

SOUTH AFRICA

EXCHANGE ON NATIONAL IMPLEMENTATION PRACTICES

Mr Facilitator,

My delegation wishes to congratulate the Chair of the Working Group on Effective Treaty Implementation on his assumption of the chairmanship of the WGETI. We also appreciate the ATT Secretariat's willingness to assume the task of facilitating our work in the Sub-working Group on Exchange of National Implementation Practices.

The issue of the establishment and/or implementation of a national control system and inter-agency cooperation is at the heart of our overall discussions.

South Africa is in broad support of the draft Multi-Year Work Plan for this Sub-working group on National Implementation Practices.

On the topics provided on arms transfers, including imports, in general, South Africa's legislation and its related regulations fall under the National Conventional Arms Control Act of 2002. In terms of the Act, a National Conventional Arms Control Committee (NCACC) was established, which is an inter-Ministerial Committee that meets on a regular basis to consider all conventional arms transfers applications.

In terms of prohibitions, the Act also stipulates that no permit or licence may be issued to a person unless authorised by and registered with the secretariat of the NCACC. This issue is covered under the chapter dealing with control and inspection.

The Act's regulations cover a differentiation amongst the categories of conventional arms, broadly between those items that are lethal and those that are of a support nature and have no inherent capability to be lethal. Applications for both of these categories of arms are subject to the same process of having to be considered by the NCACC.

Decisions of the NCACC on transfer applications are guided by the section of the Act dealing with "Guiding principles and criteria". This covers the issue of risk assessment under the implementation of Articles 6 and 7 of the ATT.

Violations of the Act are covered under the relevant section that deals with "Offences and penalties", and those convicted of contravening the Act are subject to a fine, or imprisonment of up to 25 years, or both.

Given our experience on this issue, South Africa views the establishment of a national inter-agency cooperation structure as being imperative, since there are inherent risks in placing the responsibility for arms transfer decisions in the hands of a single agency or Government Ministry, without the necessary checks and balances that can be provided by an objective consultative mechanism.

My delegation has often heard arguments that the responsibility for transfer controls rests with the exporting State. South Africa wishes to reiterate that Article 8 on Import is, however, clear that transfer measures are as much a responsibility of importing, as well as exporting States.

South Africa supports the implementation of Article 15 (International Cooperation) and Article 16 (International Assistance) as a cross-cutting issue.

On the issue of national control lists, other than the broad delineation just provided, South Africa's aforementioned Act does not list specific categories of arms, but it does adhere to those instruments that have reporting provisions, in accordance with their respective reporting categories. As a result, South Africa is an active participant in and regularly provides reports to the Arms Trade Treaty, the UN Register of Conventional Arms and the Wassenaar Arrangement.

The export of firearms and ammunition are covered under the Firearms Control Act of 2000.

The rendering of brokering services is specifically included under the broad definition of "trade" in the National Conventional Arms Control Act, which requires the regulation of any activity relating to the manufacturing, marketing, contracting, exportation, re-exportation, importation or conveyance of conventional arms. The Act covers all transfer activities and its violation, including illegal brokering, are covered under the provisions dealing with offenses and penalties.

South Africa adheres to the record-keeping provisions of the ATT and after ten years, our authorities are able to retrieve records from the archives.

In conclusion, on post-delivery measures, the Act stipulates that an importer needs to supply the South African authorities with a Delivery Verification Certificate as proof of importation.

I thank you.