instruments at the time of entry into force of this Treaty.

### D. Article 12 (3) – content of national records

Each State Party is encouraged to include in those records: the quantity, value, model/type, authorized international transfers of conventional arms covered under Article 2 (1), conventional arms actually transferred, details of exporting State(s), importing State(s), transit and trans-shipment State(s), and end users, as appropriate.

### III. Complete list of questions

A.	Basic requirements of the annual reporting obligation .....	7
1.	What information should the ATT annual report contain?.....	7
2.	How should the ATT annual report be submitted to the Secretariat?.....	8
3.	When should the ATT annual report be submitted to the Secretariat?.....	8
B.	Scope of the annual reporting obligation.....	9
i.	<i>“authorized or actual exports and imports”</i> .....	9
4.	Article 13 (3) mentions exports and imports. Should States Parties also report on other transfers covered under Article 2 (2)? .....	9
5.	What is the definition of an export / import? .....	9
6.	Must gifts, loans and leases and other non-monetary transactions be reported?.....	9
7.	Must temporary exports and imports be reported? .....	10
8.	Must exports and imports by private persons and companies and/or exports and imports by State actors be reported?.....	10
9.	What are authorized exports and imports? .....	10
10.	What are actual exports and imports?.....	10
11.	Do States Parties need to report both authorized exports/imports and actual exports/imports?.....	11
ii.	<i>“conventional arms covered under Article 2 (1)”</i> .....	11
12.	Article 13 (3) mentions conventional arms covered under Article 2 (1). What should be reported under categories (a-g)? .....	11
13.	Category (h) of Article 2 (1) deals with small arms and light weapons. What should be reported under this category? .....	12
14.	Should small arms and light weapons that are not made or modified to military specifications be reported?.....	12
15.	Should States Parties report on conventional arms other than those covered under Article 2 (1)? .....	13
16.	Article 13 (3) does not refer to ammunition/munitions and parts and components, mentioned in Articles 3 and 4 of the Treaty respectively. Should authorized or actual exports and imports of these items be reported? .....	13
17.	Conventional arms are sometimes exported/imported complete but in disassembled parts and components (known as “kits”). Should authorized or actual exports and imports of these items be reported? .....	13
18.	Should exports and imports of second-hand arms and surplus arms be reported?.....	14
19.	How should items exported by a State other than the State of origin be reported? ...	14
20.	How should the transfers of items to an intermediate location be reported?.....	14
21.	Which State should report the export of a conventional arm which was co-produced by two or more countries?.....	14

C.	Information to be reported .....	15
22.	Which information about their authorized or actual exports and imports do States Parties need to include in their report as a minimum? .....	15
23.	Do States Parties need to break down the information about exports and imports per country?.....	15
24.	Do States Parties need to report both the number of items and the financial value of the authorized or actual exports and imports?.....	15
25.	Do States Parties need to include details on the designation, model or type of the arms? 16	
26.	Do States Parties need to include details on the consignees and end-users of the arms? 16	
27.	Concerning small arms and light weapons, do States Parties need to report data such as calibres and serial numbers?.....	16
28.	Do States Parties need to include the nature of export and imports in their report?..	16
29.	Can States Parties exclude commercially sensitive or national security information from their report? .....	17
30.	Do States Parties need to indicate that commercially sensitive or national security information is excluded from their report? .....	17
31.	Are there criteria to determine whether information is commercially sensitive or concerns national security?.....	17
32.	Do the UNROCA standardized reporting forms and the ATT reporting template request States to provide the same information?.....	17
33.	Do States Parties that have not authorised any exports and/or imports or that have not had any actual exports and/or imports have to report to the ATT Secretariat? .....	18
D.	Form of the report and utilization of reporting templates .....	19
34.	Does the Treaty itself prescribe a standardized reporting form or reporting template? 19	
35.	Is it compulsory to use the reporting template that was endorsed during the Second Conference of States Parties ? .....	19
36.	Can States Parties use their submission to the UNROCA to comply with the annual reporting obligation?.....	19
E.	Procedures and formalities of the annual reporting obligation.....	20
37.	What is the procedure that is followed annually to request States Parties to report to the ATT Secretariat? .....	20
38.	Which authority should submit the report to the ATT Secretariat? .....	20
39.	What happens to the annual reports once they are submitted to the ATT Secretariat? 20	
40.	Does the technical infrastructure of the ATT Secretariat (email address, ATT website) provide a high standard of protection against hacker attacks? .....	20
41.	Will the annual reports of States Parties be made publicly available? .....	21

42.	Does a State Party need the consent of the importing or exporting States before it: a) reports its exports and imports; and b) makes this information publicly available?.....	21
43.	What should a State Party do if, after submitting information for a certain calendar year, it determines that the information was incomplete or contained a technical error? .....	21
44.	If a State Party has a question on the annual reporting obligation and its implementation, how can it contact the ATT Secretariat? .....	22
F.	Enforcement of the annual reporting obligation .....	23
45.	Does the Treaty provide for sanctions or other measures in case of non-compliance with the annual reporting obligation? .....	23
46.	Are there any consequences if incorrect information is submitted? (accidentally or knowingly)? .....	23

## IV. Questions and answers

### A. Basic requirements of the annual reporting obligation

#### 1. What information should the ATT annual report contain?

The Treaty requires States Parties to report “*authorized or actual exports and imports*” (see [questions 9 and following](#)) of “*conventional arms covered under Article 2 (1)*” (see [questions 12 and following](#)). It does not expressly list the information that States Parties need to include in their annual report.

The Treaty does indicate that the annual report may contain the same information submitted to relevant United Nations frameworks, including the United Nations Register of Conventional Arms (hereinafter referred to as UNROCA). The UNROCA standardized reporting forms require States to enter, *as a minimum*:

- 1) the final importer or exporter State of the arms;
- 2) the number of items;
- 3) the State of origin of the arms (if not the exporter State); and
- 4) the intermediate location of the arms (if any).

In the optional “Remarks” column of the UNROCA standardized reporting forms, States *can* include a description of the arms and comments on the exports or imports.

States Parties using their UNROCA report to comply with the Treaty’s annual reporting obligation should make sure that its content complies with this obligation (see [question 36](#)).

The Treaty provides a list of information that States Parties are encouraged to include in their national *records* of authorized or actual exports (and, possibly, of imports and authorized transits and transshipments) It should be clear, however, that this list does NOT apply to the annual reporting obligation; it does indicate the importance of certain basic information that is also included in the UNROCA standardized reporting forms.

As explained in the answer to [question 2](#), the Second Conference of States Parties, recommended that States Parties use the template for reporting authorized or actual exports and imports. This reporting template is based on the UNROCA standardized reporting forms, but differs on certain elements (see [question 32](#)).

The reporting template provides for States Parties to report, *as a minimum*, the following information about their authorized or actual exports and imports:

- 1) whether the State Party in question is reporting authorised or actual exports and imports;
- 2) the number of items and/or the financial value of the exported and imported conventional arms; and
- 3) the final importing or exporting States of the conventional arms.

As in the UNROCA standardized reporting forms, the ATT reporting template provides States Parties with the option to include additional information: in particular, (1) a description of the conventional arms and (2) comments on the exports or imports.

The forms in the reporting template each also have a title page on which States Parties are requested to include general information concerning their report, namely the details of the national point of contact (see [question 38](#)), the date of submission, the content of the report, and whether information



has been omitted from the report because it is ‘commercially sensitive’ or for ‘national security’ reasons ([questions 29 to 31](#)).

For further guidance on which information to enter in the report, see [questions 22 and following](#).

## **2. How should the ATT annual report be submitted to the Secretariat?**

The treaty itself does not instruct States Parties how to submit their reports to the Secretariat.

Currently, the Secretariat is in the process of developing a web-based reporting functionality – i.e. an online platform for the submission of both initial and annual reports. This tool is expected to be fully operational for State Parties for the 2018 annual reporting cycle.

For the 2017 annual reporting cycle, States Parties need to submit their report to the Secretariat by e-mail to [info@thearmstradetreaty.org](mailto:info@thearmstradetreaty.org), or, if a higher degree of confidentiality is required, by hand through their Missions in Geneva (see further [questions 37 and following](#)). This method will also remain available to States Parties after the introduction of the web-based reporting functionality.

To facilitate compliance with the annual reporting obligation, during the Second Conference of States Parties, States Parties endorsed and recommended a reporting template that States Parties can use to prepare and submit their report. This reporting template is available on the ATT website in English, French, and Spanish. It will be integrated into the web-based reporting functionality. For further guidance on the reporting template, see [question 34](#) and other questions throughout this document.

Alternatively, as the Treaty provides that the report may contain the same information submitted by the State Party to the UNROCA, States Parties can submit their UNROCA report to the Secretariat *if* its content complies with the annual reporting obligation of the Treaty. For further guidance on this, see questions [1](#), [32](#) and [36](#), notably as regards small arms and light weapons.

Lastly, States Parties can opt to submit a custom-made national report, or a report on conventional arms exports and imports that they submit to a regional organization. Its content will however need to comply with the annual reporting obligation of the Treaty.

## **3. When should the ATT annual report be submitted to the Secretariat?**

The Treaty provides that each State Party shall submit its report to the Secretariat on an annual basis by 31 May. The report should include information on the authorized or actual exports and imports during the previous calendar year (e.g. the report submitted to the Secretariat by 31 May 2017 will contain information on authorized or actual exports and imports that took place during the period 1 January to 31 December 2016).

For further guidance on the procedure and the formalities of the annual reporting obligation, see [questions 37 and following](#).

## B. Scope of the annual reporting obligation

### i. “authorized or actual exports and imports”

#### 4. Article 13 (3) mentions exports and imports. Should States Parties also report on other transfers covered under Article 2 (2)?

No. The annual reporting obligation only applies to exports and imports. So States Parties do not need to include information about transit, trans-shipment and brokering in their annual report.

#### 5. What is the definition of an export / import?

The treaty does not include a definition of “export” or import”. States Parties that use the ATT reporting template for their annual report are asked to indicate their definition of the term “export” and “import” via a series of checkbox options, which include:

- 1) “physical transfer of items across a national border”;
- 2) “transfer of title” and “transfer of control”; and
- 3) “other”.

The three concrete options reflect the UNROCA practice that *“international arms transfers involve, in addition to the physical movement of equipment into or from national territory, the transfer of title to and control over the equipment”* (which is also included in Protocol II, as amended, of the Convention on Certain Conventional Weapons).

States Parties may naturally apply their general definitions of exports and imports in accordance with their customs legislation. The Glossary of International Customs Terms of the World Customs Organization (WCO), for example, defines exportation as *“the act of taking out or causing to be taken out any goods from the Customs territory”* and importation as *“the act of bringing or causing any goods to be brought into a Customs territory”*.

#### 6. Must gifts, loans and leases and other non-monetary transactions be reported?

If gifts, loans and leases, and other non-monetary transactions are covered by a State Party’s definition of export or import, they should be reported. In particular, transactions such as gifts and financial leases should be considered for reporting, as these transactions normally involve both a physical transfer and a transfer of title or control (see also [question 5](#)).

More generally, the Treaty text could be read to cover some movements without transfer of title and control and even those free of charge. The Treaty explicitly exempts from its application *“the international movement of conventional arms by, or on behalf of, a State Party for its use provided that the conventional arms remain under that State Party’s ownership”*. If such movements did not fall within the intended scope of “exports”, there would have been no need to include an explicit exemption.

Liechtenstein, New Zealand and Switzerland attached an interpretative declaration to their ratifications of the Treaty, which reads as follows:

*“It is [our] understanding [...] that the terms “export”, “import”, “transit”, “transshipment” and “brokering” in Article 2, paragraph 2, include, in the light of the object and purpose of this Treaty and*

*in accordance with their ordinary meaning, monetary or non-monetary transactions, such as gifts, loans and leases, and that therefore these activities fall within the scope of this Treaty.”*

### **7. Must temporary exports and imports be reported?**

Temporary exports and imports imply that items are only exported or imported for a certain amount of time and intended to be subsequently returned to the same owner. The Treaty itself does not exclude such exports and imports from its scope, but States Parties need to make their own determination depending on their definitions of export and import (see [question 5](#)).

### **8. Must exports and imports by private persons and companies and/or exports and imports by State actors be reported?**

The Treaty does not include a general exemption for certain categories of recipients or end-users. States Parties therefore need to report exports and imports regardless of the nature of the exporter or the importer, i.e. whether it is a private actor or a State actor such as the armed forces. This also includes government-to-government transfers.

Article 2 (3) of the Treaty does exempt one specific type of movement by (or on behalf of) a State Party from its definition of transfer, i.e. when conventional arms are moved by (or on behalf of) a State Party for its own use, provided that the conventional arms remain under that State Party's ownership. This concerns movements of conventional arms already owned by the State Party.

Concerning potential commercial sensitivity or national security issues, see [questions 29 to 31](#).

### **9. What are authorized exports and imports?**

Authorized exports and imports imply that (the competent authorities of) the State Party in question in some way permitted the export or import to take place. This generally happens in the form of an export or import licence.

An authorization or licence does not *oblige* the importer or exporter to actually conduct the export or import in question, the conventional arms which are the object of the authorization might subsequently not (all) be physically moved from or into the national territory of the State Party during the same reporting period, and this might even never take place. Likewise, the title to and control over the conventional arms might not be transferred during the same reporting period, or might never be transferred.

It should be noted that as a consequence, if State Party A (the exporting State Party) reports authorized exports and State Party B (the importing State Party) reports actual imports, their respective reports on exports and imports in a given reporting period might not (fully) correspond (see also [question 11](#)).

### **10. What are actual exports and imports?**

Actual exports and imports are those that have effectively taken place. Depending on the definitions of export and import of the State Party in question, this entails that the arms have been actually

physically transferred across the national border and/or the title and control over the arms has been actually transferred.

#### **11. Do States Parties need to report both authorized exports/imports and actual exports/imports?**

The Treaty requires States Parties to report authorized OR actual exports and imports. States Parties can therefore choose to report either authorized exports and imports or actual exports and imports. As indicated in the “Explanatory notes” of the ATT reporting template, they can make this choice for their report as a whole or per category of conventional arms. For reasons of transparency, it is advisable that States Parties clearly indicate in their report which approach they are using. For reasons of consistency and continuity, it is of course desirable that States Parties’ choices in this respect, once made, remain stable over time.

A State Party wishing to report both authorized and actual exports and imports may of course do so. Both sets of information are useful, as the information about authorized exports and imports demonstrates what a State Party has *permitted* to take place, while information about actual exports and imports demonstrates what has *actually* taken place. For States Parties that use the ATT reporting template for their annual report, this would entail submitting two tables, one for authorised exports and imports and another for actual exports and imports.

In certain cases, a State Party might have to report *actual* exports and imports because it does not have information about authorized exports and imports of all conventional arms or of certain categories of conventional arms. Concerning imports, this could be the case if the State Party in question does not require an import authorization for (certain categories of) conventional arms. Concerning both exports and imports, this might also be the case if the State Party in question applies a system of open or general licences, where at the time of authorization the number of items and the financial value are undetermined.

#### *ii. “conventional arms covered under Article 2 (1)”*

#### **12. Article 13 (3) mentions conventional arms covered under Article 2 (1). What should be reported under categories (a-g)?**

The conventional arms listed in categories (a-g) are the following:

- (a) Battle tanks;
- (b) Armoured combat vehicles;
- (c) Large-calibre artillery systems;
- (d) Combat aircraft;
- (e) Attack helicopters;
- (f) Warships;
- (g) Missiles and missile launchers.

The treaty does not provide definitions for these categories. It does require in Article 5 (3), however, that national definitions shall not cover less than the descriptions used in the UNROCA at the time of entry into force of the Treaty (i.e. 24 December 2014). The descriptions used in the UNODA Standardized Reporting Forms for the UNROCA are included in [Annex 1 of this document](#).

Therefore, States Parties have two choices. First, a State Party can use the UNROCA category descriptions. Second, a State Party can use national definitions that at least cover all elements contained in the UNROCA category descriptions. This means that States Parties can use broader national definitions, but not narrower definitions.

For States Parties that use the ATT reporting template for their annual report, the template contains an Annex 2 that allows States Parties to include more specific information about specific (diverging or more detailed) national definitions of these categories (a-g). These specific national definitions included in Annex 2 should reflect those included in the State Party's national control list for these categories (a-g).

Many relevant sources are available for use when formulating such national definitions, but also to establish whether certain items fall within one of these categories and within which exact category an item would need to be reported. A non-exhaustive list of such sources is included in [Annex 2 of this document](#).

**13. Category (h) of Article 2 (1) deals with small arms and light weapons. What should be reported under this category?**

The treaty does not provide a definition of small arms and light weapons (also referred to as SALW). It does require in Article 5 (3) that national definitions of small arms and light weapons should not cover less than the descriptions used in relevant United Nations instruments at the time of entry into force of the Treaty (i.e. 24 December 2014). The relevant instruments are not listed in the Treaty. Relevant UN instruments could be:

- 1) the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (hereinafter referred to as International Tracing Instrument); and
- 2) UNROCA's 2014 reporting template for SALW as additional information.

The descriptions of small arms and light weapons in these instruments are included in [Annex 3 of this document](#).

For States Parties that use the ATT reporting template for their annual report, the template contains the subcategories of small arms and light weapons that are included in the UNROCA standardized reporting form for the reporting on transfers of small arms and light weapons. The ATT reporting template also provides the option for States Parties to report on small arms and light weapons as aggregate categories. The template makes clear that other UN descriptions can be used.

**14. Should small arms and light weapons that are not made or modified to military specifications be reported?**

Nor Article 2 (1) (h) itself, nor the relevant UN instruments mentioned in the answer to question 13, the International Tracing Instrument in particular, explicitly differentiate between conventional arms that are made or modified to military specifications and arms that are made or modified to civilian specification in its definition of small arms and light weapons. Therefore States Parties must make their own determination.

**15. Should States Parties report on conventional arms other than those covered under Article 2 (1)?**

The annual reporting *obligation* in Article 13 (3) clearly applies only to conventional arms covered under Article 2 (1).

However, in Article 5 (3) of the Treaty, States Parties are *encouraged* to apply the provisions of the Treaty to the broadest range of conventional arms. This also applies to the provision on annual reporting. States Parties are thus *encouraged* to include in their annual report information about authorized or actual exports and imports of conventional arms other than those covered under Article 2 (1). In that sense, States Parties could consider including information concerning *all conventional arms in their national control list*, but are not required to do so.

For States Parties that use the ATT reporting template for their annual report, the template contains a section on “Voluntary National Categories” that allows States Parties to report information about authorized or actual exports and imports of conventional arms other than those covered under Article 2 (1).

**16. Article 13 (3) does not refer to ammunition/munitions and parts and components, mentioned in Articles 3 and 4 of the Treaty respectively. Should authorized or actual exports and imports of these items be reported?**

As explained in the answer to [question 15](#), the reporting *obligation* in Article 13 (3) only applies to conventional arms covered under Article 2 (1), but States Parties are *encouraged* to include in their annual report information about authorized or actual exports and imports of other conventional arms. In that sense, States Parties could also consider including information concerning ammunition/munitions and parts and components, but are not required to do so.

In this respect, it should also be clear that ammunition/munitions and parts and components are not included in the category of small arms and light weapons.

**17. Conventional arms are sometimes exported/imported complete but in disassembled parts and components (known as “kits”). Should authorized or actual exports and imports of these items be reported?**

As explained in the answer to [question 15](#), the Treaty provides no *obligation* and only an *encouragement* to include information concerning parts and components in the annual report. States Parties must therefore make their own determination.

Bearing in mind the object and purpose of the Treaty, States Parties could nonetheless consider reporting exports and imports of *complete* conventional arms covered under Article 2 (1) that are exported/imported in disassembled parts and components.

States Parties that use the ATT reporting template for their annual report can indicate in the column “Comments on the transfer” (under the heading “Remarks”) that they are reporting complete, but disassembled conventional arms. Of course, this is voluntary information.

**18. Should exports and imports of second-hand arms and surplus arms be reported?**

Yes. As the Treaty does not distinguish between new, second-hand or surplus arms, States Parties should report authorized or actual exports and imports regardless of whether the arms in question are new, second-hand, or surplus.

**19. How should items exported by a State other than the State of origin be reported?**

States Parties should report such exports as normal exports, but clarify that the arms originate from another State. Both the UNROCA standardized reporting form and the ATT reporting template endorsed and recommended for use during the Second Conference of States Parties contain a dedicated column to report this information.

**20. How should the transfers of items to an intermediate location be reported?**

If, for example, a State Party exports air-to-air missiles to State A for installation on combat aircraft to be exported to State B, the State Party in question should report the export of missiles to State B and clarify in its report that State A is the intermediate location. Both the UNROCA standardized reporting form and the ATT reporting template contain a dedicated column to report this information.

**21. Which State should report the export of a conventional arm which was co-produced by two or more countries?**

The export should be reported by the final exporting State of the complete conventional arm. States Parties that use ATT the reporting template for their annual report can indicate in the column "Comments on the transfer" (under the heading "Remarks") that they are reporting co-produced conventional arms. Of course, this is voluntary information.

## C. Information to be reported

### **22. Which information about their authorized or actual exports and imports do States Parties need to include in their report *as a minimum*?**

As explained in the answer to [question 1](#), the Treaty does not expressly list the information that States Parties need to include in their annual report, but some guidance is given by the Treaty's reference to "information submitted by the State Party to relevant United Nations frameworks, including the United Nations Register of Conventional Arms".

In that respect, the ATT reporting template takes as its starting point the information contained in the UNROCA standardized reporting forms, and includes as core information the following data:

- 1) the number of items or the financial value of the exported and imported conventional arms<sup>2</sup>; and
- 2) the final importing or exporting States of the conventional arms.

This represents a common understanding – not a Treaty obligation – of what information States Parties should include *as a minimum* when they report their authorized or actual exports and imports (or both, see [question 11](#)).

States Parties should consider providing this information broken down by category of conventional arms on which they are reporting, as well as by country of origin or destination (see [question 23](#)).

It should be noted that the option of reporting financial value is not included in the UNROCA standardized reporting forms (see questions [24](#) and [32](#)). It was introduced in the ATT reporting template in light of the more binding nature of the ATT's reporting requirement, in order to provide States Parties with an alternative means of protecting sensitive information, as opposed to simply withholding it.

### **23. Do States Parties need to break down the information about exports and imports per country?**

The Treaty does not specify this, but in line with the UNROCA practice and taking into account the Treaty's purpose in Article 1 of promoting transparency, States Parties are strongly encouraged to break down the relevant data per country to or from which exports and imports were authorized or effected.

### **24. Do States Parties need to report both the number of items and the financial value of the authorized or actual exports and imports?**

As the Treaty does not specify this, it is for States Parties to decide whether to include the number of items or the financial value.

The ATT reporting template, gives States Parties the option to provide information the volume of exports and imports expressed either as the number of items or as a financial value. This differs from the approach in the UNROCA, which only requests UN Member States to provide information on the number of items of conventional arms that were exported and imported (see [question 32](#)). The option

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<sup>2</sup> If a State Party opts to report the financial value of the authorized or actual exports and imports, it should indicate which currency is used.



of reporting financial value was introduced in order to provide States Parties with an alternative means of protecting sensitive information, as opposed to simply withholding it.

As indicated in the “Explanatory notes” of the ATT reporting template, States Parties can choose to provide information on either the number of items or the financial value for every category in their report as a whole or use number of items for some categories and financial value for others. For reasons of consistency and continuity, it is desirable that States Parties’ choices in this respect, once made, remain stable over time.

A State Party may report on both the number of items and the financial value if it wishes to do so.

**25. Do States Parties need to include details on the designation, model or type of the arms?**

The Treaty does not require States Parties to include details on the designation, model or type of the arms.

In line with the UNROCA practice, the ATT reporting template contains a column titled “Description of item”, under the heading “Remarks”. States Parties may use this column to describe the conventional arms that are exported or imported by entering the designation, type, model or any other information considered relevant. This information is voluntary.

**26. Do States Parties need to include details on the consignees and end-users of the arms?**

The Treaty does not require States Parties to include details on the consignees and end-users of the arms.

In line with UNROCA practice, the ATT reporting template contains a column titled “Comments on the transfer”, under the heading “Remarks”. States Parties may use this column to explain or clarify the nature of the consignee(s) and end-user(s) of the arms. This information is voluntary.

**27. Concerning small arms and light weapons, do States Parties need to report data such as calibres and serial numbers?**

The Treaty does not require States Parties to include data on individual conventional arms in their report, including small arms and light weapons.

In some cases, it could be relevant to exchange such information among the importing, transit, trans-shipment and exporting States Parties involved in a certain transfer, particularly to mitigate the risk of diversion. However, this goes beyond the annual reporting obligation contained in Article 13 (3) of the Treaty.

**28. Do States Parties need to include the nature of export and imports in their report?**

The Treaty does not require States Parties to include details on the nature of exports and imports.

In line with UNROCA practice, the ATT reporting template contains a column titled “Comments on the transfer”, under the heading “Remarks”. States Parties may use this column to explain or clarify the nature of the transfer - for instance, if it is temporary (e.g. for exhibitions or repairs), or if it is industrial in nature (e.g. intended for integration into a larger system). This information is voluntary .

**29. Can States Parties exclude commercially sensitive or national security information from their report?**

Yes, Article 13 (3) expressly allows States Parties to exclude commercially sensitive or national security information from their report. However, this exception should be read in line with the Treaty purpose in Article 1 of promoting transparency. In this light, blanket omissions would not seem appropriate.

For States Parties that use the ATT reporting template for their annual report, the choice is available between providing the number of items or financial value of the exported/imported items. This is in order to alleviate concerns regarding commercial sensitivities and national security.

**30. Do States Parties need to indicate that commercially sensitive or national security information is excluded from their report?**

The Treaty does not provide guidance regarding the omission of information on the grounds that it is commercially sensitive or has national security implications. However, States Parties that use the ATT reporting template for their annual report are asked to indicate voluntarily whether any commercially sensitive and/or national security information has been withheld.

This disclosure is useful to avoid unnecessary questions regarding discrepancies between national reports.

**31. Are there criteria to determine whether information is commercially sensitive or concerns national security?**

No, The Treaty does not provide any criteria. It is at the discretion of States Parties to determine whether certain information is commercially sensitive or may affect national security. However, in exercising their discretion, States Parties should take into account the Treaty's purpose in Article 1 of promoting transparency. States Parties should therefore assess on a case-by-case basis whether or not an omission is in the public interest.

**32. Do the UNROCA standardized reporting forms and the ATT reporting template request States to provide the same information?**

No. While the ATT reporting template is based on the UNROCA standardized reporting forms, it differs on certain elements:

- 1) in accordance with the Treaty, the ATT reporting template allows States Parties to report either authorized or actual exports and imports. The UNROCA requests States to report on actual exports and imports only (see [questions 9 and following](#));
- 2) in accordance with the Treaty, the ATT reporting template includes small arms and light weapons as a mandatory category. At the time of entry into force of the ATT, the UNROCA only invited States to provide information about exports and imports of small arms and light weapons in their report as part of additional background information, on the basis of a separate reporting form (see also [question 36](#));
- 3) unlike the UNROCA, and in accordance with the Treaty, the ATT reporting template contains a section on "Voluntary National Categories". This is to permit States Parties to include

information about authorized or actual exports and imports of conventional arms other than those covered under Article 2 (1), as encouraged under Article 5 (3) of the Treaty (see [questions 15 and 16](#)).

- 4) the ATT reporting template allows States Parties to choose to report the volume of exports and imports as either the number of items or as a the financial value. Under the UNROCA, States are requested to report the number of items (see [question 24](#)).

The ATT reporting template also includes a number of general questions that are not included in the UNROCA standardized reporting forms, i.e.:

- 1) the voluntary question on whether commercially sensitive or national security information is omitted from the report (see [questions 29 to 31](#)); and
- 2) the mandatory question on whether the export/import reports should be restricted to States Parties or can also be made publicly available (see [question 41](#)).

**33. Do States Parties that have not authorised any exports and/or imports or that have not had any actual exports and/or imports have to report to the ATT Secretariat?**

Yes. States Parties that do not have any authorized or actual exports and/or imports to report should submit a “nil report” to the ATT Secretariat, clearly stating that no exports and/or imports have taken place in any of the categories during the reporting period. Nil reporting is important, because it enables States Parties to demonstrate their compliance with the Treaty’s annual reporting obligation even if they have no transfers to report in a given year.

For States Parties that use the ATT reporting template for their annual report, the template contains forms for nil reports for both exports and imports (as does the UNROCA).

If States Parties do not have any exports and/or imports to report in only *certain categories* of conventional arms, they should indicate this by entering the word “nil” in the appropriate columns of their report.

#### D. Form of the report and utilization of reporting templates

##### **34. Does the Treaty itself prescribe a standardized reporting form or reporting template?**

The Treaty itself does not prescribe a standardized reporting form or reporting template. However, during the Second Conference of States Parties, States Parties endorsed and recommended a reporting template that States Parties can use to prepare and submit their annual report. This reporting template is available on the ATT website in English, French, and Spanish.

The ATT reporting template contains the following four reporting forms:

- 1) annual report on exports of conventional arms;
- 2) annual report on imports of conventional arms;
- 3) nil report on exports of conventional arms; and
- 4) nil report on imports of conventional arms.

It also includes a title page, explanatory notes, and annexes with the 2014 UNROCA descriptions of seven categories of conventional arms, as well as a table that allows States Parties to include more information about specific (diverging or more detailed) national definitions of these categories.

Further information about the reporting template is included in answers to a number of questions throughout this document.

##### **35. Is it compulsory to use the reporting template that was endorsed during the Second Conference of States Parties ?**

It is not compulsory to use the ATT reporting template, but its use was recommended by the Second Conference of States Parties.

##### **36. Can States Parties use their submission to the UNROCA to comply with the annual reporting obligation?**

States Parties can use their submission to the UNROCA to comply with the annual reporting obligation, as the Treaty itself provides that the ATT annual report may contain the same information submitted by the State Party to the UNROCA.

States Parties using their UNROCA report should make sure, however, that its content complies with the annual reporting obligation of the Treaty. This concerns in particular the reporting on exports and imports of small arms and light weapons, as the Treaty places a legal obligation on States Parties to report on these. Under the 2014 UNROCA, States were only invited to include additional voluntary information about exports and imports of small arms and light weapons in their report (see also [question 32](#)).

## E. Procedures and formalities of the annual reporting obligation

### **37. What is the procedure that is followed annually to request States Parties to report to the ATT Secretariat?**

Each year, the ATT Secretariat issues a letter to all States Parties approximately two months before the deadline for the submission of annual reports (31 May), providing an initial reminder that annual reports are due to be submitted to the Secretariat on or before 31 May. One month before the annual reports are due, the ATT Secretariat issues a letter providing a final reminder that annual reports are due on or before 31 May. Both the initial reminder letter and the final reminder letter – which are sent via email to all States Parties – attach the reporting template endorsed by the Second Conference of States Parties and provide links to the online versions of the reporting template, to enable States Parties to access the reporting template in English, French or Spanish.

Copies of the initial reminder letter and final reminder letter, as well as the ATT reporting template, can also be obtained directly from the ATT Secretariat (see [question 44](#) for contact information).

### **38. Which authority should submit the report to the ATT Secretariat?**

States Parties should designate competent national authorities responsible for compliance with Treaty obligations, and notify the Secretariat of the details in accordance with Article 5 (5) of the Treaty. This could include a specially designated authority directly responsible for compliance with the annual reporting obligation.

States Parties that use the ATT reporting template for their annual report are requested to enter the details of their responsible national point of contact on the title page.

### **39. What happens to the annual reports once they are submitted to the ATT Secretariat?**

The ATT Secretariat takes the following steps with respect to each annual report submitted by a State Party:

1. The Secretariat acknowledges receipt of the annual report by sending an email to the person(s) that submitted the report, and confirms the instructions provided by the State Party as to whether it wishes its annual report to be made available on the public area *and* the restricted area of the website (available to States Parties only), or on the restricted area of the website only (see [question 41](#));
2. The Secretariat keeps a copy of the Annual Report in printed form as well as in electronic form on a secure database; and
3. The Secretariat then uploads the Annual Report onto the ATT website on the public and/or restricted area of the website, depending on the submitting State's instructions.

### **40. Does the technical infrastructure of the ATT Secretariat (email address, ATT website) provide a high standard of protection against hacker attacks?**

The answer to this question will still be provided by the ATT Secretariat.

**41. Will the annual reports of States Parties be made publicly available?**

The Treaty provides that “reports shall be made available, and distributed to States Parties by the Secretariat”.

States Parties must decide on the degree of availability of their annual reports, and whether this entails making them available to the public, as most States Parties have done. In making this choice, States Parties should take into account the Treaty’s purpose in Article 1 of promoting transparency and carefully consider the balance between legitimate concerns regarding public availability and the public interest of transparency. States Parties should also consider that the Treaty already allows States Parties to exclude commercially sensitive or national security information from their ATT annual report (see [questions 29 to 31](#)).

In practice, upon receipt of the report, the ATT Secretariat will publish the report on the public part of the ATT website, unless the State Party indicates explicitly that the report should only be available to States Parties. In the latter case, the report will be published on the restricted part of the website. Making the report available to other States Parties is in itself a clear treaty obligation.

For States Parties that use the ATT reporting template for their ATT annual report, every form of the template contains a tick-box that allows States Parties to indicate that their report is available only to other States Parties. This is included in the forms on exports and imports separately. This would permit a State Party to decide, for example, to allow public availability of its report on exports, but not its report on imports, or *vice versa*.

**42. Does a State Party need the consent of the importing or exporting States before it: a) reports its exports and imports; and b) makes this information publicly available?**

No, the Treaty *obliges* States Parties to report their authorized or actual exports and imports, and does not make this conditional on the consent of the importing and exporting States.

Concerning transparency, reporting States Parties also do not have to seek consent of the importing and exporting States. They should make their own determination whether to make their reports publicly available (see [question 41](#)).

Concerning potential commercial sensitivity or national security issues, see [questions 29 to 31](#).

**43. What should a State Party do if, after submitting information for a certain calendar year, it determines that the information was incomplete or contained a technical error?**

If a State Party determines that an annual report that it has submitted contains incomplete or incorrect information, it should contact the Secretariat by email. The State Party should indicate that the report previously submitted is no longer valid, and attach a revised, updated report. The State Party should instruct the Secretariat to upload the revised report on the ATT website, and retain the revised report in its records to replace the previously submitted report (see [question 44](#)). There is no cut-off date for such corrections, although they should be submitted as early as possible to ensure that information made available to the public and/or States Parties is as accurate and up-to-date as possible.

**44. If a State Party has a question on the annual reporting obligation and its implementation, how can it contact the ATT Secretariat?**

A State Party can contact the ATT Secretariat with questions regarding the annual reporting obligation, or any ATT-related matter, by sending an email to: [info@thearmstradetreaty.org](mailto:info@thearmstradetreaty.org).

## F. Enforcement of the annual reporting obligation

### **45. Does the Treaty provide for sanctions or other measures in case of non-compliance with the annual reporting obligation?**

The Treaty does not provide for any specific sanctions or other measures in a case of non-compliance with the annual reporting obligation.

The Conference of States Parties is a forum to discuss compliance with the annual reporting obligation in general, as the Conference has a mandate to review the implementation of the Treaty, to consider and adopt recommendations on implementation and operation of the Treaty, and to perform any other function consistent with the Treaty which is conferred on it by States Parties.

In addition, it is in principle possible for individual States Parties to make use of the Treaty's article on dispute settlement (Article 19), which provides that States Parties shall consult and, by mutual consent, cooperate to pursue settlement of any dispute that may arise between them on the interpretation or application of the Treaty. It is, however, to be hoped that such an option represents a last resort only.

Ultimately, the Treaty relies on national implementation of its obligations.

### **46. Are there any consequences if incorrect information is submitted? (accidentally or knowingly)?**

If incorrect information was submitted accidentally, a State Party is encouraged to follow the procedure described in the answer to [question 43](#).

If incorrect information was submitted knowingly, see the answer to [question 45](#).



**V. Annex 1: UNROCA categories a-g**

**December 2014 UNODA Standardized Reporting Forms for the UNROCA<sup>3</sup>**

**I. Battle tanks** (*category a*) in Article 2 (1) of the Treaty)

Tracked or wheeled self-propelled armoured fighting vehicles with high cross-country mobility and a high-level of self-protection, weighing at least 16.5 metric tons unladen weight, with a high muzzle velocity direct fire main gun of at least 75 millimetres calibre.

**II. Armoured combat vehicles** (*category b*) in Article 2 (1) of the Treaty)

Tracked, semi-tracked or wheeled self-propelled vehicles, with armoured protection and cross-country capability, either: (a) designed and equipped to transport a squad of four or more infantrymen, or (b) armed with an integral or organic weapon of at least 12.5 millimetres calibre or a missile launcher.

**III. Large-calibre artillery systems** (*category c*) in Article 2 (1) of the Treaty)

Guns, howitzers, artillery pieces, combining the characteristics of a gun or a howitzer, mortars or multiple-launch rocket systems, capable of engaging surface targets by delivering primarily indirect fire, with a calibre of 75 millimetres and above.

**IV. Combat aircraft** (*category d*) in Article 2 (1) of the Treaty)<sup>4</sup>

- a) Manned fixed-wing or variable-geometry wing aircraft, designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction, including versions of these aircraft which perform specialized electronic warfare, suppression of air defence or reconnaissance missions;
- b) Unmanned fixed-wing or variable-geometry wing aircraft, designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction.

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<sup>3</sup> These descriptions can be consulted in the report of the 2013 Group of Governmental Experts on the continuing operation and further development of the UNROCA (A/68/140), available at <http://undocs.org/A/68/140>. The current UNROCA descriptions of categories (a-g) can be consulted at <https://www.unroca.org/categories>.

<sup>4</sup> The ATT reporting template reflects the December 2014 UNROCA standardized reporting forms. There was at that time a lack of clarity as to the question of separate reporting of the two types of unmanned aerial vehicles (sub-categories IV.b) and V.b) in the ATT reporting template). This was not resolved until the 2016 Group of Governmental Experts reviewed the operation of the UNROCA. Even then, only the category unmanned fixed wing or variable-geometry wing aircraft was agreed as suitable for separate reporting. States Parties must therefore make their own determination whether to report the two types of unmanned aerial vehicles included in the template separately, or together with their manned equivalents.

The term “combat aircraft” does not include primary trainer aircraft, unless designed, equipped or modified as described above.

**V. Attack helicopters** (*category e*) in Article 2 (1) of the Treaty)

- a) Manned rotary-wing aircraft, designed, equipped or modified to engage targets by employing guided or unguided anti-armour, air-to-surface, air-to-subsurface, or air-to-air weapons and equipped with an integrated fire control and aiming system for these weapons, including versions of these aircraft which perform specialized reconnaissance or electronic warfare missions;
- b) Unmanned rotary-wing aircraft, designed, equipped or modified to engage targets by employing guided or unguided anti-armour, air-to-surface, air-to-subsurface, or air-to-air weapons and equipped with an integrated fire control and aiming system for these weapons.

**VI. Warships** (*category f*) in Article 2 (1) of the Treaty)

Vessels or submarines armed and equipped for military use with a standard displacement of 500 metric tons or above, and those with a standard displacement of less than 500 metric tons, equipped for launching missiles with a range of at least 25 kilometres or torpedoes with similar range.

**VII. Missiles and missile launchers**<sup>5</sup> (*category g*) in Article 2 (1) of the Treaty)

- a) Guided or unguided rockets, ballistic or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 25 kilometres, and means designed or modified specifically for launching such missiles or rockets, if not covered by categories I through VI. For the purpose of the Register, this sub-category includes remotely piloted vehicles with the characteristics for missiles as defined above but does not include ground-to-air missiles.
- b) Man-Portable Air-Defence Systems (MANPADS)<sup>6</sup>.

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<sup>5</sup> Multiple-launch rocket systems are covered by the definition of category III.

<sup>6</sup> MANPADS should be reported if the MANPAD system is supplied as a complete unit, i.e. the missile and launcher/Grip Stock form an integral unit. In addition, individual launching mechanisms or grip-stocks should also be reported. Individual missiles, not supplied with a launching mechanism or grip stock need not be reported.

## **VI. Annex 2: Relevant sources concerning definitions and categorization of conventional arms**

The following non-exhaustive list of sources concerning definitions and categorization of conventional arms is taken from module 4 of the ATT-BAP Annual Report Guidance Booklet – “Conventional Arms Identification and Categorization”:

- [UNROCA and reports of the UN Groups of Governmental Experts \(GGE\) on the Continuing Operation of the UNROCA and its Further Development](#)
- [Conventional Forces in Europe Treaty \(CFE Treaty\)](#)
- [The Wassenaar Arrangement’s Munitions List](#)
- [Wassenaar Arrangement specific information exchange on arms](#)
- [Common Military List of the European Union](#)
- [South Eastern and Eastern Europe Clearing House for the Control of Small Arms and Light Weapons \(SEESAC\) Weapons Categorization Tool](#)

The module also refers to the comprehensive discussion of definitions and categorization of conventional arms in *The Arms Trade Treaty: A Commentary*, authored by Stuart Casey-Maslen, Andrew Clapham, Gilles Giacca, and Sarah Parker.

## VII. Annex 3: UN descriptions of SALW

### A. International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons

For the purposes of this instrument, “small arms and light weapons” will mean any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas. Antique small arms and light weapons and their replicas will be defined in accordance with domestic law. In no case will antique small arms and light weapons include those manufactured after 1899:

(a) “Small arms” are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns;

(b) “Light weapons” are, broadly speaking, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, inter alia, heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a calibre of less than 100 millimetres.

### B. United Nations Register of Conventional Arms

The UNROCA does not contain definitions of small arms and light weapons, but the following categories of small arms and light weapons are provided in the standardized reporting forms:<sup>7</sup>

Small arms:

- 1) revolvers and self-loading pistols;
- 2) rifles and carbines;
- 3) sub-machine guns;
- 4) assault rifles;
- 5) light machine guns;
- 6) other.

Light weapons:

- 1) heavy machine guns;
- 2) hand-held under-barrel and mounted grenade launchers;
- 3) portable anti-tank guns;
- 4) recoilless rifles;
- 5) portable launchers of anti-tank missile and rocket systems;
- 6) mortars of calibres less than 75mm;

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<sup>7</sup> These categories can be consulted in the report of the 2016 Group of Governmental Experts on the continuing operation and further development of the UNROCA (A/71/259), available at <https://s3.amazonaws.com/unoda-web/wp-content/uploads/2016/10/A-71-259-GGE-Register.pdf> and at <https://www.unroca.org/about>.

7) other.