Information gathering in the context of the pre-transfer risk assessment
An insight into Switzerland’s practice

18 November 2021
Legal framework (1/2)

**Article 22 Federal Act on War Materiel**

The [...] export and transit of war materiel [...] shall be authorised if this is not contrary to *international law, international obligations, and the principles of Swiss foreign policy.*

- International obligations
- Principles of Swiss foreign policy
Legal framework (2/2)

**Article 5.2 Ordinance on War Materiel**

[...] shall not be approved if

- the country of destination is involved in an internal or international armed conflict;
- the country of destination systematically and seriously violates human rights;
- there is a high risk [...] that the war materiel to be exported will be used against the civilian population; or
- there is a high risk [...] that the war materiel to be exported will be transferred to an undesirable end recipient.
Information gathering

1. Analyse information received with request
   - materiel (type / amount / price), end-user, EUC

2. Questions to ask
   - Is there an existing export practice?
     - country of destination / end-user / war materiel
   - Is this export practice up-to-date?
     - If answer is yes → proceed according to practice
     - If answer is no → internal consultation
Internal consultation (1/3)

• Who is consulted?
  • Swiss Embassy in country of destination
  • Regional desk
  • Human Rights division
  • Swiss Agency for Development and Cooperation
  • Directorate of International Law

• Others?
  • Federal Intelligence Service
  • Defence Attachés
Internal consultation (2/3)

• What do we ask them?
  • General questions
    ➢ regional stability, internal situation, political stability, human rights violations (incl. GBV), etc.
  
• Specific questions (case-by-case)
  ➢ end-user, materiel
  ➢ known circumstances like involvements in armed conflict, unlawful use of force in the context of protests, prior diversion cases like diversion to third party allies, etc.
Internal consultation (3/3)

• How exactly do we do it?
  ➢ Consultation letter (*background information and questionnaire*)
  ➢ Human Rights Checklist
  ➢ ~ 10 days

• How is the information gathered?
  • Reports (UN, NGOs, States)
  • Media
  • Own experience / exchanges with contacts
Information about GBV and VAWC

- Difficult to find specific information
- Part of Art. 7.1 ATT
- Study conducted by the Small Arms Survey
Thank you for listening!

Questions and feedback are always welcome
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