

562nd Plenary Meeting

FSC Journal No. 568, Agenda item 3

**DECISION No. 11/08
INTRODUCING BEST PRACTICES TO PREVENT DESTABILIZING
TRANSFERS OF SMALL ARMS AND LIGHT WEAPONS THROUGH
AIR TRANSPORT AND ON AN ASSOCIATED QUESTIONNAIRE**

The Forum for Security Co-operation (FSC),

Observing that air transport is one of the main channels for the illicit spread of SALW, particularly to destinations subject to a United Nations arms embargo or involved in armed conflict,

Noting that some transport companies or agents and their associated intermediaries employ a range of techniques and strategies to avoid official scrutiny and legal regulations such as falsifying transport documentation, concealing information on the origin of weapons, including cases when they are produced illegally, or when the origin is not known or questionable, concealing actual flight plans, routes, and destinations, as well as falsification of aircraft registration or quick change of registration numbers,

Taking into consideration international standards applicable to air transport exist, *inter alia*, Article 35 and Annex 18 of the Chicago Convention on International Civil Aviation as well as national legislation and regulations,

Striving for continued and full implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) in All Its Aspects by contributing to the reduction and prevention of the excessive and destabilizing accumulation of uncontrolled spread of SALW, including the risk of their diversion into illicit markets and the hands of terrorists and other criminal groups,

Recalling Ministerial Council Decision No. 9/06 on combating the illicit trafficking of SALW by air,

Reaffirming FSC Decision No. 7/06 on the same subject,

Taking into account the report of the Chairperson of the Forum for Security Co-operation on the Special FSC Meeting on Combating the Illicit Trafficking of Small Arms and Light Weapons by Air (FSC.DEL/185/07/Rev.1), including the suggestions and proposed way ahead contained therein,

Convinced of the added value both of an update of the one-off exchange of information between participating States on national practices in air transport of SALW and also of sharing best practices in this field,

Referring to the OSCE Handbook of Best Practices on Small Arms and Light Weapons,

Referring to the existing information exchanges on small arms and light weapons,

Decides:

- To adopt as standard elements for implementation the Wassenaar Arrangement's "Best Practices to Prevent Destabilizing Transfers of Small Arms and Light Weapons through Air Transport", annexed to the decision (annex 1);
- That the participating States shall provide, as an update to the one-off information exchange established by the Section III, part F, paragraph 2 of the OSCE Document on Small Arms and Light Weapons (FSC.DOC/1/00, 24 November 2000), additional information on national practices following the Questionnaire in annex 2 of this decision, by 30 June 2009 at the latest.

**BEST PRACTICES TO PREVENT DESTABILIZING TRANSFERS OF
SMALL ARMS AND LIGHT WEAPONS THROUGH AIR TRANSPORT,
AS AGREED IN THE FRAMEWORK OF THE
WASSENAAR ARRANGEMENT**

1. Scope

These Best Practices cover air transport of SALW, excluding those that are transported by Government, military or government-chartered aircraft.

Participating States recognize that they assume full responsibility for transport by their government, military, or government-chartered aircraft and that they encourage other States to assume the same responsibility.

2. Measures

Non-governmental air transport of SALW, if not forbidden by the participating States' law, will be submitted, as appropriate, to the following measures:

- 2.1 When issuing an export licence for SALW, each participating State may require additional information on air transport to be provided by the exporter to the relevant authorities prior to the actual export taking place.

Such additional information on transport may include the following elements:

- Air carrier and freight forwarding agent involved in the transportation;
- Aircraft registration and flag;
- Flight route to be used and planned stopovers;
- Records of previous similar transfers by air;
- Compliance with existing national legislation or international agreements relating to air transport of weapons.

Thus, although details about air transport and route are usually not known when applying for an export licence, a participating State may issue such an export licence subject to the condition that this information shall be provided to government authorities before the goods are actually exported; it will then be clear for enforcement officers controlling the actual export that such a licence is not valid without evidence that the requested additional information has been provided.

- 2.2 When a participating State knows about an exporter, air carrier or agent that failed to comply with the requirements mentioned in 2.1 when requested to do so, or about an identified destabilizing attempt to export SALW by air, and if the planned export of SALW is assessed by it to contribute to a destabilizing accumulation or to be a potential threat to security and stability in the region of destination, the related relevant information shall be shared with other participating States as appropriate.
- 2.3 Each participating State's relevant authorities may require the exporter to submit a copy of the certificate of unloading or of any other relevant document confirming the delivery of SALW, if they have been exported from or landed on or departed from an airport/airfield on their national territory or if they have been transported by their flag aircraft.
- 2.4 Participating States may take appropriate action to prevent circumvention of national controls and scrutiny, including exchange of information on a voluntary basis about exporters, air carriers and agents that failed to comply with the requirements of 2.1 and 2.3 above when requested to do so, and about cases of transit or transshipment by air of SALW that may contribute to a destabilizing accumulation or be a potential threat to security and stability in the region of destination.
- 2.5 Whenever a participating State has information indicating that an aircraft's cargo includes SALW, and that its flight plan includes a destination subject to a UN arms embargo or located in a conflict zone, or that the exporter, the air carrier or agent concerned is suspected of being involved in destabilizing transfers of SALW by air or has failed to comply with the requirements in 2.1 or 2.3 when requested to do so, the case should be referred to the relevant national enforcement authorities.

3. Public-private dialogue

Participating States are committed to keeping air carriers informed, whether on a national basis or within relevant international bodies, about the implementation of these measures.

**QUESTIONNAIRE ON NATIONAL PRACTICES RELATED
TO PREVENTING THE SPREAD OF SMALL ARMS AND LIGHT
WEAPONS THROUGH ILLICIT AIR TRANSPORT**

Country:

N.B.: These questions do not apply to governmental, military, or government-chartered flights.

1. In which cases do air carriers need a prior licence issued by your administration, either for their entire activities or on a case-by-case basis, for transporting SALW and their ammunition? If necessary, make a distinction between national companies and foreign companies operating on your national territory.
2. What duties (e.g., licence, registering, training etc.) apply to brokers for air transport of SALW and their ammunition?
3. On what legal basis may customs and law enforcement officers inspect aircraft and their cargo on your national territory? (What criteria must be fulfilled for such inspections to be legally possible?)
4. What are the procedures and possible sanctions in the case of such an inspection revealing an offence or a violation of the law?
5. Is it legally possible to inspect goods in transit and/or transshipment?
6. Within the framework of combating the illicit traffic of SALW, would you say that the measure of co-ordination and information exchange between the authorities in charge of authorizing, monitoring and/or inspecting weapons passing through your territory (defence, civil aviation, customs, law enforcement etc.) is already sufficient, or needs to be increased? Are the related procedures hard to implement? What improvements would you suggest?
7. Additional information to share with other OSCE participating States, if appropriate.

FSC.DEC/11/08
5 November 2008
Attachment

Original: ENGLISH

**INTERPRETATIVE STATEMENT UNDER
PARAGRAPH IV.1(A)6 OF THE RULES OF PROCEDURE
OF THE ORGANIZATION FOR SECURITY AND
CO-OPERATION IN EUROPE**

By the delegation of the United States of America:

“The U.S. welcomes FSC.DEC/11/08 and applauds the extent of Wassenaar’s valuable work on best practices to prevent destabilizing transfers of small arms and light weapons by air for implementation as standard elements in the FSC.

The U.S. would like to underscore the value, when employing such elements, of leveraging existing export regulations that focus on the exporter’s responsibility to ensure compliance by its agents, employees, and others who are party to the authorized export. Integral to that responsibility is the exporter’s awareness of the means of transportation for the authorized export, to ensure it reaches the authorized end user for authorized end use.”