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TRAINING AND EDUCATION ON SMALL ARMS

Small Arms and Light Weapons (SALW) Transfer Controls

module **SAT 06B02**

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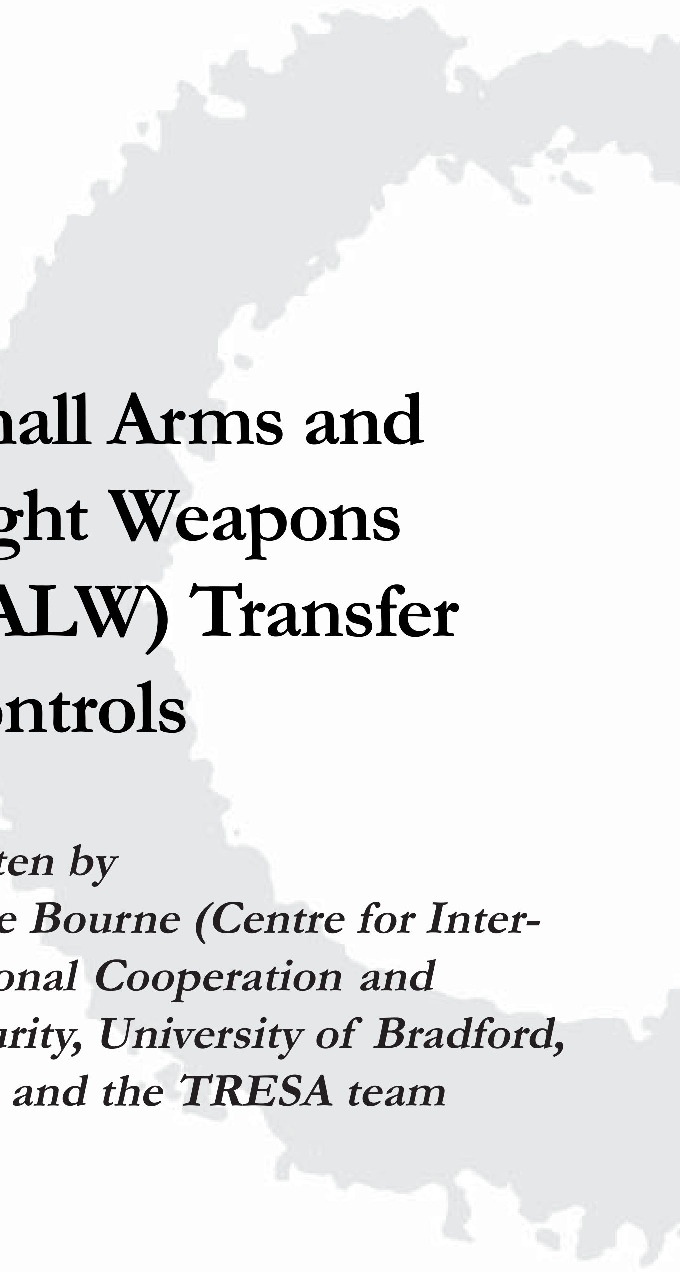
Training and Education on Small Arms



Small Arms and Light Weapons (SALW) Transfer Controls

written by
Mike Bourne (Centre for International Cooperation and Security, University of Bradford, UK) and the TRESA team

module ***SAT 06B02***

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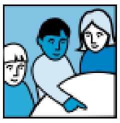

Activity
Indicates some sort of group activity, exercise, discussion, division into separate smaller groups, etc.

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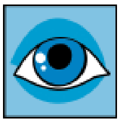
Two types of case studies are indicated here:

- Case studies which are required (later text refers to the case, and therefore the case study must be used). These are indicated by an "R".

- Case studies that are optional (trainers can use a similar case study they might be more familiar with, as the same lessons are drawn).



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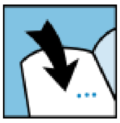

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An arrow pointing to some outside source, for example, another module.

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This indicates an element of the module that the trainer must be careful to modify to fit the audience.

- L: *Linguistic usage*. Where the text uses a particular expression that might not translate well from one language to another.
- C: *Cultural usage*. Where the text uses examples from one culture that might be misunderstood in another.
- S: *Social usage*. Where a text is aimed at a particular audience (example, parliament members) and must be modified to fit another audience (example, military people).

Take a break
Breathe some fresh air, relax, have a cup of coffee, …

Technical device
Trainer must ensure the availability of some technical device: a computer with presentation software, an OHP, a film projector, puppets, …

Tool
A film, a form or questionnaire, theatrical performance, etc., that accompany the module but are not part of it. Most are downloadable from www.tresa-online.org

Trainer preparation required
The trainer must make some special preparation (prepare notes or labels, assemble material, collate material for distribution).

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Trainee Preface

This training module is intended for NGO staff, journalists, government officials and parliamentarians who have a general understanding of SALW issues, but who are unfamiliar with the subject of transfer controls and what these regulations entail.

In particular, we feel that this module is very useful for training officials and legislators who are considering the issue of transfer controls in their countries. The module in its entirety – especially with the inclusion of the final simulation exercise – should provide these participants with a good understanding of the pros and cons of various transfer control options.

The main objective of this training module is therefore to familiarize trainees with the basic elements and requirements for effective controls over all aspects of SALW transfers. More specifically, this module provides:

- An understanding of the key elements of transfer controls.
- An overview of the main issues involved with various elements of transfer controls.
- General knowledge of the various considerations, criteria and guidelines for assessing and authorizing legal SALW transfers.

Please make use of the space provided within this module to record additional information or notes from the training, as well as your ideas and answers to specific exercises and discussion questions. As we hope to make this and all other TRESA modules more targeted, relevant and useful to your area of work, we welcome any feedback and comments you might have. Please feel free to contact us at www.tresa-online.org.

We wish you the best of luck and success in your training.

Acknowledgements

We would like to thank Mike Bourne (Center for International Cooperation and Security, University of Bradford, UK) for his extensive contribution and input in developing this training module.

We would also like to thank Rosula Blanc for her creative design and illustration of the TRESA mascot, the Anteater.

Finally, we would like to thank the Australian Defence Forces for giving us permission to make use of their photo (http://www.defence.gov.au/sealion/images/gallery/120304/RAN8109938_394.jpg). Image used with permission for illustrative purposes only. The Bonn International Center for Conversion (BICC) is not a supplier to the Australian Department of Defence.

Meet the Anteater, the TRESA mascot.

Much of the transfer of SALW occurs through what has been called the “ant trade”: the small-scale, cross-border smuggling and person to person transfer of SALW. Since the Anteater only has an appetite for ants, it’s no surprise to see it as the TRESA mascot.

The Anteater will appear throughout this module to highlight important facts and help draw your attention to some interesting points.

Glossary[2]

Broker	A third party acting as an intermediary arranging some or all key aspects of the transfer including: sourcing of arms, submission of documents for applications for authorisation, arrangement of transport, arrangement of financial matters (negotiating price, transferral of funds etc).
Diversion	Movement of arms from legal to illicit sphere.
Dual-use Goods	Goods that have both civilian and military uses i.e. not complete weapons, but technologies that can be used to produce weapons as well as non-military items.
End-use Guarantee	End-use relates to the specific uses of the weapons. This may specify whether the arms are for military or civilian purposes, or may be more specific: for instance a guarantee not to use weapons in an area of conflict.
End-user Certificate	A certificate stating who the end-user is. Should also include a range of other information on the transfer.
End User	The final possessor of the weapons.
Exporter	The actual supplier, who may be an organization, individual, or State.
Exporting state	The state from which the arms are exported, and which authorises the export.
Illicit trade	The trade in arms that breaks either international or national laws of both the exporting or importing countries.
Importer	The actual importer. An individual, organization, or country.
Importing State	The country into which the arms are imported, and which authorizes the import.
IHL	International Humanitarian Law (IHL) is a set of rules that place restrictions on the use of weapons and methods of warfare. It aims to protect people who are not involved in the fighting and to limit human suffering during times of war.
Loopholes	A way of bypassing or escaping a particular commitment or obligation. This can result from ambiguity or an omission in the wording.
Primary Legislation	Legal documents that outline basic elements and principles of controls including the need for an export license.
SALW Transfers	Change in possession and usually ownership of SALW within and across international boundaries. Involves two or more actors.

Secondary Legislation	A set of regulations and procedures that provide guidance on the criteria/guidelines applied, the goods and services covered, and the roles and responsibilities of different authorising bodies for authorizing exports.
Small arms and light weapons (SALW)	Weapons that can be carried and operated by one person or a small crew.
Tracing	A process through which information on the origin and diversion, among other things, of a particular weapon can be obtained when it is found in circulation.
Transfer Control	Includes export,transit and import controls.
Transfer	Change in possession and usually ownership of SALW across international boundaries. Involving two or more actors.
Transshipment	Changing transport, including at ports, airports etc. This may or may not involve the movement of goods through the territory of a country.
Transit	Movement of goods across and beyond the territory of a country without a change in transport.
Transporter	Company charged with the physical transportation of weapons. A transfer may involve numerous transporters.
UN PoA	The UN Programme of Action calling for international and national action to control SALW.

Section 1

What are SALW transfers and transfer controls?

Objectives and Goals of Section 1:

- To provide a basic introduction and overview of SALW transfers and its main components.
- To introduce key actors in SALW transfers.
- To introduce the concept of diversion.

1. Introduction

Although a large number of states produce SALW and/or ammunition, few produce all of the SALW they need. For example:

- Almost all states have military forces and/or police forces that possess and use SALW.
- Many states also permit civilians to possess certain types of small arms, namely for hunting and self-defence purposes.

Therefore, virtually all states participate in international SALW transfers as exporters or importers, and often both.

2. What are SALW transfers?

The transfer of SALW is the changing of the possession and usually – but not necessarily – the ownership of SALW.

Here we are concerned with the international legal transfer of SALW rather than the domestic trade in SALW.

Most of the international trade in SALW is legal. While there is no internationally accepted definition, it is commonly agreed that legal transfers are those that have been authorized by both the exporting and the importing states. While international concern is mainly framed around the "illicit" trade in SALW, legal or illegal transfers are not necessarily separate or distinct processes.

Box – Definitions

Transfer = the export and import of SALW from one party to another, whether it is legal or not.

Legal transfer = a transfer that is authorized by both importing and exporting states.

Transit states = states through which a shipment of weapons passes. This includes docking at ports and transshipment (changing vessels) at ports and airports, as well as movement overland through the territory of a state.

SALW transfers should be authorized by both exporting and importing states whether or not these states are the actual suppliers, recipients, or entities responsible for authorizing the transfer between supplier and recipient companies. Furthermore, it is desirable that **all transit states authorize any transit and/or transshipment in their jurisdiction**.

SALW Transfers include three primary components that will be examined in this module.

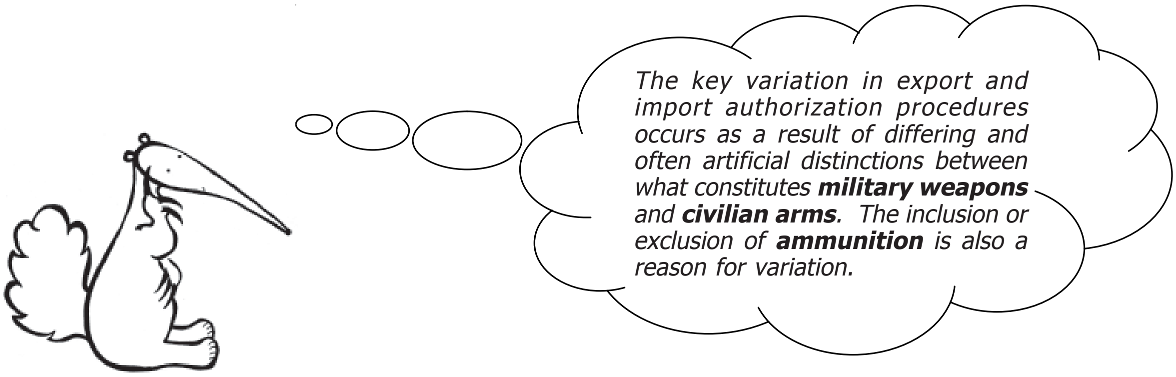
- Export
- Import
- Transit

It is important to note that most of the rules, procedures and challenges surrounding the authorization of SALW transfers pertain equally to other conventional arms, dual use goods and other military equipment.

While transfers refer to all weapons and military equipment, SALW transfers have particularly acute challenges that are not usually associated with transfers of other types of weapons. In particular:

- SALW are often the primary weapons used in armed conflict.
- SALW are more easily diverted to illicit recipients than other types of weapons.
- SALW are harder to trace than other types of weapons.
- SALW are exported by a greater number of states and commercial suppliers (including those with very limited transfer control systems).

These challenges are further complicated by the fact that definitions of SALW are not universal. While the working definition proposed by the UN Group of Experts on SALW – report accessible at http://daccessdds.un.org/doc/UNDOC/GEN/N97/226/20/PDF/N9722620.pdf?OpenElement – is useful for global discussions, the lack of a universally agreed definition allows each country to apply domestic transfer controls according to their own definition of what constitutes SALWThe first question to ask in



*The key variation in export and import authorization procedures occurs as a result of differing and often artificial distinctions between what constitutes **military weapons** and **civilian arms**. The inclusion or exclusion of **ammunition** is also a reason for variation.*

The first question to ask in any examination of laws, procedures and mechanisms of transfer controls is **what exactly is being controlled?**

SALW transfers take many different forms. It is important to note that the processes of transfer authorization may vary according to the type of the transfer. For example, the procedures for government-to-government transfers may be different from those applied to commercial suppliers and recipients (see Figure 1).

Figure 1: Authorized suppliers, recipients, and intermediaries in legal SALW transfers

Suppliers

- States: National production
- States: Surplus
- Commercial Producers
- Military, Police etc.
- Wholesalers

Brokers
Transport
companies

Recipients

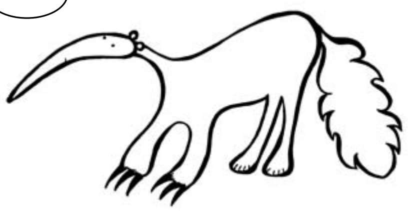
- States:
  - Military,
  - Police,
  - Paramilitary
  - Customs and border guards
- Other authorised recipients:
  - Retail traders
  - Individuals
  - Collectors & Museums
  - Militia
  - Civil Defence Forces
  - Private security companies
  - Private military companies

This diagram relates only to the legal or authorized transfer of SALW and ammunition. A wide range of actors may be suppliers and recipients of SALW transfers. This is far wider for SALW than for any other type of weapons.

Exercise 1: Discussion

What are the main possible channels of SALW transfers?

While not within the scope of this module, SALW also move internationally through a range of illicit channels, including government grants to foreign insurgent groups, black market trafficking, etc. SALW are also traded domestically on both legal and illicit markets – but these are subject to different bodies of law than international transfers.



3. Legal transfer controls and the illegal trade in SALW

The illegal or "illicit" trade in SALW and ammunition is not the primary concern of this module. However, it is a primary concern of many international initiatives on SALW, especially with regard to their transfer.

The legal and illicit trades in SALW are closely linked. Indeed, it is often said that almost all weapons in illicit hands originated in the legal sphere. The movement of arms and ammunition from the authorized legal sphere into illicit circulation is referred to as their **diversion.**

Diversion is a major concern for transfer controls: both exporters and importers are concerned about the risk of diversion of the arms being transferred. Diversion often occurs during a transfer process or through other processes after a transfer has taken place.

Box – The grey market

In addition to the fully authorized legal trade and the clearly illegal "black market", you will often hear reference to the **"grey market."** The term **"grey market"** refers to those transfers of arms that are neither clearly and completely legal, nor clearly and completely illegal.

Because of loopholes in the law or inadequately followed procedures, it is possible for arms transfers to fall into a grey area between legal and illegal. Many SALW transfers involve several different stages: negotiating deals, purchasing parts from more than one supplier, assembling a shipment, etc. In a grey market transfer, some of these stages may be legal and authorized, but one or more may not be officially authorized.

Exercise 2: Mock SALW transfer

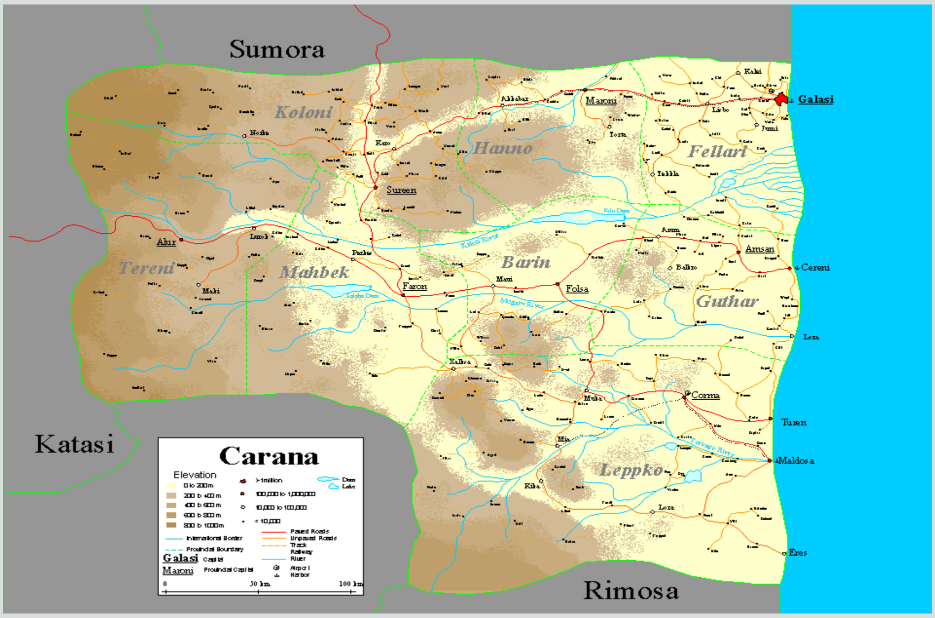
In this exercise, you will try to simulate the possible ways in which a SALW shipment could be transferred. The objective is to try to identify where the potential weaknesses in the control system might emerge.

You are to organize a shipment of:

ITEM	CURRENT LOCATION	OWNER	ORIGINAL MANUFACTURER
15,000 assault rifles	Spain	Spain	Spain
200,000 rifle magazines	Germany	Spain	Germany
6,000 liters of gun-grade lubricating oil*	Spain	Spain	Romania

* Lubricating-grade oil is sued for guns as well as for sewing machines.

You are to organize a shipment of the above items from Spain (the exporting state) to Sumora, a landlocked country whose sole airport is undergoing repairs. All major shipments to Sumora must come overland by train through Carana or one of its neighbors (see map below).



1. What arrangements should be made to ensure that the shipment could proceed legally?
2. What are the weak points where either <u>physical</u> or <u>documentary</u> diversion might take place?

Summary of Section 1

- SALW transfer controls aim to prevent diversion and other undesirable arms transfers.
- Transfer controls have three main components: export, transit and import controls.
- These controls consist of laws and procedures and tend to apply criteria or guidelines to applications for transfer authorization.
- Unfortunately, these criteria vary considerably from country to country, which poses many challenges. Best practices, however, are emerging in this area.

Section 2

Export controls

Objectives and Goals of Section 2:

- To provide participants with knowledge of key aspects of export controls.
- To provide a basic understanding of laws, institutions and procedures required for effective export control.
- To provide an understanding of the range of guidelines and criteria applied during export control procedures.

1. Introduction

Broadly speaking, export control systems commonly include the following elements:

- Laws.
- Executive procedures.
- Guidelines and standards applied in those procedures.
- Lists of controlled goods to which the procedures are applied.
- Verification and post-delivery controls.

They may also include a list of proscribed destinations.

These elements combine to form two key components of export controls that will be discussed in this section. These include:

1) Laws, Institutions and Procedures:

- What types of laws cover SALW transfers?
- Which government department(s) makes assessments/give authorizations?
- What types of authorization exist?
- End-user and end use guarantees and verification.

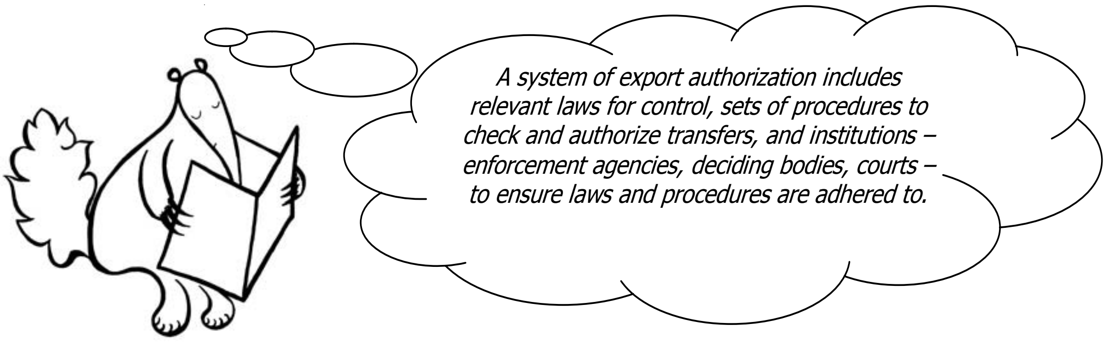
2) Guidelines/Criteria for transfers:

- What criteria are applied?
- How are they applied?
- What best practices/common guidelines exist?

Remember: all forms of SALW transfer controls are created and applied at the national level. Export controls are therefore national controls established and enforced by the national government.

2. Laws, institutions and procedures

Recent research suggests that at least 107 states have laws and/or procedures relating to the export of arms.[5] However, many of these are rudimentary and outdated. Although any state can be an exporter of SALW, it is important to note that not all states have sophisticated systems of export authorization. While most major exporting states have systems for the processing and assessment of applications for arms export authorizations, others merely have outdated laws requiring presidential (or other) approval with no associated systems, procedures, guidelines, or other relevant legal and administrative controls.



The legal foundations for export controls are often laid in "**primary legislation**" which outlines basic elements and principles of controls including the need for an export license.

The details of export controls is often contained in "**secondary legislation**" – a set of regulations and procedures that provide guidance on the criteria/guidelines applied, the goods and services covered, the roles and responsibilities of different authorizing bodies. Secondary legislation for authorizing exports is more flexible than primary legislation, as it does not need to go through a full legislative process. As will be seen below, the strength of an export control system lies in the details of things often defined in secondary legislation.

There is a great deal of variation between countries. Even within a country, there may be significant variation in all three areas of transfer controls according to the type of transfer being made (commercial sales, government to government sale and military assistance).

2.1 Question and answer on laws, institutions and procedures

Q: Where to look?
A: Most export controls that include any kind of system of procedures for authorization tend to be contained in specific arms laws, or arms and strategic exports laws. More rudimentary controls – stating an absolute prohibition on transfers, or establishing that an authorization must be provided (with no further detail elaborated) or affirming a legal right to control with no actual controls established – may be contained within clauses of broader penal codes.

Q: What is covered?
A: Among those states with relatively sophisticated systems, the procedures, institutions and guidelines for the authorization of arms exports vary considerably between states. In particular, (a) the **types of transfers** covered and (b) the **types of weapons** covered vary.

In some cases, **government-to-government** transfers are not covered by the same procedures as authorizations for exports given to **commercial suppliers**. In cases of military aid between governments, the procedures and systems for transfers are often distinct from those transfers governed primarily by export control legislation.

While exports of most types of weapons, including small arms, are all governed by the same laws, in some cases, transfers of certain types of firearms – notably those defined as 'civilian use' – are covered by different systems of export control. In many European states there are different laws for military weapons and civilian arms. In Italy, for example, authorizations for transfers of military weapons, including military SALW, are given by the Ministry of Foreign Affairs in consultation with others and are assessed against a range of criteria including those in the EU Code of Conduct. However, exports of "common" (civilian) firearms fall under a separate law and are authorized through a different system by the Ministry of Interior – and it is unclear what standards are applied in these transactions.

Q: Which government department(s) makes assessments and provides authorizations?
A: Usually, one ministry provides the authorization, but the assessment of applications may be done by several ministries in consultation – judging the application against sets of criteria within their competence. This commonly involves foreign ministries, ministries of defence, ministries of trade, offices of the president, and in some cases, ministries/departments related to international development.

There may also be parliamentary/congressional oversight of some large contracts. However, this is not always the case. For instance, some exports from the USA require congressional approval (those of a value over US$14million depending on the goods and destination), while others do not. By contrast, there is no procedure for parliamentary oversight or decision making in arms export authorizations in the UK.

Q: What are the stages of the authorization process?
A: Taking the case of an export from a commercial producer/supplier to a foreign commercial actor, the stages often include:

1) Negotiation of contract between supplier and recipient.

2) Supplier submits details of the proposed transfer to the appropriate government body, along with required documentation proving import authorization (an End-User certificate and/or other similar document).

3) Appropriate government departments assess applications for arms export authorizations according to particular guidelines/criteria (see below).

4) Authorization is given or declined.

5) On the basis of authorization, the transfer is permitted to proceed within a given timeframe (which may not be immediate).

Q: Are there different types of authorization?
A: Many arms transfers are authorized on a **case-by-case** basis. This means that each arms transfer of a specific number of a particular weapon, ammunition, or other military goods and services is separately and explicitly authorized. The authorization usually relates to the **deal** for 10,000 rifles, for example, even if they are eventually **delivered** in multiple shipments, for instance in two deliveries of 5,000 rifles, six months apart.

Some exporting states, such as the UK, also give **open export licenses** of a fixed duration. These authorize a particular supplier to transfer a given recipient any number of items over a fixed period without requiring further authorization of each specific transfer.

As noted above, different authorizations are often applied to transfers that are directly between states. For example, states are exempt from authorization processes when they are the suppliers of arms to another state. This is particularly the case with the provision of military aid, though again, this varies from country to country.

2.2 End-user certificates and other documentation

A range of official documents may form part of an arms transfer process, including **purchase orders**, **bills of lading** for transportation, and other similar documents that are a feature of all international trade. More significantly, however, some forms of official documentation relate to arms export systems alone. In particular, **end-user certificates** are key.

End-User Certificates (EUC) are documents provided by the importing state to the exporting state providing assurance that the arms being transferred are authorized for import and providing a guarantee that they will not be retransferred (unless otherwise specified on the EUC).

Notes

There are no standardized formats for these certificates. As such, EUCs are easily forged. Forged EUCs are often used to facilitate arms transfers that breach UN arms embargoes. In many cases, forged EUCs are copies of apparently genuine certificates. For instance, Togolese EUCs that were provided to facilitate arms transfers to UNITA in Angola, which was under a UN arms embargo at the time, included one genuine but fraudulently issued certificate and numerous forgeries based upon it. All together, 18 forged versions facilitated arms transfers from Bulgaria and 2 more facilitated transfers from Romania.[6]

Some export control systems only require EUCs in specific circumstances such as transfers of particular types of weapons or recipients.

Within transfer processes, often there is no verification of either end-user certificates or other documentation, as well as no verification of delivery. Furthermore, after a transfer has taken place there is often no real monitoring of end-use and end-user guarantees – such long term monitoring would provide invaluable information on a particular country's record of compliance with EUCs.

In those cases where EUCs are verified, this often occurs through embassies or consulates of the exporting stating in the importing state.

Ideally, an EUC should contain significant amounts of information, including:

- *A verifiable signature of an appropriate official of the importing state.*
- *Precise details of all weapons being transferred (including serial numbers and other markings to facilitate tracing).*
- *Information on all brokers, transport companies and other actors involved in the transfer.*
- *Information on the routing of the shipments.*

Box – End-user certificates and the UN Programme of Action (PoA)

In the UN Programme of Action on Small Arms, states agreed to refrain from retransfering imported SALW without making an effort to notify the original exporting state. The retransfer of weapons is a key issue in transfer controls and is one of the reasons why all states can be SALW exporters. While the subject of retransfer is usually a condition of the original export contract, as well as in EUCs, it often appears to be ignored.

3. Guidelines and criteria for export authorizations

The criteria and guidelines applied in an export authorization process are at the heart of an export control system. They embody the standards being applied. Guidelines and criteria against which applications for arms export authorizations are judged vary widely. Broadly speaking, issues covered by these criteria cover three main areas: international law and standards, issues of regional and local stability and security, and issues relating to economics and development. They have included:

- The consistency of the transfer with the exporting state's obligations under international law (including multilateral arms embargoes) and in many cases, its political commitments (such as commitments within the Wassenaar Arrangement).
- The respect for international law of the importing state (this may include specific reference to support for terrorism, respect for international humanitarian law and so forth.
- The human rights standards of the importing state, in particular the risk that the arms will be used by the recipient state in gross human rights abuses.
- The risk that the arms will be diverted or retransferred (particularly to terrorist groups or conflict zones).
- The legitimate security needs of the importing state.
- The national security of the exporting state.
- The possible impact of the transfer on regional security.
- Whether or not the importing state is involved in armed conflict, and how the proposed transfer may affect that conflict.
- The ability of the importing state to pay for the weapons being transferred.
- The possible impact of the arms transfer on the sustainable development of the importing state.

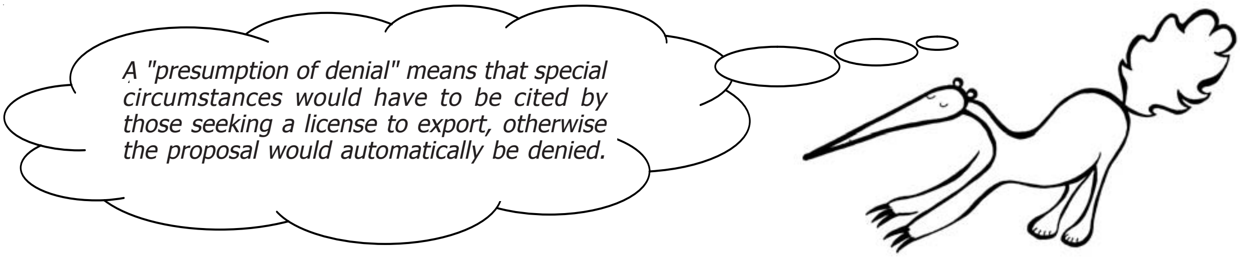
Exercise 1: Argument and rebuttal

Divide into two groups. One group will have to argue *against* the control of arms transfers, while the other group will argue *in favour* of arms transfers controlled by international agreements, as well as suggest what types of agreements these should be and how they should be enforced. Each group will be given 5 minutes to prepare, and 5 minutes to present their arguments in turn. Each side will then have another 5 minutes for rebuttal (presenting counter-arguments to those raised by the other side).

The assessment of transfers against these criteria varies enormously. In particular, there is a lot of variation in:

A. The number of criteria used.
Some states may only assess applications on the basis of criteria of national security and an ability to pay for the weapons. Others are more rigorous and assess applications against a more sophisticated set of criteria dealing with a wide range of potential negative impacts of the arms transfer.

B. The significance attached to each criterion.
In the decision-making process, significance of the criteria also varies. Some factors may be seen as **factors to take into account** in the decision, whereas others may lead to a **presumption of denial**. This varies between countries.



A "presumption of denial" means that special circumstances would have to be cited by those seeking a license to export, otherwise the proposal would automatically be denied.

Assessments of each criterion feed into the overall decision-making process. However, when a criteria is seen by the government as requiring a presumption of denial it means that regardless of any other factor in favour of the transfer, the transfer should not take place. For instance, there should be a presumption of denial for any arms transfer that breaks a UN arms embargo. When a criterion is seen as a factor to take into account, it becomes part of the overall balance of assessments and does not “trump” all other criteria. A decision to grant or deny authorization must therefore balance competing assessments and pressures.

C. The manner in which each criteria is assessed.
Criteria are usually framed around broad categories of the implications of a particular transfer for a given issue (human rights, sustainable development, etc). In order to adequately assess this, a range of more detailed questions need to be asked and information gathered. The amount of effort, depth, and rigour invested in this

process lies at the heart of how robust a guideline is. Often, very little is known about how this precise assessment takes place because governments do not make this information public. What is known is that the precise methodologies for assessments (in terms of *information used*, *questions asked*, and *processes for assessment*) varies between governments and even within governments. Thus, the presence of a particular criterion or guideline does not guarantee that a decision to export will not have a negative effect. There is considerable room for interpretation of all guidelines.

The assessment of criteria is a complex process. For instance, the Control Arms Campaign (a global NGO-led campaign for stronger arms transfer controls) conducted a detailed study of how sustainable development criteria are assessed. This study involved considerable research and expert consultation in order to develop a proposed methodology for the assessment of just one criterion. The resulting report, including the proposed methodology, is available at http://www.controlarms.org/documents/guns_or_growth.pdf.

Remember: the role of criteria and guidelines is to raise important questions. Without guidelines or explicitly formulated criteria, questions about the potential impact of a transfer are simply not asked. This can result in irresponsible arms transfers.

Exercise 2: Developing criteria

In small groups, try to construct a set of criteria that will cover all measures for deciding on export licenses for small arms. Keep in mind:

- International agreements such as the PoA (or other agreements your country is party to).
- Economic issues (the arms industry in your country, if there is one).
- Diplomatic issues (you do not want to insult your allies and friends).
- Humanitarian issues.
- The risk of diversion.

Consider whether the criteria you have come up with are applicable to military, civilian, government-to-government or commercial sales, or to more than one of the above.

4. National controls and international and regional agreements

There are no universally applied guidelines or criteria for arms export authorizations. However, there are agreements by supplier-groups and regional organizations on best practices in such criteria. For example, the EU Code of Conduct includes operative provisions and a list of eight common criteria for arms exports by member states. This applies to transfers of all types of arms. For more detailed information on the EU Code of Conduct, see the TRESA module on Global and Regional Agreements on SALW Control (GRA06).

Some global and regional agreements and best practice guidelines have been formulated to tackle the specific problems of SALW exports. These include:

- The global agreement in the United Nations Programme of Action (PoA) to assess the risk of diversion and to be consistent with existing responsibilities under international law (see TRESA module on Global and Regional Agreements GRA06).
- The Wassenaar Arrangement Best Practice Guidelines on SALW (December 2002).[7] The Wassenaar Arrangement is a group of arms supplier states – including most major suppliers of SALW – that come together to promote transparency and responsibility in arms transfers.
- The OSCE (Organization for Security and Cooperation in Europe) Best Practice Guidelines (see TRESA module on Global and Regional Agreements GRA06).
- The Organization of American States Convention (CIFTA) and associated CICAD model regulations (see TRESA module on Global and Regional Agreements GRA06).
- The Nairobi Protocol (see TRESA module on Global and Regional Agreements GRA06).

Many of these agreements contain some guidelines/criteria for assessing the potential authorization of a SALW transfer. Most contain some type of commitment in the areas outlined above, though the precise framing is different. The aims of such international initiatives to develop greater agreement on export control criteria are twofold:

1. To promote high standards of national controls; and
2. To reduce opportunities for circumventing those high standards by going to suppliers with weaker or less stringent criteria.

Similarly, there are some ongoing international processes seeking to improve standards of transfer controls, such as the UK government sponsored Transfer Controls Initiative, the NGO-led Control Arms Campaign for an Arms Trade Treaty (http://www.controlarms.org); and the Biting the Bullet Consultative Group Process.[8]

Summary of Section 2

- Arms export authorization procedures and end-user controls are central to ensuring responsible arms transfers. Unfortunately, end-user certification is often a weak point in export controls.
- Guidelines/criteria are necessary to raise important questions in considering an export authorization and help reduce the potential negative impact of an arms transfer.
- Export controls are national controls and are created and applied at the national level.
- While best practices and common criteria for export controls are emerging, there are no harmonized systems as of yet. Implementation of these best practices has therefore varied.

Section 3

Transit controls

Objectives and Goals of Section 3:

- To introduce the concept and main components of transit controls.
- To introduce the key issues and challenges involved, as well as the current mechanisms available to enforce transit controls.

1. Introduction to transit controls

Transit states are those through whose territory a shipment passes en route to its destination. This includes docking at ports and **transshipment** (changing vessels) at ports, airports and at sea, as well as movement overland through the territory of a state.

Why is it important to control transit?
When SALW are diverted from the legal market into the illicit market, they are often diverted while in transit. This diversion may feed regional or domestic conflicts.

What is and/or should be covered by transit controls?
Transit occurs in those states through whose jurisdiction the SALW are moved en-route between the exporter and the importer. This should include all overland transport, and sometimes air space and territorial waters (though this is usually only applicable if the transporter stops at a port or airport).

Controls should cover bother transshipment (changing vessels) and transit (movement through territory).

What types of transit controls exist?
Transit control is often a weak point in the broader area of transfer controls. Indeed, it seems that arms transits are often not governed by laws and procedures except for those applied to the transportation of dangerous goods; and these may not place sufficient emphasis on the risk of diversion.

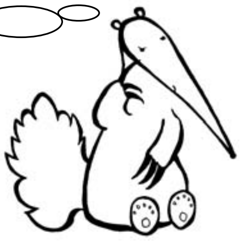
It is increasingly common for best practices on export controls to emphasize the inclusion of transit controls, and that transit authorizations should take into account the same stringent standards and criteria as export authorizations. For instance, the OSCE Best Practice Guidelines on Export Control of SALW incorporates transit controls. This is done in an integrated way – with reference to “export and transit control” rather than separate systems for dealing with transit.

Furthermore, global and regional commitments to control transit as part of the broader area of transfer controls exist in the UN PoA, The Firearms Protocol, and various other regional agreements (see TRESA module on Global and Regional Agreements GRA06).

For instance, the UN Firearms Protocol requires that *"the transit States have, at a minimum, given notice in writing, prior to shipment, that they have no objection to the transit."*

2. Enforcement of transit controls

Customs services often have very limited capacity to enforce transit controls. The number of vessels/vehicles that can be inspected at any given time is very limited. This is a concern not only for the interdiction of illegally trafficked or disguised shipments, but also in the enforcement of transit controls. It is therefore important that transit authorization procedures are rigorous, effective, but also efficient since the timeframe for transit control is often limited.



Ideally, transit routes, transporter companies, and transit authorization should be in place before an export license is granted – either in the application for an export license or as an integral part of the EUC. However, this does not commonly take place.

Exercise 1: Where can you divert?

Divide into two groups. One group – the "Diverters" – will think up schemes to divert the shipment described in Exercise 2, Section 1 (15,000 assault rifles, 200,000 magazines). The other group – "Customs Agents" – will design a plan to frustrate the Diverters' plans.

- The plans will be written in point form (using bullets) on a sheet of paper.
- Groups will exchange their plans.
- The Diverters will attempt to nullify the Customs Agents' plan, and the Customs Agents will do the same for the Diverters' plans.

Both groups will then present their original plans followed by their plan to frustrate the other group's attempts.

Exercise 2: Group discussion

Do you think the same criteria and procedures for assessing applications for export authorizations should be used to cover the transit of SALW?

Summary of Section 3

- The risk of diversion is often particularly high during transit.
- Transit controls are often a weak point in transfer controls.
- Best practices emphasize the application of the same stringent standards to SALW transit as to their export.
- The application of such best practices, however, is relatively weak.

Section 4

Import controls

Objectives and Goals of Section 4:

- To provide a basic understanding of import controls and the types of concerns surrounding these controls that are and should be addressed.
- To distinguish between civilian and government imports of SALW.
- To outline international and regional standards for import controls.

1. Introduction

The third main element of transfer controls is import controls. While many more countries appear to have import controls than export or transit controls, the variation in import control laws and procedures is considerable.

Limited information is available on the nature of SALW import licensing and control, though it is known that the systems in place vary according to the actual recipient. For example, if a national armed force (military, paramilitary, police) is importing arms, certain procurement procedures will probably have to be followed. Conversely, if the importer is a domestic retail trader authorized to sell firearms to licensed (or other authorized) civilians, different procedures will need to be followed.

2. Import control issues

While it is difficult to describe a typical import control system, the following issues can and should be taken into account when assessing the civilian or government import of small arms.

Civilian import

- **The risk of misuse:** is the importer likely to misuse the arms? For instance, if an authorized militia or civil defence force is importing weapons, this may involve an assessment of their human rights record and the potential for criminal misuse of legally acquired arms.
- **The risks to internal security:** if firearms being imported are qualitatively or quantitatively different from arms previously licensed (e.g. fully automatic assault rifles as opposed to bolt-action hunting rifles), such an import may contribute to rising inter-communal violence, crime (including organized crime), and the risk of conflict.

- **The risk of internal diversion:**
- Is the importer an authorized dealer?
- What are the importer's standards of stockpile management and security?
- **The record of the exporter and any intermediaries:** involves an assessment of the risk that an import authorization will be used to acquire arms that are diverted before reaching the final destination. This raises concerns for international and regional security, prevention of terrorism, etc.

Government Imports

In cases of government procurement, factors that should also be examined include:

- **National security** and how the acquisition of arms relates to **legitimate security needs.**
- **The impact of the import on sustainable development** (in terms of financial cost, diversion of resources, versus possible positive impacts such as protection of borders, fishing grounds, etc.).
- The **procedures for procurement decisions**, with particular attention to whether there has been any **corruption** in the decision to acquire, the choice of weapons, and the choice of supplier.
- The **appropriateness of particular weapons** for their specific use. Oftentimes, states acquire weapons claiming they are for national security, but are actually used for internal repression.

These are just some of the priority issues that should be considered within import authorizations for civilian or government entities. In practice, however, it is unclear whether and how such considerations are applied.

3. International and regional agreements and standards

In the UN PoA, states committed themselves to having import controls, though the details of this commitment are to be determined by each country.

In some regional agreements, there are more detailed commitments on import controls, such as in the CICAD model regulations that is associated with the OAS convention (see TRESA module on Global and Regional Agreements GRA06). However, the details in this agreement relate primarily to the information required on a certificate of authorization rather than the procedures, standards and criteria for such an authorization to be given.

Further information on national import controls may be available from your government. Basic information may also be contained in publicly available legislation and in national reports submitted to the UN DDA on the implementation of the UN PoA http://disarmament.un.org:8080/cab/salw-nationalreports.html.

Summary of Section 4

- Import controls are necessary in order to prevent the retransfer of arms to irresponsible end-users and the risk of misuse. The capacity of the importing state to ensure proper control should be a factor in providing an import authorization.
- Laws and regulations governing imports vary considerably from country to country. While international commitments and regional standards exist, these are also inadequate and depend heavily on proper government control.

Section 5

Related key issues in transfer controls

Objectives and Goals of Section 5:

- To introduce the processes of diversion, brokering and marking and tracing as key issues for transfer controls.
- To underline the importance of arms embargoes for controlling the spread of SALW.
- To provide an overview of key loopholes and gaps in existing transfer controls.

1. Introduction

Numerous concerns have been raised in relation to different aspects of transfer controls. In particular, several key issues are at the top of the agendas of many processes and concerned groups. These include:

- Diversion.
- Brokering.
- Marking and tracing.

All three processes relate to the need for transfer controls to be exercised in all legal arms trades to help combat the illicit trafficking of SALW (for more information on these processes, see TRESA module on Global and Regional Agreements GRA06). They also relate to transfers between all states and occur at all stages of SALW transfers – export, transit and import.

2. Diversion

Diversion is the movement of arms from the legal authorized sphere into illicit circulation. It is a major concern in transfer controls and other measures tackling illicit SALW.

Notes

2.1 How does diversion occur?

Diversion occurs through a wide range of mechanisms including:

- Theft from stockpiles.
- Illicit re-sale by authorized owners of arms.
- Re-assignment of a shipment in transit.
- Use of false EUCs to redirect shipments.
- Illicit retransfer of imported weapons by the end-user (in breach of re-transfer guidelines and end-user assurances).

A common method of large-scale diversion is through the failure of transfer controls. Weapons are transferred to an end-user other than the recipient stated in the authorizations with the use of fraudulent EUCs. This type of diversion often involves the activities of unregulated arms brokers.

Note: while transfer controls help minimize the risk of diversion, they cannot prevent it all together. For example, theft from government stocks is probably the most common source of diverted weapons and is outside the realm of transfer controls. Nevertheless, when assessing the risk of diversion, the strength of a recipient's stockpile management and security should be a key factor examined by exporting, transit, and importing states.

2.2 Preventing diversion

End-user controls exist largely to guarantee against certain forms of diversion, notably the **deliberate retransfer** of weapons in which **one actor imports weapons legally, and retransfer them to a recipient that would not have been able to obtain them from the initial supplier.**

The risk of diversion is a common criterion in arms export authorizations, and should also be a key issue within transit and import controls.

- In the UN Programme of Action (UN PoA), states have committed themselves to assess the risk of diversion in transfer controls.
- The risk of diversion is a key criterion in the EU Code of Conduct, the Wassenaar Arrangement Best Practice Guidelines for Exports of SALW, and others. However, the application of this criterion is difficult to ascertain.
- Less information is available on the assessment of the risk of diversion by transit or importing states. This could vary considerably depending on the actual end-user (national military, domestic retail trader).
- Other regional agreements, such as the OAS Convention, include commitments for each party to a transfer (export, transit, and import) to inform the others of authorizations and to take delivery verification measures.
- International initiatives related to brokering and to marking and tracing reinforce such commitments (see below).

A number of factors could be used to inform an assessment of the risk of diversion, most importantly:

- A recipient's record of compliance with end-user guarantees.
- A recipient's record of transferring arms to rebel or terrorist groups, whether or not this group is involved in a conflict.

A failure to adequately assess these factors in export, transit and import authorizations has fuelled the illicit trade in SALW.

3. Brokering[10]

Brokering covers a wide range of activities of actors facilitating arms transfers. Most commonly it relates to intermediaries who make some or all necessary arrangements for a transfer.[11] Arms brokers are a key part of the legal, authorized trade in SALW. However, they are also key actors in many illicit and diverted international SALW flows – such as those to rebel groups, terrorists, and embargoed governments.

In particular, legitimate brokers are often involved in the following tasks on behalf of a particular recipient:

- Finding a supplier (including identifying a supplier with weaker export controls if a recipient is likely to be refused by more rigorous suppliers).
- Negotiating a deal.
- Producing necessary paperwork and complying with necessary procedures (including fraudulently).
- Arranging transportation by means of contracting transporters, handling customs requirements, and so forth.
- Making arrangements for payment, whether through the transfer of funds or other forms of payment.

Brokers may therefore be involved at any stage in a SALW transfer process.

3.1 How is brokering controlled?

Such "third party" brokers may not be resident – or conduct this activity – in any of the states directly involved in the export, transit, or import of the weapons. This makes their regulation very difficult.

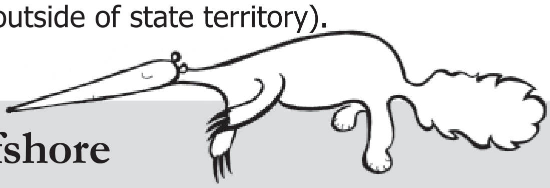
Brokering activities can occur anywhere, yet only a small but growing number of states have explicit controls over brokers. The scope and adequacy of these laws and procedures, however, is mixed.

Key elements of brokering controls may include:

- Registration and licensing of brokers.
- Licensing the broker's role in each individual deal.
- Offshore licensing.
- Instituting penalties for non-compliance that include international warrants.

3.2 Key issues for brokering controls

- Identifying the scope of brokering activities covered (particularly in cases where the weapons do not touch the territory of the state concerned).
- Defining the types of actors covered (some controls only relate to permanent residents).
- The degree – if any – of extraterritoriality (the extent to which controls apply to nationals and residents operating outside of state territory).



Box – Extra-territorial / offshore controls

Extra-territorial (offshore) controls are a particularly important, but largely neglected area of brokering controls. Offshore controls are intended to help prevent brokers from evading controls in one country by conducting their activities in another one. However, only 14 states have some form of extra-territorial control (Belgium, Bosnia and Herzegovina, Estonia, Finland, Hungary, Latvia, Lithuania, Malta, Norway, Seychelles, Singapore, South Africa, Sweden, and the USA) and the nature of this varies considerably.

3.3 Regulating brokering activities

A number of international and regional agreements and processes tackle brokering regulations, though they often do not specify what controls should be in place.

A. The PoA commits states to "develop adequate national legislation or administrative procedures regulating the activities of those who engage in small arms and light weapons brokering. This legislation or procedures should include measures such as registration of brokers, licensing or authorization of brokering transactions as well as the appropriate penalties for all illicit brokering activities performed **within the State's jurisdiction and control." (Section II, paragraph 14).** Likewise, the Firearms Protocol and other instruments contain some commitments on brokering controls – though these are often limited (see TRESA module on Global and Regional Agreements GRA06).

B. The UN has established "broad-based consultations on further steps to enhance international cooperation in preventing, combating and eradicating illicit brokering in small arms and light weapons." These consultations are ongoing (see TRESA module on Global and Regional Agreements GRA06).

C. A number of regional processes on the issue of arms brokering have also taken place. These have included:

- EU Common Position on arms brokering (June 2003).
- OSCE Best Practice Guidelines on Regulation of Arms Brokers.
- Wassennaar Arrangement Statement of Understanding on Arms Brokerage (December 2002).
- OAS Model Regulations for the Control of Brokers of Firearms, their Parts and Components and Ammunition (CICAD November 2003).

4. Marking and Tracing[13]

When weapons are found in illicit circulation and use, it is important that their origin can be traced in order to understand and tackle the mechanisms of their diversion and to take action (such as criminal prosecutions) against that diversion.

In order for weapons to be traced, three key elements are required:

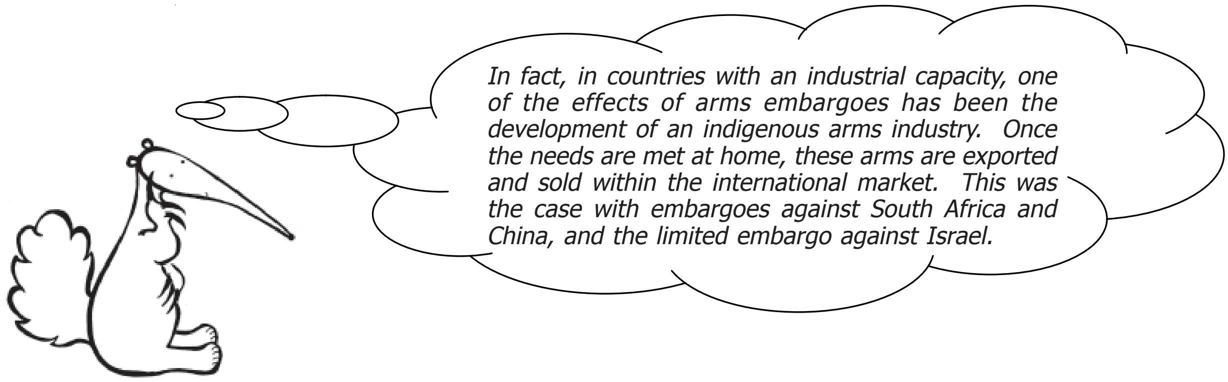
- **Marking –** the assignment of a serial number in order for each weapon to be identified along with its origin, manufacturer, and year of production.
- **Record-keeping** – building on information contained in the markings, further detailed information can be located on the transfers and holdings from which the weapon was diverted.
- **Cooperation in tracing –** the access of relevant information by investigating parties from records of other states or international organizations.

Most global and regional agreements commit states to marking weapons at the point of manufacture and sometimes at the point of import. Similarly, they contain commitments on record-keeping and – in some cases – on cooperation in tracing. However, these commitments often suffer from a number of problems including:

- There is no international standard for marking SALW and many states do not mark their own weapons production consistently.
- Markings done by the traditional method (stamping into metal) are easily altered and mark only one element, usually the body, of the weapon.
- Record-keeping in many states is inconsistent, if it exists at all.
- There is only limited cooperation between states in tracing. Some states actively resist requests for tracing SALW that have passed through their borders.

5. Arms embargoes

In rare and extreme cases, the international community has used arms embargoes in order to limit the arms available to combatants in a conflict situation. However, these embargoes have not been very effective and are either opposed, obstructed or evaded by arms traders and importing and exporting countries.



In fact, in countries with an industrial capacity, one of the effects of arms embargoes has been the development of an indigenous arms industry. Once the needs are met at home, these arms are exported and sold within the international market. This was the case with embargoes against South Africa and China, and the limited embargo against Israel.

5.1 What are arms embargoes?

An arms embargo is a ban on transfers of arms, ammunition, and other goods against particular recipients. Arms transfer authorizations are always a matter of national decision-making. However, the international community can also apply arms embargoes and has used this capacity in a number of situations in the past.

Most significantly, UN arms embargoes are imposed by the UN Security Council and are binding on all UN member states. Arms embargoes have also been applied by regional organizations. These, however, only impose a ban on transfers by the member states of that organization to the destination or recipient concerned. Thus, for instance, EU arms embargoes mean that EU member states should not engage in arms transfers to the given recipient; but they do not cut-off legal transfers from other suppliers in the global system.

5.2 When and why are they applied?

UN Security Council (UNSC) arms embargoes have been imposed on actors in 17 countries since 1990. Before that, very few were imposed, with the exception of the long-running embargo on Apartheid-era South Africa.

Some UN arms embargoes are targeted at particular recipients, but most have been applied to all actors within a country. They are generally mandatory for all UN members.

Most sanctions have been applied to countries involved in conflict, though this is not necessarily the case. While the majority of UNSC arms embargoes have been imposed on recipients engaged in intra-state conflict (see Table 1), **most conflicts are not subject to arms embargoes**.

Table 1: Multilateral arms embargoes in place since 1990

Country	Embargo Imposed by	Targeted Embargo?	Date Embargo Applied
Afghanistan	UN (voluntary)		27 Oct 1996
	EU		1 Dec 1996 – 5 Nov 2001 (when amended to only Taliban)
	UN	Taliban	19 Dec 2000
Angola	UN	UNITA	15 Sept 1993
Azerbaijan and Armenia in relation to Nagorno-Karabakh)	OSCE	All forces[15]	28 Feb 1992
	UN (non-mandatory)	Armenia and Azerbaijan	29 July 1993
Burundi	Various regional states.[16]		6 Aug 1996 – 23 Jan 1999
China	EU		27 June 1989
Côte d'Ivoire	UN		16 November 2004
	EU		15 December 2004
Croatia	EU +[17]		5 July 1991 – 20 Nov 2000
DRC	UN	NSAs in East/ ALL NSAs	July 2003/July 2005
	EU		7 April 1993
Eritrea	UN (non-mandatory)		12 Feb 1999
	EU		15 March 1999
	UN		17 May 2000
Ethiopia	UN (non-mandatory)		12 Feb 1999
	EU		15 March 1999
	UN		17 May 2000
Haiti	OAS		30 Sept 1991 – 15 Oct 1994
	UN		13 Oct 1993 – 15 Oct 1993
Indonesia	EU		17 Sept 1999 – 17 Jan 2000
Iraq	EU		4 Aug 1990
	UN		6 Aug 1990
Liberia	UN		19 Nov 1992 – 7 March 2001
	UN	Strengthened	7 March 2001 -
Libya	EU		27 June 1986
Myanmar	EU		29 July 1991
Nigeria	EU		20 Nov 1995 – 1 June 1999
Rwanda	UN		17 May 1994 – 16 Aug 1995
	UN	Rebels	16 Aug 1995

Sierra Leone	UN		8 Oct 1997 – 5 June 1998
	EU		8 Dec 1997
	UN	Rebels	5 June 1998
Slovenia	EU		5 July 1991 – 26 Feb 1996
Somalia	UN		23 Jan 1992
Sudan	UN		30 July 2004. Expanded to include government in March 2005
	EU		15 March 1994
Yugoslavia (SFRY)	EU		5 July 1991 – 8 Oct 2001
	UN		25 Sept 1991
Yugoslavia (FRY)	UN		31 March 1998 – 10 Sept 2001
Zimbabwe	EU		20 Feb 2004

5.3 How are arms embargoes enforced?

Enforcement has tended to be the weakest aspect of arms embargoes. While in principle a UNSC arms embargo is a clear and strong statement by the international community, in most cases there has been very little monitoring of embargoes. This has changed in recent years with the creation of panels of experts to investigate violations of arms embargoes applied against rebel and paramilitary forces in Angola (UNITA), Sierra Leone (RUF), Liberia, Somalia, and the Democratic Republic of the Congo (DRC).

Embargoes are often breached and it is very rare for any legal action to be taken against arms brokers or others involved in breaches. However, increasingly they are being linked with other sanctions targeting the finances or activities of the group(s) concerned. Most significantly, UN arms embargoes cut off open legal transfers of SALW and force actors involved to find alternative – usually more expensive and unreliable – means of obtaining arms. While they commonly fail to completely starve the supply of arms and ammunition, embargoes are an important international instrument of SALW transfer control.
For further information on arms embargoes, see Biting the Bullet Briefing 17 *Strengthening Embargoes and Enhancing Human Security*, at http://www.brad.ac.uk/acad/cics/publications/BtB/index.php.

Summary of Section 5

- The processes of diversion, brokering, and marking and tracing all relate to the need for transfer controls.
- Assessing the risk of diversion should be a key factor in authorizing transfers.
- Brokering activities should also be regulated to ensure that legal arms are not diverted or retransferred to irresponsible end-users, while marking and tracing would help enforce transfer controls. These two issues are the subjects of separate international and regional initiatives.
- While unable to completely stem the flow of small arms, arms embargoes are an important international instrument of SALW transfer controls.

Section 6

Transfer controls simulation

Objectives and Goals of Section 6:

- To foster a more in-depth understanding of transfer control criteria through a simulation exercise.
- To demonstrate the complexity of balancing issues that inform transfer controls.
- To reinforce the value of best practices in establishing and enforcing these controls.

1. Introduction to the simulation

You will be divided into three small groups of "Exporters", "Importers" and "Transit States".

Each group will approach the simulation case from the perspective of their assigned identity. All necessary information and tools are provided in Annex I of this module. These include:

- A profile of the hypothetical deal.
- Information on a fictional recipient.
- An End-User Certificate.
- A map of the recipient and its neighbours.
- Briefings for the small groups work for each of the three groups, including tools to assist initial discussions.

2. Small groups work

Each group must arrive at a decision on whether or not to authorize a transfer. In each case three options exist:

- To authorize.
- To deny.
- No decision – there is insufficient information to judge (in effect, this is a denial until further guarantees are provided).

3. Roundtable discussion following the simulation

Unlike reporting back from previous small groups work, the designated spokesperson is not reporting back to plenary. Rather, the simulation continues in the roundtable discussion. Each group (or actor in the transfer) is invited to present their decision. The other groups then questions them on their rationale.

Following this discussion between groups, the trainer will ask you the following questions:

1. How confident are you that your decision is appropriate? Specifically, if you authorize the transfer, how confident are you that the weapons will not be diverted or misused?
2. How did you balance the concerns of different members/criteria?
3. What other criteria or information would you have liked to have had to be more confident in your decision?

Annex I

Arming Carana

An Arms Transfer Simulation

Further basic information on the nation of Carana, its neighbors, and its problems can be accessed at **www.tresa-online.org**

The deal

An order for SALW has been placed, ostensibly on behalf of the Republic of Carana.

The weapons ordered include:

- 200 AKM assault rifles (Price: USD $55,000.00)
- 150,000 rounds of 7.62mmx39mm ammunition (Price: USD $7,500)
- 500 RGD-5 handgrenades (Price USD $2,400)

Total price for weapons: USD $64,900.00

Basic SALW facts

AKM: An assault rifle. The advanced and more common variant of the famous Kalashnikov (AK-47) rifle. Uses the old Soviet standard ammunition (7.62x39mm). Numerous versions of this weapon have been made in different countries.
An AKM has a cyclic rate of fire of approximately 600 rounds per minute.
It has an effective range of around 400 metres, but is more accurate at closer ranges. Standard AK-47/AKM magazines can hold up to 30 rounds, but larger magazines (50 and 70 rounds) are available.

7.62x39mm (M43) ammunition: Old Soviet standard ammunition (until 1974 when it was replaced with lighter weight 5.45 x 39mm). As with other small arms ammunition, it comes in numerous different types. The ammunition ordered here is standard ball ammunition with a full metal jacket.

RGD-5 Handgrenades:. An obsolete old Soviet model fragmentation hand grenade.

The source
The weapons ordered are no longer produced in the Exporter State concerned. The weapons under consideration come from surplus military stocks.

The supplier
'Trans-Arms' is a private company, licensed to purchase and export surplus military equipment. It has offices around the world, and has previously been mentioned as a contractor for the security forces of several less-developed states.

The broker
Victor Monon is the arms broker for the deal. A former major in the Soviet military, Monon now runs a number of businesses. One of them is a diamond mining concession in Carana.

Recipient
The Armed Forces of Carana (AFC) (see basic indicators below).

Basic indicators on CARANA

Please note that information contained under the following headings may also be relevant for the assessment of other criteria in the SALW transfer authorization process.

Background
There are three main ethnic groups in Carana – the Kori, Tatsi and Falin – all of which speak Caranese. The Kori and Tatsi are the two largest ethnic groups in Carana, while the Falin is a small but key group involved in the mining of copper and diamonds in the southern region. They are especially known for their copper handicrafts.

After gaining independence from France in 1975, Carana experienced what can only be called teething problems. Language is one of the key problems: while Caranese is the official language, French is considered the best way to further one's career prospects. In fact, some government offices only deal in French. This is further agitated by the fact that tribalism is rampant. The former Colonial power of Italy favoured the Tatsi whom they found living in the east, while the French favored the smaller population of Falin and offered them key posts in the government. This favoritism not only created a rift between the peoples of Carana, but also led to the growth of nepotism and corruption in the government. A number of small uprisings against the Carana government developed into armed protests and organized violence, which led to the military taking control of the government in 1976 to re-establish order.

The death of military leader General Keplo in 1986 created an opening for the country's first democratic elections in 9 years, where Jackson Ogavo from the Parti Democratique de Carana (PDC) was elected President. Ogavo was re-elected for three consecutive terms (1991, 1996, 2001), though opposition to his regime began to grow in1996 due to a lack of economic growth and increasing discrimination against Kori and Tatsi members by the ruling – and predominantly Falin – party. Key government positions have been generally open only to those of Falin descent, as well as French speaking Carananians. Small uprisings occurred between 1996-2000 against the Ogavo regime,

and rebel groups were mobilized to challenge the government's hold on power. All opposition to the government was met with either the threat or use of armed force, and eventually escalated into civil conflict in 2000.

Internal security

In May 2005, a peace agreement ended 5 years of civil war and a legacy of ethnic discrimination and conflict in Carana. Despite the cessation of violence, Carana remains a politically unstable country and a transitional government under the leadership of President Ogavo has had limited success to date in re-establishing order and the rule of law. Small uprisings and violent clashes still occur in the rebel-controlled regions of west and south Carana. The primary threat to internal security results from these violent uprisings and armed crime which has risen significantly in the post-conflict period in both urban and rural areas.

The civil conflict in Carana was fought between government forces, the Movement Patriotique de Carana (MPC) in the western district of Tereni and the Independent Combatants of South Carana (ISC) in the south. Both the MPC and the ISC took as their initial aim the removal of President Ogavo from power, but cooperation between the two groups toward this end has been minimal. All parties have suffered numerous defeats, though the civilian population of Carana has been particularly targeted by all parties, leading to an estimated 150,000 deaths from violence, famine or disease. The ISC's exploitation of resources in the south has helped fuel their efforts, while the MPC has received external support from the neighbouring country of Katasi. A combination of war-weariness and strategic maneuvering led the leaders of both the MPC and ISC, as well as President Ogavo, to negotiate a cease-fire, which was reached on 19 May 2005 in Kalari. The Kalari Treaty (peace agreement) mandates all parties to disarm and establish a power-sharing arrangement in a new transitional government, including integration in a new Carana Defense and Security Force (CDSF). Currently, the CDSF are being formed and trained. They are also playing a policing role given stalled efforts at security sector reform.

Regional security (see map)

Stemming from the civil war, Carana's relations with some of its neighbours are tense. In particular:

There is an ongoing border dispute with Carana's neighbour to the south, ***Rimosa***. A recent election in Rimosa saw a rise in hardline rhetoric concerning an area of the Leppko province that was lost to Rimosa in a brief but bloody conflict over 30 years ago, and which is dominated by Tatsis. Given the presence of oil in Maldosa – on the eastern coast of Carana – Rimosa has an even greater interest in annexing Leppko, which is widely known. While there have been unconfirmed reports of incursions into the Leppko province, there is no independent information to indicate whether these were conducted by Rimosan soldiers, or armed bandits from neighbouring communities.

Neighbouring ***Katasi*** is in the midst of a political crisis. The current Katasi government continues to support a regime change in Carana to improve trade relations with the resource-rich country, as relations between President Ogavo and the leader of Katasi remain tense and unproductive. The Katasi government is known to have provided financial support to the MPC rebels during the civil conflict – in the hopes of bringing down the Ogavo regime – and there is continued evidence that they are supplying the MPC with small arms.

Sumora is the main trading partner of Carana in the region, and is currently importing materials from the area controlled by the MPC, thereby indirectly funding the insurgency. The Sumora government is under a UN arms embargo since the eruption of civil conflict in the country, where they are accused of arming a militia group – the Talons – to terrorize civilian and political opposition. The Sumoran government not only imported natural and raw materials from the MPC controlled territory, but also small arms. There is no evidence of the involvement of the Caranan government in breaching the arms embargo and exporting arms to the Sumoran government.

Human rights indicators

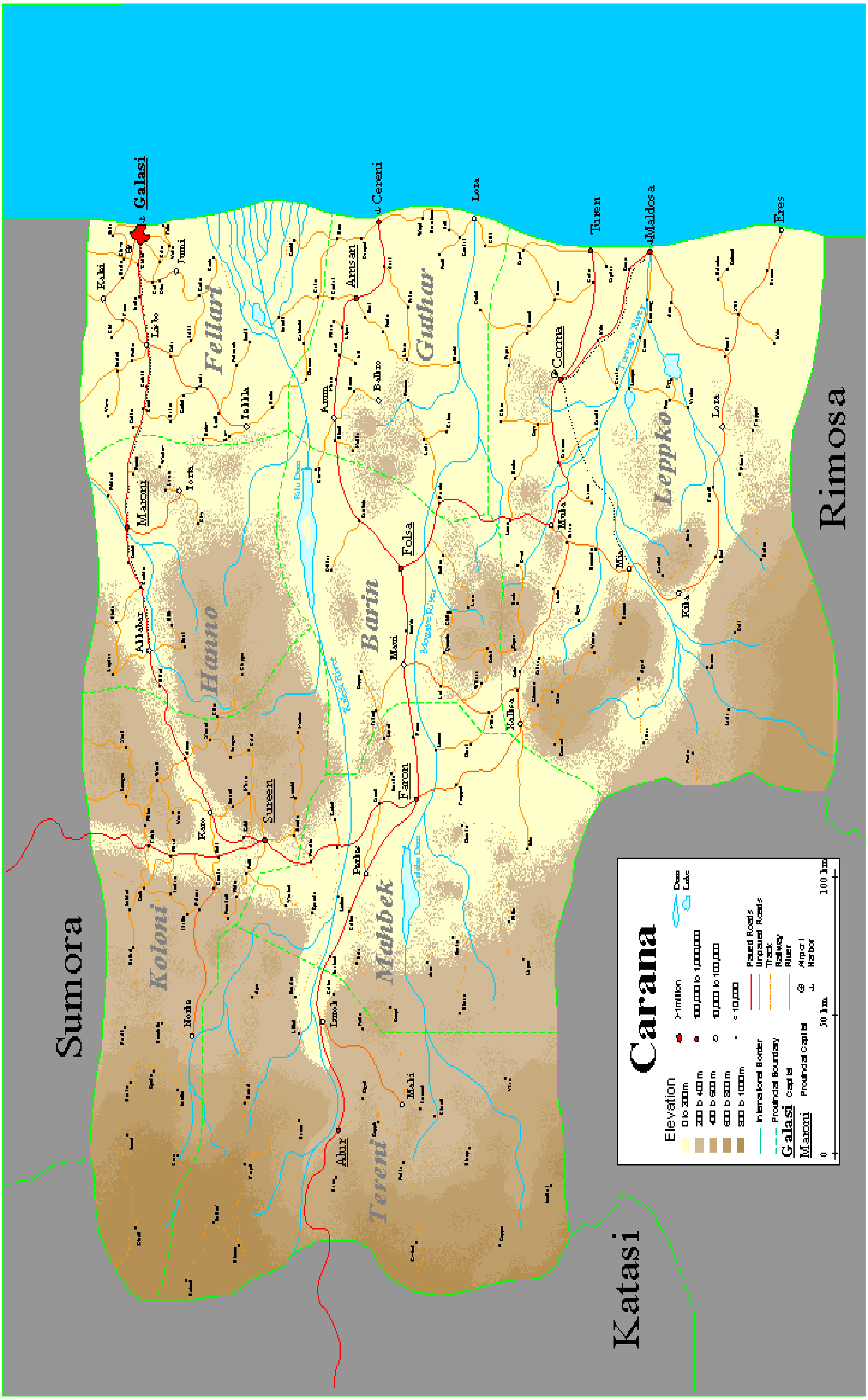
Widespread allegations of torture, disappearances and killings have been reported since the conflict erupted in early 2000 and has already claimed approximately 90,000 victims. Human Rights Monitor estimates another 100,000 civilians who have been injured or are suffering from famine and disease, and thus in dire need of humanitarian assistance. A total of 600,000 Caranans are currently living as internally displaced persons in camps near Galasi and other cities along the harbour.

Forcible recruitment, child soldiers and child slaves are also documented in the new Human Rights Monitor report on Carana, particularly by the ISC rebel group in the south. This group has claimed responsibility for the bulk of the killings in the southern front of the conflict, though Government forces are also implicated in the burning and pillaging of several local villages, which resulted in the deaths of thousands of women and children. "Caranans government officials were clearly involved in a number of atrocities committed in the district of Leppko, but the government has made no attempt to hold anyone accountable," Knight said. "More disturbingly, allegations of child solders in the national Caranan army have been made, but we've been unable to verify these claims."

The report also documents the treatment of Caranan refugees in Rimosa, where a number of Falin refugees have been attacked with violence or illegally detained by Rimosa forces. Conditions in these camps are also sub-standard, and thousands are suffering from the spread of disease.

Available economic and development indicators

Population (Total)	26,024,698
Population growth (annual %)	1.1% (annual growth rate)
Life expectancy	68.4 years
Infant mortality rate (per 1,000 live births)	9.43 deaths / 1,000 births
World Bank Classification	--
GNI Per Capita (Current US$ - Atlas Method)	--
Military Expenditure (% of GDP)	2.7% of GDP
Military Expenditure (US$ per Capita)	--
Total Armed Forces	30,000 – 35,000 armed combatants
Education Spending (% of GDP)	2.3%
Health Spending (% of GDP)	2.1%


Carana
Sumora
Rimosa
Katasi
Galasi
Fellari
Guthar
Leppko
Hanno
Barin
Koloni
Mahbek
Tereni
Maroni
Folsa
Corma
Sureen
Faron
Tiuren
Maldosa
Cereni
Elevation
Paved Roads
Unpaved Roads
Track
Railway
River
Dam
Lake
International Border
Provincial Boundary
Capital
Provincial Capital
Airport
Harbor
0
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100 km

Republic of CARANA Ministry of Defence

Document No: 05/0735

Room 101,
Ministry of Defence,
Government House,
GALASI
Republic of CARANA
TR-4392

To whom it may concern,

Our agent, Victor Monon is authorised on our behalf to purchase the military equipment listed below. This document relates to order 04-017 with Trans-Arms Limited, agreed by Mr Monon.

This is to certify that the goods listed below are for the sole use of the Armed Forces of Carana, and are not intended to be sold or exported to a third party or country.

Number	Nomenclature	Quantity
1	AKM 7.62x39mm assault rifle	200
2	Cartridge, 7.62mmx39mm ball	150,000
3	RGD-5 fragmentation hand grenades	500

Frederic Orger, Ministry of Defence
23 June 2005

General Robert Ulrich-Knowles Idding, Chief of Staff
27 June 2005

Brief for exporters

You are the exporting state. Trans-Arms has submitted to you an application for authorisation of export. You must now decide whether or not to authorize the transfer.

You should try to reach one of three conclusions.

- Authorize the transfer.
- Deny the transfer.
- Insufficient information to judge.

Decision making
You may find it useful to begin with a discussion of how you are going to make a decision. Are you going to divide yourselves into smaller groups with assigned roles (one person representing the Ministry of Defence, one representing the Foreign Ministry, one the Development Ministry, and so forth); or will you judge all criteria together?

When reporting you will be asked to explain this choice.

Criteria
The next step will be to agree on which criteria you want to apply.
You can apply as many as you want, but remember that each criteria applied will require some assessment on the basis of available information, and you only have limited time to make a decision (and some decisions could be expensive!!).

When reporting you will be asked to explain this choice.

The following matrix is designed to help you apply the criteria. It is intended as a guide, not a framework to be applied rigidly (the choice of how to make a decision is your own).

Your judgement should be based on the information provided in the Recipient Profile, the description of the deal, and the End-User Certificate.

Do not hesitate to add additional items for consideration in the matrix if you feel that it's necessary.

	Criterion	**Reasons for the transfer**	**Reasons against the transfer**	**Overall judgement**
1.	Possible impacts on the national interests of exporting state (including your relations with the importer state)			
2.	Consistency with exporting state's obligations under international law			
3.	Legitimate security needs of recipient state			
4.	The respect for international law of the importing state			
5.	Possible effect on internal security of recipient state including any internal conflict			
6.	Possible effect on regional security including any regional conflict			
7.	Possible impact on sustainable development in recipient state			
8.	The human rights standards of the importing state			
9.	The risk of diversion/ retransfer			
10.				

Brief for transit states

You are the Transtuli government (see map). Transtuli is a transit state in this arms transfer. You share a border with Carana. Victor Monon has informed you that he has chartered an aircraft that will carry the weapons shipment to your capital's main airport. From there the weapons shipment will be unloaded and placed onto trucks. These will then be driven across your territory and delivered to the Armed Forces of Carana. You must now decide whether or not to authorize the transit.

You should try to reach one of three conclusions:

- Authorize the transfer.
- Deny the transfer.
- Insufficient information to judge.

Decision making
You may find it useful to begin with a discussion of how you are going to make a decision. Are you going to divide yourselves into smaller groups with assigned roles (one person representing the Ministry of Interior, one the Ministry of Defence, one the Foreign Ministry, one the Development Ministry, and so forth); or will you judge all criteria together?

When reporting you will be asked to explain this choice.

Criteria
The next step will be to agree on which criteria you want to apply. In those few states where transit licensing procedures exist, they are sometimes integrated with export controls. This does not mean that you should necessarily apply all of the same criteria, or that you should decide on the balance of criteria in the same way. You can apply as many as you want, but remember that each criterion applied will require some assessment on the basis of available information, and you only have limited time to make a decision.

When reporting you will be asked to explain this choice.

The following matrix is designed to help you apply the criteria. It is intended as a guide and not a framework to be applied rigidly (the choice of how to make a decision is your own).

Your judgement should be based on the information provided in the Recipient Profile, the description of the deal, and the End-User Certificate.

Do not hesitate to add additional items for consideration in the matrix if you feel that it's necessary.

	Criterion	**Reasons for the transfer**	**Reasons against the transfer**	**Overall judgement**
1.	Possible impacts on the national interests of exporting state (including your relations with the importer state)			
2.	Consistency with exporting state's obligations under international law			
3.	Legitimate security needs of recipient state			
4.	The respect for international law of the importing state			
5.	Possible effect on internal security of recipient state including any internal conflict			
6.	Possible effect on regional security including any regional conflict			
7.	Possible impact on sustainable development in recipient state			
8.	The human rights standards of the importing state			
9.	The risk of diversion/ retransfer			
10.				

Brief for importers

You are the government of Carana. Your Ministry of Defence has contracted Victor Monon to provide equipment for your army. You are now going to decide whether or not to proceed with the transfer and provide final authorization. In many countries this would not be necessary, but for the purpose of this simulation it is useful to make this decision in order to engage in consultation with the other states.

You should try to reach one of three conclusions:

- Proceed with the transfer.
- Cancel the transfer.
- Insufficient information to judge.

Decision making
You may find it useful to begin with a discussion of how you are going to make a decision. Are you going to divide yourselves into smaller groups with assigned roles (one person representing the Finance Ministry, the Ministry of Interior, one the Ministry of Defence, one the Foreign Ministry, one the Development Ministry, and so forth); or will you judge all criteria together?

When reporting you will be asked to explain this choice.

Criteria
The next step will be to agree on which criteria you want to apply. You can apply as many as you want, but remember you only have limited time to make a decision.

When reporting you will be asked to explain this choice.

The following matrix is designed to help you apply the criteria. It is intended as a guide and not a framework to be applied rigidly (the choice of how to make a decision is yours).

Your judgement should be based on the information provided in the Recipient Profile, the description of the deal, and the End-User Certificate.

Do not hesitate to add additional items for consideration in the matrix if you feel that it's necessary.

	Criterion	**Reasons for the transfer**	**Reasons against the transfer**	**Overall judgement**
1.	Your security needs			
2.	Consistency with your obligations under international law			
3.	The risk of diversion before receiving weapons			
4.	The risk of diversion once weapons enter DRT			
5.	Possible effect on regional security including any regional conflict			
6.	The cost of the deal			
7.	Possible impact on sustainable development in recipient state			
8.				
9.				

Bibliography

Essential readings on key issues

Biting the Bullet Briefing 13 (2001) Section 2 on Transfer and end-use controls (Covers global, regional and national approaches – but pre-dates the PoA).

IANSA/Biting the Bullet Report on the PoA (2005 report accessible at http://www.iansa.org/documents/2005/red-book/red-book-2005.pdf. Report for 2006 forthcoming).

Small Arms Survey, *Small Arms Survey 2004: Rights at Risk*, (Oxford, Oxford University Press, 2004), CHAPTER FOUR.

Greene, Owen, *Overview Paper*, pp 1 – 46 in UNIDIR and Small Arms Survey, *The Scope and Implications of a Tracing Mechanism for Small Arms and Light Weapons*, (Geneva, UNIDIR and SAS, 2003); available in PDF (of whole book) at http://disarmament2.un.org/cab/salw-oewg.html

Other useful information

SIPRI's Export Controls Project Website has good basic outlines of key elements of export control systems (http://web.sipri.org/contents/expcon/).
This information is not SALW specific, but rather outlines key information on export controls relevant for all types of weapons, military goods, and dual use goods and technologies (including Nuclear Suppliers Group, Zangger Committee, MTCR etc).

It also has some very good outlines of national controls including a high level of detail such as the number of staff working full time on export authorization, etc.

Endnotes

[1] These rules were adapted from the UNDP Sierra Leone "Arms for Development, Module II Training Workshop, Police Training School Hastings, 27.09-02.10.2004."

[2] A more detailed glossary of export control terms is available at http://projects.sipri.se/expcon/egloss/eglosse.htm.

[3] This is according to information available from 2002, as reported in the Small Arms Survey 2005.

[4] Small Arms Survey 2005.

[5] Biting the Bullet, International Action on Small Arms 2005: Assessing Implementation of the UN Programme of Action, (London, IANSA and Biting the Bullet, 2005).

[6] UN, Final Report of the Monitoring Mechanism on Angola Sanctions, (New York, UN, 200), S/2000/1225, 21 December 2000, p 11 & p 16.

[7] http://www.wassenaar.org.

[8] For an overview of all of these initiatives see Biting the Bullet, International Action on Small Arms 2005: Examining Implementation of the UN Programme of Action, (London, IANSA and Biting the Bullet, 2005).

[9] See DECISION OF THE COUNCIL OF STATE ON THE GENERAL GUIDELINES FOR THE EXPORT AND TRANSIT OF DEFENSE MATERIEL (474/1995), available at http://www.nisat.org.

[10] See Small Arms Survey, Small Arms Survey 2004: Rights at Risk, (Oxford, Oxford University Press, 2004), CHAPTER FOUR.

[11] See Wood, Brian and Peleman, Johan, The Arms Fixers: Controlling the Brokers and Shipping Agents, (London and Oslo, BASIC, NISAT/PRIO, 1999). Text available at http://www.nisat.org/publications/armsfixers/default.htm.

[12] Biting the Bullet, International Action on Small Arms 2005: Examining implementation of the UN Programme of Action, (London, IANSA and Biting the Bullet, 2005).

[13] Numerous resources on marking and tracing exist. See, for example, the Non-Paper of the chair of the OEWG at http://disarmament2.un.org/cab/docs/oewg/non-paper-7-5-04.pdf; Greene, Owen, Overview Paper, pp. 1 – 46 in UNIDIR and Small Arms Survey, *The Scope and Implications of a Tracing Mechanism for Small Arms and Light Weapons*, (Geneva, UNIDIR and SAS, 2003); both available at http://disarmament2.un.org/cab/salw-oewg.html; and/or several reports and a model convention produced by GRIP at http://www.grip.org.

[14] UN GA Resolution 58/241.

[15] Including Armenia and Azerbaijan force in Nagorno-Karabakh.

[16] Imposed collectively by Zaire/DRC, Eritrea, Ethiopia, Kenya, Rwanda, Tanzania, Uganda and Zambia.

[17] EU associated countries in Eastern and Central Europe, Cyprus and the EFTA countries declared that they shared the objectives of this embargo.

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