

Working Group on Effective Treaty Implementation on Article 11 - Diversion

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The role of transit and transshipment States in preventing diversion

Control Arms welcomes this opportunity to address how transit and transshipment states can prevent diversion and would like to thank you, Madam Facilitator, for preparing the “Background Paper” for this Working Group, which provides a thoughtful and useful starting point for this important discussion. We really appreciate the participation in today’s discussion by states from a range of regions and learning of their different experiences in working to prevent diversion. Following up on a point made by Switzerland on the risk of diversion through the airspace, we wish to underline that diversion is not only a risk “en route in the territory of States where the goods are transiting or trans-shipped” as described in the Background paper, but also can occur in international waters and airspace.

We appreciate the comment of Cote d’Ivoire that “perfection” in preventing diversion is difficult to achieve, but there are fundamental elements that all states need to implement.

As indicated in the background paper, efforts to address legal and practical challenges to preventing diversion of arms in transit begin with states adopting and maintaining a transparent legal and regulatory framework governing this area. This should include provisions which give the relevant state authorities the power to interdict, inspect, seize and dispose of/destroy diverted arms shipments if necessary.

However, the effectiveness of national measures to prevent diversion in transit will be limited if states do not have timely access to accurate information relating to arms shipments transiting, or being transhipped through, their jurisdiction. Exporting states should require their exporters to provide them with information on all the parties to an arms transfer and the intended transportation route as soon as this is known, ideally at the licensing stage. This information should then be shared promptly with transit and transshipment and importing states. Subsequently, should any material changes occur, the details should be speedily transmitted to the affected states.

Control Arms also recognises that the investigation, interdiction and seizure of shipments, especially those transiting busy trade routes, can be challenging. While Article 9 of the ATT does not oblige states parties to search every shipment passing through their jurisdiction, they must be in a position to do so and to take action in the event that a consignment is in breach of ATT Article 6. States parties must also consider how they will ensure that the seized weapons are securely impounded and can be safely disposed of, if required. For some states these

requirements may well pose capacity and logistical challenges; accordingly it is vital that they seek assistance and that states in a position to provide help make this known.

The focus on all actors involved in the transfer chain is much welcomed. All actors have a role to play in preventing diversion; states and the private sector must work closely together and routinely share information concerning arms transfers. Ongoing awareness-raising is needed on identifying the risks of diversion and measures to address the problem, should it arise. This should include outreach to the private sector including, for example, transporters and freight forwarders, so that they can be alert to diversion risks and ensure that any suspicious circumstances are reported promptly to state authorities.

We strongly support the calls by Ghana and Switzerland for the sharing of national focal points.

Control Arms further recommends that States Parties explore the possibility of routine and timely sharing of information on transport providers and routes among exporting, transit and importing states for arms shipments, potentially with a role for the ATT Secretariat as the repository and clearing-house for that information. Similar to Belgium and Switzerland, we see clear value in the proposal that Diversion Information Exchange Forum (DIEF) exchanges could include diversion experiences in the transit phase. However, it must be recognised that the nature of the DIEF – meeting in person a maximum of twice a year, limiting access to a small number of stakeholders, and dealing only with cases of particular concern – serves a very different purpose to that of a broader information-sharing mechanism.

We look forward to continuing discussions on this important topic and to the sharing of lessons learned and good practices in preventing the diversion of arms in transit.