Arms Transfers Dialogue
First Meeting: Diversion of Arms

Palais des Nations, Geneva
1 February 2017, 13:00 – 15:30

About the Arms Transfers Dialogue

The Small Arms Survey and the UN Institute for Disarmament Research (UNIDIR) are hosting a series of Arms Transfers Dialogue (ATD) meetings for Geneva-based diplomats and other stakeholders to provide a forum for exploring options and approaches that support multilateral processes on conventional arms control, including small arms and light weapons. More specifically, the ATD aims at realizing four inter-related objectives:

- To sensitize disarmament and arms control practitioners to current and emerging issues related to conventional arms control, including small arms, and to facilitate common approaches towards them;
- To build shared understandings among Geneva-based stakeholders on the provisions of conventional arms control instruments and to identify synergies among them, with a particular focus on the Arms Trade Treaty (ATT) and the UN Programme of Action on Small Arms (PoA);
- To identify, and facilitate discussions around, challenges and opportunities relating to the implementation of conventional arms control instruments; and
- To enhance dialogue and information exchange between disarmament, development, human rights, humanitarian, and public health communities in order to strengthen conventional arms control at the national, regional, and global levels.

About the first meeting

The first ATD meeting explored the issue of the diversion of conventional arms, including small arms and light weapons. Two presentations were followed by a group discussion. The first presentation provided an overview of the issue, while the second focused on specific mechanisms that can address arms transfer diversion.
Summary of the first meeting

1. Presentations

1.1 Diversion: Issues, scope and frameworks – Presentation by Glenn McDonald, Managing Editor/Senior Researcher, Small Arms Survey

Key issues covered:

- Diversion is not explicitly defined by the global arms control instruments, in particular the ATT and the PoA. The Survey defines diversion as a delivery to an unauthorized end user or unauthorized end use by an authorized end user.
- Diversion can occur at any stage of a weapon’s life cycle. There are two main types: Diversion from national/civilian stockpiles and arms transfer diversion.
- Arms transfer diversion can occur at any point in the transfer chain: at the point of embarkation, in transit, and at or after delivery.
- At the global level, cold war era, unsophisticated weapons and ammunition remain prominent in most recent conflicts. These older weapons are often difficult to investigate because there are many possible chains of custody.
- Global supply patterns also tend to be very complex.
- Article 11 of the ATT sets out a range of measures to prevent and address diversion, directed at exporting, importing, and transit/trans-shipment states.
- ATT limitations in this area include the application of Article 11 to weapons, not ammunition, and the lack of an obligation to deny an export authorization when there is a significant diversion risk.
- Other global arms control instruments, such as the PoA and the UN Firearms Protocol, provide more specific guidance for the prevention of diversion.
- Tracing results can be used to determine the sources of illicit supply, including the sources of diverted weapons. The International Tracing Instrument (ITI) provides States with a global normative framework for the tracing of small arms.

1.2 Mechanism to address diversion in arms transfers: Examining end use and end-user controls – Presentation by Himayu Shiotani, Programme Lead, Conventional Arms Programme, UNIDIR

Key issues covered:

- End-use/r control systems are commonly recognized as an effective mechanism to combat the diversion of conventional arms, including small arms.
• In particular, end-use/r documentation can help prevent diversion when used as part of a broader control system which includes: the conducting of risk assessments, the authentication of end-user certificates (EUCs), the verification of an EUC’s contents, the use of assurances in end-use/r documentation, as well as the conducting of post-delivery cooperation between exporting and importing state authorities.

• As regards end-use/r documentation, differences in national end use/r control systems and a lack of shared understanding on definitions, information-sharing needs, and roles/responsibilities are significant challenges.

• The international community, primarily through United Nations fora, have called for inter alia:
  • the development of standardized EUCs;
  • the establishment of information exchange mechanisms to support end-use/r documentation verification and authentication; and
  • the establishment of an international database of entities which violate end-use/r assurances.

• Thus far, progress in these areas has been limited to regional frameworks and export control regimes, predominantly in the North-Atlantic region.

• UNIDIR is currently facilitating a global and regional dialogue to help identify options and avenues to strengthen end-use/r control systems. UNIDIR’s work in this regard focuses on six areas:
  1. Definition of key terms;
  2. Information contained in end-use/r documentation;
  3. Assurances on use and re-transfer;
  4. Roles, responsibilities and functions;
  5. Exchange of information to inform risk assessments; and
  6. Post-delivery cooperation.

• Preliminary findings from UNIDIR’s work indicate that there is strong interest from States, and viable options and avenues globally, to examine cooperation and, where possible, alignment in the areas of definition of key terms, information to be contained in end-use/r documentation, assurances on use and re-transfer, and roles, responsibilities and functions. As regards information exchange to inform risk assessments and post-delivery cooperation, further discussions at the subregional, regional, and global levels may be needed to build shared understandings on approaches for strengthening end use/r control systems.
2. Discussion

The following questions were prepared for the meeting discussions:

• What measures are effective for addressing diversion:
  o before an arms transfer is authorized;
  o during the transfer of conventional arms; and
  o after conventional arms have been delivered to an authorized end user/country of import?

• What are the main challenges in preventing the diversion of conventional arms?

• What type of information could be shared between States to prevent the diversion of conventional arms?

• What forms of assistance could be useful for States in order to address the diversion of conventional arms?

• How might instruments other than the ATT help address the diversion of conventional arms?

Regarding measures to prevent diversion prior to a transfer of arms, the following issues were discussed:

• The availability of measures to prevent diversion during the licencing process was a central theme of this discussion. The presenters, citing relevant research, noted that efforts to prevent diversion before an arms transfer is authorized were most cost-effective.

• A thorough risk assessment that precedes the issuance of a licence, in line with Article 11 of the ATT, is regarded as essential in preventing diversion. In the process of conducting such a risk assessment, including efforts to verify information contained in end-use/r documentation, participants cited several practices they had found useful:
  o Exporting States, utilizing their diplomatic missions abroad, in cooperation with the country of import, could seek to verify information contained in end-use/r documentation relating to authorized end users and end uses.
  o To facilitate the assessment of diversion risks as part of the transfer licensing process, exporting States could gather and share information regarding entities that violate assurances provided in end-use/r documentation.
  o Some participants also said their export licensing agencies evaluated the recipient party’s capacity to safely and securely manage their arms stockpiles while assessing diversion risks, although it was acknowledged that such information may sometimes be restricted or otherwise unavailable to exporting States.
• The meeting also discussed various methods and approaches for preventing the forgery of end-use/r documentation, such as the use of specialized paper for such documentation and the use of documentation that was numbered and/or connected to export licenses.

Regarding measures to prevent diversion at the time of or after a delivery of arms supplies, the following issues were discussed:

• It was noted that the issuance of post-delivery confirmation by the recipient party (typically in the form of a ‘delivery verification certificate’) was a common practice, although it was not always requested by the exporting party.
• End-use/r assurances relating to post-delivery cooperation were also discussed, including the requirement that a recipient party seek approval from the original supplier before re-exporting arms to third parties and/or that it notify the original supplier if and when arms supplies were lost.

Regarding challenges in addressing arms transfer diversion, the following issues were discussed:

• On the roles and functions of national authorities in preventing arms transfer diversion, the meeting recognized that the parties involved in a transfer, including the countries of transit/trans-shipment, shared responsibility for it. Yet it was also noted that countries around the world had varying technical and financial capacity to identify and act against suspicious transfer activities.
• The role of industry and private sector actors (for example those involved in weapons maintenance) in addressing diversion was also recognized.
• Participants also recognized that different types of conventional arms have different diversion risks, with small arms parts and components cited as particularly susceptible to diversion. Counter-diversion measures needed to take account of these different levels of risk.
• The meeting also discussed limitations in the exchange of information on diversion risks at the multilateral level, noting that information that could be shared bilaterally was sometimes considered too sensitive to be shared multilaterally.

Lastly, participants discussed synergies among the main global conventional arms control instruments, specifically the ATT, ITI, PoA, and UN Firearms Protocol, in addressing arms transfer diversion. The meeting recognized that each instrument addressed diversion in a complementary way and that the effective implementation of these instruments, as applicable, would strengthen overall efforts to address the problem of diversion.