

Working Group on Transparency & Reporting

Co-chairs' Food-for-thought paper

A more structured means of exchanging information on treaty-related topics ?

The Arms Trade Treaty contains a considerable number of sometimes overlapping references to the provision of information as a means of furthering its object and purpose. This paper examines how such exchanges are foreseen in the Treaty and poses the question whether a more structured approach could be desirable in some areas in order to encourage information sharing.

In the Annex to this paper, references to information exchange in the Treaty text are presented by type of exchange and by subject matter. The combination of these two approaches gives us the following table :

Type of information	All States Parties	All or Bilateral	Bilateral
General implementation and application		Art 15.1, 15.2, 15.3, 15.7	
Implementation measures	Art 13.1		
Control list	Art 5.4		
Points of contact	Art 5.6		
Annual transfers	Art 13.3		
Individual transfers			Art 7.6, 7.7, 8.1, 8.3
Diversion	Art 11.6, 13.2	Art 11.3, 11.5, 15.4	Art 11.2
Corrupt Practices		15.6	

From this table, it may be seen that a considerable array of information exchange is foreseen between States Parties either collectively or bilaterally.

- In one area, related to individual transfers, information exchange is intended to be entirely bilateral. Since the Treaty in Art 5.6 foresees a mandatory system of Points of Contact, a structured way of initiating bilateral exchanges has already been put in place.

Of the remaining contents of the table, the wording of many articles is such that the information sharing could take place either bilaterally or in a more general setting. Some articles, however, clearly refer to sharing among all States Parties.

- How sharing of information is supposed to happen regarding Control Lists (Art 5.4), Points of Contact (Art 5.6), and measures taken to address diversion (Art 11.6 and Art 13.2) appears to be

sufficiently clearly spelled out in the Treaty text itself (States Parties communicate their information to the Secretariat, which makes it available to all States Parties).

- The initial report on implementation measures (Art 13.1) and the annual report on exports and imports (Art 13.3) are both mandatory, and the question of how to organize and/or facilitate these has been, and continues to be, treated separately.

What remains to be considered based on the Treaty text is what, if anything, needs to be done to encourage sharing of information at the level of States Parties on the following topics:

- General information sharing and cooperation “to effectively implement this Treaty” (Art 15.1), “on matters of mutual interest regarding the implementation and application of this Treaty” (Art 15.2), “to support the implementation of this Treaty” and consultations “on matters of mutual interest” (Art 15.3), or “on lessons learned in relation to any aspect of this Treaty” (Art 15.7).
- The sharing of information “to mitigate the risk of diversion” (Art 11.3), “on effective measures to address diversion” (Art 11.5), and “regarding illicit activities and actors and in order to prevent and eradicate diversion” (Art 15.4).
- Cooperation “to prevent the transfer of conventional arms covered under Article 2 (1) becoming subject to corrupt practices” (Art 15.6).

Article 17 of the Treaty includes elements that arguably would allow for the exchange of information on the implementation of the Treaty and “issues arising from the interpretation of this Treaty” annually at the Conference of States Parties.

A standing Working Group on implementation issues, preparations for which are currently ongoing, would provide a general platform for information exchange on implementation-related issues.

Given these circumstances, the States Parties will in very general terms have opportunities to exchange information on the three topics listed above both annually at conferences of States Parties and intersessionally in the Working Group for Effective Implementation of the Treaty (WGETI).

The outstanding question is whether States Parties feel that a more structured, or focused, approach is needed for one or more of the three areas - perhaps in the form of a specific agenda item or a mechanism of some kind to encourage the sharing of information of a particular type. Suggestions which, if agreed, could form the basis for one or more recommendation to the Conference of States Parties are welcomed.

ANNEX

Treaty text concerning exchange of information, by type of exchange and subject

1. Mandatory provision of information

Art 5.6 - Each State Party shall designate one or more national points of contact to exchange information on matters related to the implementation of this Treaty...

Art 13.1 - Each State Party shall, within the first year after entry into force of this Treaty for that State Party, in accordance with Article 22, provide an initial report to the Secretariat of measures undertaken in order to implement this Treaty...

Art 13.3 - 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)....

2. Information exchange between all States Parties

Art 5.4 - Each State Party, pursuant to its national laws, shall provide its national control list to the Secretariat...

Art 11.6 - States Parties are encouraged to report to other States Parties, through the Secretariat, on measures taken in addressing the diversion of transferred conventional arms covered under Article 2 (1).

Art 13.2 - States Parties are encouraged to report to other States Parties, through the Secretariat, information on measures taken that have been proven effective in addressing the diversion of transferred conventional arms covered under Article 2 (1).

Art 15.2 - States Parties are encouraged to facilitate international cooperation, including exchanging information on matters of mutual interest regarding the implementation and application of this Treaty...

3. Information exchange either with all States Parties or in a bilateral setting

Art 11.3 - Importing, transit, trans-shipment and exporting States Parties shall cooperate and exchange information, pursuant to their national laws, where appropriate and feasible, in order to mitigate the risk of diversion of the transfer of conventional arms covered under Article 2 (1).

Art 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...

Art 15.1 - States Parties shall cooperate with each other, consistent with their respective security interests and national laws, to effectively implement this Treaty.

Art 15.3 - States Parties are encouraged to consult on matters of mutual interest and to share information, as appropriate, to support the implementation of this Treaty.

Art 15.4 - States Parties are encouraged to cooperate...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).

Art 15.6 - States Parties are encouraged to take national measures and to cooperate with each other to prevent the transfer of conventional arms covered under Article 2 (1) becoming subject to corrupt practices.

Art 15.7 - States Parties are encouraged to exchange experience and information on lessons learned in relation to any aspect of this Treaty.

4. Bilateral exchange of information

Art 7.6 - Each exporting State Party shall make available appropriate information about the authorization in question, upon request, to the importing State Party and to the transit or trans-shipment States Parties, subject to its national laws, practices or policies.

Art 7.7 - If, after an authorization has been granted, an exporting State Party becomes aware of new relevant information, it is encouraged to reassess the authorization after consultations, if appropriate, with the importing State.

Art 8.1 - Each importing State Party shall take measures to ensure that appropriate and relevant information is provided, upon request, pursuant to its national laws, to the exporting State Party, to assist the exporting State Party in conducting its national export assessment under Article 7...

Art 8.3 - Each importing State Party may request information from the exporting State Party concerning any pending or actual export authorizations where the importing State Party is the country of final destination.

Art 11.2 - The exporting State Party shall seek to prevent the diversion of the transfer of conventional arms covered under Article 2... prevention measures may include, where appropriate... requiring additional documentation, certificates, assurances...

Art 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).

Looking at these same articles from the point of view of the types of information to be exchanged, the following result is obtained :

General implementation & application: Art 15.1, Art 15.2, Art 15.3, Art 15.7

Implementation Measures: Art 13.1

Control List: Art 5.4

Points of Contact: Art 5.6

Annual Transfers: Art 13.3

Individual Transfer Authorizations: Art 7.6, Art 7.7, Art 8.1, Art 8.3, Art 11.2

Diversion: Art 11.2, Art 11.3, Art 11.5, Art 11.6, Art 13.2, Art 15.4

Corrupt Practices: Art 15.6

Combining both these approaches, a table may be constructed giving a simple overview of information exchange foreseen in the Treaty text :

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