

Background Paper: Transparency

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What kind of reporting mechanism could be used in an ATT?

An ATT reporting mechanism should ideally build upon, learn from and strengthen existing reporting mechanisms on transfer control systems and international arms transfers at the global, regional and national levels. Thus, the main aim of this paper is to highlight the types of information that are already exchanged through intergovernmental transparency mechanisms on transfer control systems and actual transfers of conventional arms munitions, ammunition and military equipment, or made available unilaterally by national governments, in order to facilitate discussion on how the ATT could help to encourage and promote transparency in the global arms trade.

The aims, scope and coverage of an ATT will determine the format and types of information to be provided to an ATT reporting mechanism.ⁱ However, an examination of the functioning and shortcomings of existing global, intergovernmental and national reporting mechanisms on international transfers of conventional arms, as well as the UN Group of Governmental Experts study 'Study on Ways and Means of Promoting Transparency in International Transfers of Conventional Arms' ('Ways and Means Study'), allows this paper provide:

- A brief overview of different potentially relevant reporting mechanisms;
- Suggestions for reporting categories for, and types of information to be provided to, an ATT reporting mechanism; and
- Some general considerations for an ATT reporting mechanism.

The suggestions for reporting categories and types of information given in the chart below draw upon existing intergovernmental reporting mechanisms, information released by governments for domestic and international audiences and suggestions in the 'Ways and Means Study.' Under an ATT, States could be *called upon*, *requested*, *invited* or *encouraged* to report information to these categories. Under each category heading, it has been noted whether such information has been provided by intergovernmental or national reporting mechanisms, as not all UN Member States provide this information for all categories, and possible types of information to be reported upon have also been listed. While the suggestions for categories and types of information listed in the chart below relate to those that should ideally be made available for confidence-building and to assess compliance with a future ATT, it arguably remains the case that:

'The most important criteria for the choice of types of information are political acceptability and relevance for the achievement of transparency'ⁱⁱ

Overview of existing reporting mechanisms on conventional arms transfers and transfer controls

Global

- *UN Register of Conventional Arms*
- *National legislation on transfer of arms, military equipment and dual-use goods and technology*
- *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*

Other intergovernmental reporting mechanisms

There are a number of intergovernmental reporting mechanisms aimed at controlling arms transfers, combating illicit trafficking and prohibiting transfers of certain conventional weapons. The following are a selection of intergovernmental agreements and conventions that contain provisions on transparency, reporting mechanisms and intergovernmental information exchanges:

- *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (1997)*
- *Convention on Cluster Munitions (2008)*
- *ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and other Related Materials (2006)*
- *EU, Code of Conduct on Arms Exports (1998) / Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (2008)*
- *Inter-American Convention on Transparency in Conventional Weapons Acquisitions (1999)*
- *OSCE Document on Small Arms and Light Weapons (2000)*
- *Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies*

National

- *National reports on arms exports*
- *Ministry of Defence publications, including defence white papers, defence reviews, national security strategies, arms procurement plans*

Chart 1. Suggestions for reporting categories and types of information to be provided for an ATT reporting mechanism

Category	Intergovernmental reporting measures	National reporting measures	Suggested information to be provided
1. National transfer control system	States can report to a range of UN instruments on national transfer controls: (a) the annual exchange of National Legislation on Transfer of Arms, Military Equipment and Dual-Use Goods and Technology; (b) implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects; ⁱⁱⁱ (c) background information submissions to the UN Register of Conventional Arms (UN Register); and (d) particular and general measures undertaken to implement and enforce selected UN arms embargoes (e.g. DPRK, Eritrea and Iran and for certain actors in DRC and Sudan). ^{iv}	States provide information on their transfer control legislation and competent authorities in: (a) national reports on arms transfers (national reports) and (b) on government websites.	(a) Activities subject to transfer controls (export, import, transit, transshipment, brokering, transportation); (b) licensing procedures including the criteria for assessing license applications; (c) end-use/user documentation requirements; (d) the national control list; (e) explanations of particular licensing decisions; and (f) sanctions for violations.
2. Arms procurement plans	Several states have submitted defence white papers as part of their background information submissions to the UN Register and several regional organisations also encourage such exchanges (e.g. Association of South East Asian Nations, Organisation of American States).	States publish defence white papers and security strategies or concepts, some of which provide information on arms procurement plans. ^v Some states also publicly announce arms procurement programmes in government documents, websites or media interviews.	(a) Procurement time frame; (b) description of arms; (c) quantity of items; and (d) projected cost of the procurement programme.
3. Data on orders	Several states include information on orders in their submissions to the UN Register.	Some states provide information on orders in government documents or websites (e.g. Ministry of Defence).	(a) Producer and supplier; (b) recipient and end-user; (c) non-state entities involved in the transaction: producers,

			brokers, transporters, financial agents; (d) date of: order, licence application, licence granted, licence refused, and deliveries; (e) description of arms, components, knowledge or services: control list category, description, model, age; (f) quantity of items; (g) financial value and (h) financial arrangement: offsets, subsidies, export credits, credit arrangement, barter, gift.
4. Data on transfer licences issued and denied	There are several intergovernmental reporting mechanisms for information on transfer licence applications and denials (e.g. the European Union (EU) information exchange on export licences and the Economic Community of West African States (ECOWAS) information exchange on exemptions from the ECOWAS Convention on Small Arms and Light Weapons).	Since 1990, 32 states have provided information on licences granted for exports, imports, transit/transshipment, brokering and brokering-related services in a national report. ^{vi}	See category 3
5. Data on deliveries	States are requested to submit information to the UN Register on transfers of weapons that fall within the parameters of the Register's seven categories and are also invited to submit information on transfers of SALW. Intergovernmental reporting mechanisms for deliveries of conventional weapons also exist in several regions and export control regimes (e.g. Organisation of American States; Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies).	A number of states provide information on deliveries in their national reports, with the level of detail provided comparable with that for information on licences.	See category 3
6. Data on co-	States are neither requested nor invited to	Some states provide information on	See category 3

, licensed and multinational production	provide this information to the UN Register, but some information can be found in submissions on procurement from domestic production.	co-production, licensed production and multinational production in their national reports.	
7. Data on procurement through national production	States are invited to provide information to the UN Register on procurement through national production for its seven categories. Intergovernmental reporting mechanisms also provide for information exchanges on procurement (e.g. Conventional Forces Europe Treaty, Inter-American Convention on Transparency in Conventional Weapons Acquisitions).	Some information on procurement from national production can be found in updates on national arms procurement programmes and plans or via Ministry of Defence publications.	(a) Producer; (b) end-user; (c) description of items: control list category, description, model; (d) quantity of items
8. Data on holdings	States are invited to provide information to the UN Register on holdings for its seven categories. Intergovernmental reporting mechanisms also have information exchanges for holdings (e.g. Conventional Forces Europe Treaty; the Moscow Agreement).	Some information on holdings can be found via Ministry of Defence publications.	(a) Description of items: control list category, description, model; (b) quantity of items: total holdings, in service, designated surplus and destroyed
9. Data on seizures of illicitly trafficked arms and prosecutions	There are a few mechanisms for exchanging information on illicitly trafficked arms at the international level and several regional and sub-regional initiatives for combating organised crime that also exchange information on seizures of illicitly trafficked arms. (e.g. Interpol, Organisation for Security and Cooperation in Europe, Southeast Europe Cooperative Initiative (SECI) Regional Center for Combating Transborder Crime)	Some states provide information on seizures and prosecutions in their national reports.	(a) Seizures of illicitly trafficked arms, munitions and ammunition; (b) individuals or corporations convicted for arms trafficking; (c) routes used for illicit trafficking and information on embargo violations; (d) transport companies involved in illicit or destabilizing transfers; (e) and non-State entities that are or may be attempting to acquire MANPADS. ^{vii}

General considerations for an ATT reporting mechanism

The types of categories and information to be provided to an ATT reporting mechanism should assist states in meeting the aims of an ATT. One can assume that these aims will include commitments to the promotion of international peace and security. A transparency mechanism is an important confidence-building measure for promoting international peace and security. Therefore relevant and detailed information should be reported to demonstrate good will, increase mutual trust and help reduce tensions under an ATT. States are currently requested or invited to provide information on transfer controls and arms transfers to the UN annually; other intergovernmental and unilateral reporting mechanisms take place monthly or quarterly. Discussions relating to an ATT reporting mechanism could offer an opportunity for consolidating reporting on transfer control systems and international arms transfers.

Another aim of an ATT will be to ensure universal state party participation. State capacity could pose a challenge for some states to implement obligations under an ATT. Therefore reporting upon progress and obstacles in implementation could help to identify areas for international cooperation and assistance to be rendered. Assistance may be required in some cases to help compile national reports on implementation and also to report information for confidence-building purposes. Other challenges could include lack of political will, concerns regarding the relevance of reporting categories for national security and reporting fatigue. It is worth considering lessons learned from other reporting mechanisms to help overcome such obstacles.

While states under a number of intergovernmental reporting mechanisms exchange information in confidence, information provided to the UN on conventional arms is also made available for public scrutiny. This is already the case with information for categories 1, 5, 7 and 8 above. Are there categories or types of information that should remain confidential (for example some of the information that could be exchanged under category 9)?

Existing UN reporting mechanisms utilise mandatory and voluntary reporting requirements, distinguishing within particular reporting mechanisms on whether to 'call upon', 'request', 'invite' or 'encourage' states to report for certain categories and types of information. Should an ATT reporting mechanism also introduce a 'hierarchy' among the categories to be reported upon? And if so, which categories should require mandatory reporting?

It would appear that a standardised reporting template is a useful tool for states reporting to UN instruments. At the same time, a standardised reporting template does not address all of the technical challenges that states face in the collection and exchange or publication of information. It should also not preclude states from providing either partial reports, or reports that provide more information than requested by the standardised reporting template. This also relates to the level of detail that is required for information to be meaningful and useful for confidence-building and assessing implementation of an ATT. What are the legitimate security and commercial considerations that could limit the level of detail provided?

Endnotes

ⁱ Para 105, United Nations, Report of the Secretary General, Study on Ways and Means of Promoting Transparency in International Transfers of Conventional Arms, UN General Assembly, Forty-sixth session, General and Complete Disarmament: International Arms Transfers, UN Document A/46/301, 9 Sept. 1991, p. 38.

ⁱⁱ Report of the Secretary General, Study on Ways and Means of Promoting Transparency in International Transfers of Conventional Arms, UN General Assembly, Forty-sixth session, General and Complete Disarmament: International Arms Transfers, UN Doc. A/46/301, 9 Sept. 1991, Para 116.

ⁱⁱⁱ United Nations General Assembly Resolution 57/66, 30 December 2002, Art. 2; United Nations Programme of Action Implementation Support System: <<http://www.poa-iss.org/reporting/>>.

^{iv} For recent examples, see: UN Security Council Resolution 1857 (2008), UN Doc. S/RES/1857, 22 Dec. 2008, para. 7 (DRC); UN Security Council Resolution 1874 (2009), UN Doc. S/RES/1874, 12 Jun. 2009, para. 22 (DPRK); UN Security Council Resolution 1891 (2009), UN Doc. S/RES/1891, 13 Oct. 2009, para. 5 (Sudan); UN Security Council Resolution 1907 (2009), UN Doc. S/RES/1907, 23 Dec. 2009, para. 20 (Eritrea); UN Security Council Resolution 1929 (2010), UN Doc. S/RES/1929, 9 Jun. 2010, para. 31 (Iran).

^v Military Education Research Library Network, <<http://merln.ndu.edu/whitepapers.html>>.

^{vi} Bromley, M. and Holtom, P., 'Appendix 7.C. Transparency in arms transfers', SIPRI Yearbook 2010: Armaments, Disarmament and International Security (Oxford University Press: Oxford, 2010), p. 325.

^{vii} Based on: Organisation of American States (OAS), Inter-American Convention against the Illicit Manufacturing and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials Approved during the First Plenary Session held on November 13, 1997; OSCE Document on SALW, 2000, p. 9; Wassenaar Arrangement, Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS), Andean Plan to Prevent, Combat and Eradicate Illicit Trade in Small Arms and Light Weapons in all its Aspects, 25 June 2003; Agreed at the 2003 Plenary and amended at the 2007 Plenary; Decision No. 3/04, OSCE Principles for Export Controls of Man-Portable Air Defence Systems (MANPADS), FSC.DEC/3/04, 26 May 2004; Wassenaar Arrangement, 'Best Practices to Prevent Destabilising Transfers of Small Arms and Light Weapons (SALW) through Air Transport, Agreed at the 2007 Plenary; OSCE 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, FSC.DEC/11/08, 5 November 2008.