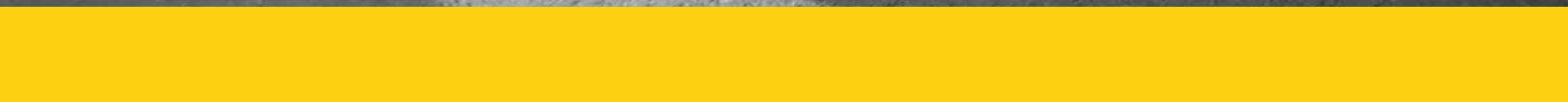




The ATT Baseline Assessment Project

Identifying Good Practice and Implementation Measures

August 2015





Introduction

The Arms Trade Treaty (ATT) is the first global treaty to establish legally binding standards regulating the international trade in conventional arms. Adopted by the United Nations General Assembly in April 2013, the Treaty entered into force on 24 December 2014, ninety days after the deposit of the 50th instrument of ratification. As of 17 July 2015, the ATT has 69 States Parties and an additional 61 signatories.

The Treaty mandates specific measures that, if implemented effectively, will increase global transparency and promote greater accountability for global arms transfers. In many cases, however, the Treaty text does not provide prescriptive language. Rather, the Treaty requires States to adopt regulations and laws as necessary to enable implementation. As a first step, States must assess their current arms transfer control systems and identify gaps and capabilities in order to identify the ways in which they will implement Treaty obligations.

The ATT-Baseline Assessment Project (ATT-BAP) helps States identify whether their existing arms transfer control systems fulfill ATT requirements. The project provides clear guidance on the Treaty's provisions and offers tools to measure and monitor implementation.

This report is intended to inform deliberations on effective next steps and help States best prepare for national implementation of the ATT. The report highlights examples of good practices for ATT implementation as outlined in the ATT-BAP Survey and provides examples of definitions and other measures for States to utilize as they develop their own effective transfer control systems to implement the Treaty and harmonize regional practice. In addition, this report and other information contained within the ATT-BAP Survey can be used to develop user guides and information exchanges to support ATT implementation assistance.



Methodology

The ATT-BAP Ratification Checklist enables internal assessment of 12 areas relating to ATT implementation and facilitates identification of areas that require further development. The ATT-Baseline Assessment Survey offers States the opportunity to complete an assessment of 12 areas relating to ATT implementation and identifies areas for international assistance and capacity-building. In developing the checklist and Survey, ATT-BAP examined the full Treaty text and identified the 12 key aspects for implementation. ATT-BAP held meetings with and received input from partners and key stakeholders on the structure, content, and format of the checklist and Survey.

All Surveys submitted to ATT-BAP are entered without alteration into country profiles on the ATT-BAP Portal (www.armstrade.info). The data is also available via an online searchable database, which aggregates the submitted information from completed Surveys – including those that have been submitted as “private.” The country profiles and database contain information as provided by States, without interpretation, verification, or judgment.

Users can conduct searches of specific Survey topic areas or specific regions in order to identify the ways in which States are fulfilling their Treaty obligations and find gaps in Treaty implementation. Data can be used to identify good and common implementation practices, to find countries in need of implementation assistance, and to identify States that could provide assistance in order to help States fulfill their Treaty obligations. The database has the dual benefit of monitoring States’ progress towards effective Treaty implementation and ensuring that scarce resources are utilized efficiently.

The ATT-BAP database provides an aggregate of State responses to every yes/no/don’t know question contained in the Baseline Assessment Survey. This amounts to over 120 questions and sub-questions dispersed across the 12 categories related to ATT implementation. The aggregated responses are represented in percentage form in the online database, which provides a detailed breakdown of each State’s response, including any additional information States may have provided.

Data represented in this report are divided between “yes” responses (dark gray), “no” (yellow), “no response” (light gray), and “don’t know” responses (light yellow). Percentages are rounded to the nearest hundredth, and therefore the total percentage of aggregated responses to certain questions does not add up to 100%. Additionally, good practices are represented in yellow boxes with an accompanying globe icon. Country examples are also provided and are represented in bold.

photo: Commonwealth of Australia, Department of Defence (via defence.gov.au)

Survey Respondents as of 17 July 2015



Africa

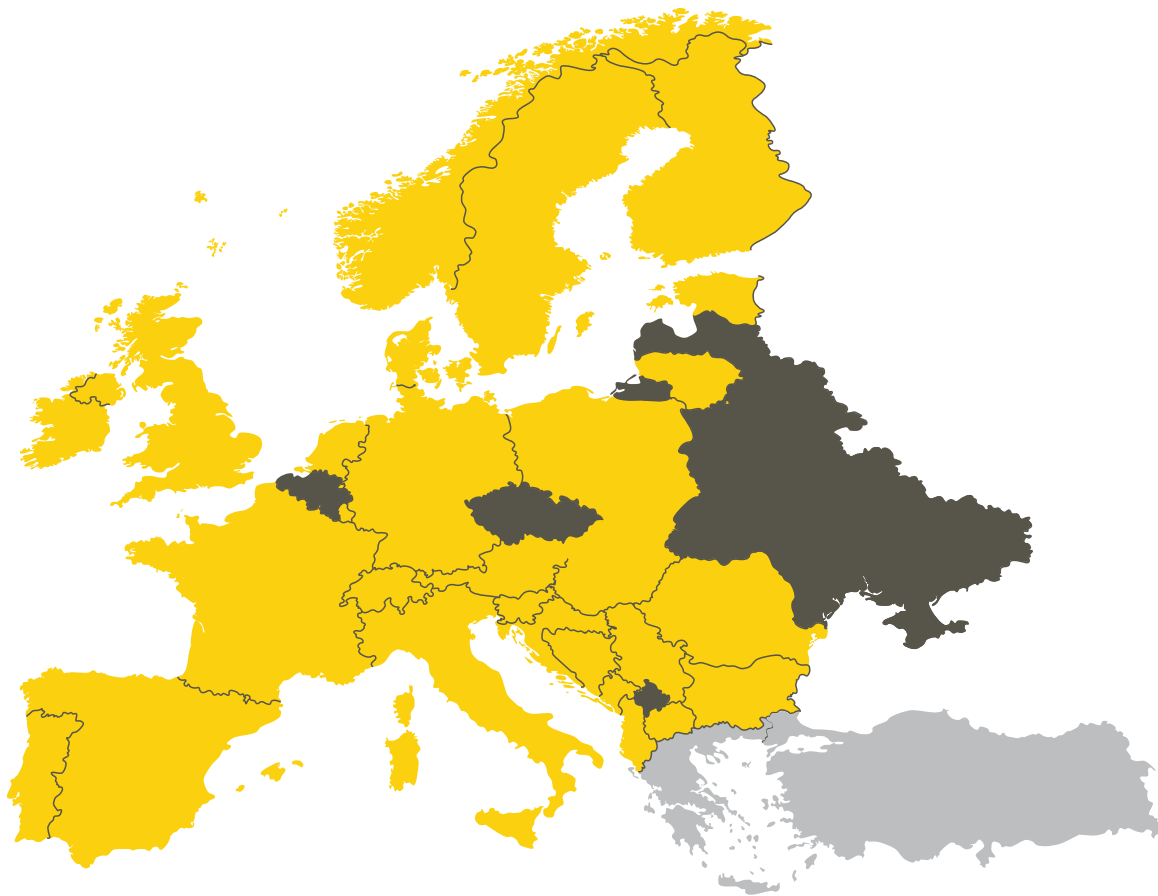
- States Parties: Burkina Faso, Liberia, Mali, South Africa
- Signatories: Swaziland
- Non-signatories: Botswana, Democratic Republic of the Congo

photo: Control Arms (controlarms via Flickr)



Americas

- States Parties: Antigua and Barbuda, Argentina, Belize, Costa Rica, Dominican Republic, El Salvador, Grenada, Jamaica, Mexico, Panama, St. Kitts and Nevis, St. Lucia, Trinidad and Tobago
- Signatories: Peru, Suriname, United States



Europe

■ States Parties: Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Macedonia, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom

■ Signatories: Greece, Turkey



Asia and Oceania

- States Parties: Australia, Japan
- Signatories: Kiribati, Palau, Philippines, Vanuatu

photo: Control Arms (controlarms via Flickr)



General Trends and Good Practice

The Baseline Assessment Survey highlights a diverse sample of approaches that States have employed to fulfill their ATT obligations. What is clear from the variety of Survey responses is that there is no one-size-fits-all approach to implementing the Treaty. However, completed Surveys provide examples of good and common practices that can be used to guide States as they develop their own national control systems.

The ATT outlines specific obligations that States must undertake to implement the Treaty. These obligations can be summarized in six main themes:

- Establish a national control system for international arms transfers (including a national control list)
- Assess the risk that proposed transfers will result in the negative consequences outlined in Articles 6 and 7 of the Treaty
- Establish methods/procedures to prevent and address diversion
- Ensure proper enforcement of national laws relevant to Treaty implementation
- Facilitate international cooperation and identify potential assistance capacities and needs to ensure effective Treaty implementation
- Establish meaningful record keeping and reporting mechanisms to facilitate implementation and promote greater transparency and accountability

The results of the Baseline Assessment Surveys support effective implementation in five distinct ways:

- Identify areas where States are/are not implementing the ATT
- Identify areas for further development
- Identify national understandings of definitions and prohibitions
- Identify good practices for regulating arms transfers and addressing arms trafficking and diversion
- Identify measures used to implement transfer controls, measures to prevent diversion, and measures to ensure enforcement

photo: UN Photo/Issac Billy (via unmultimedia.org/photo)



National Control Lists and Systems

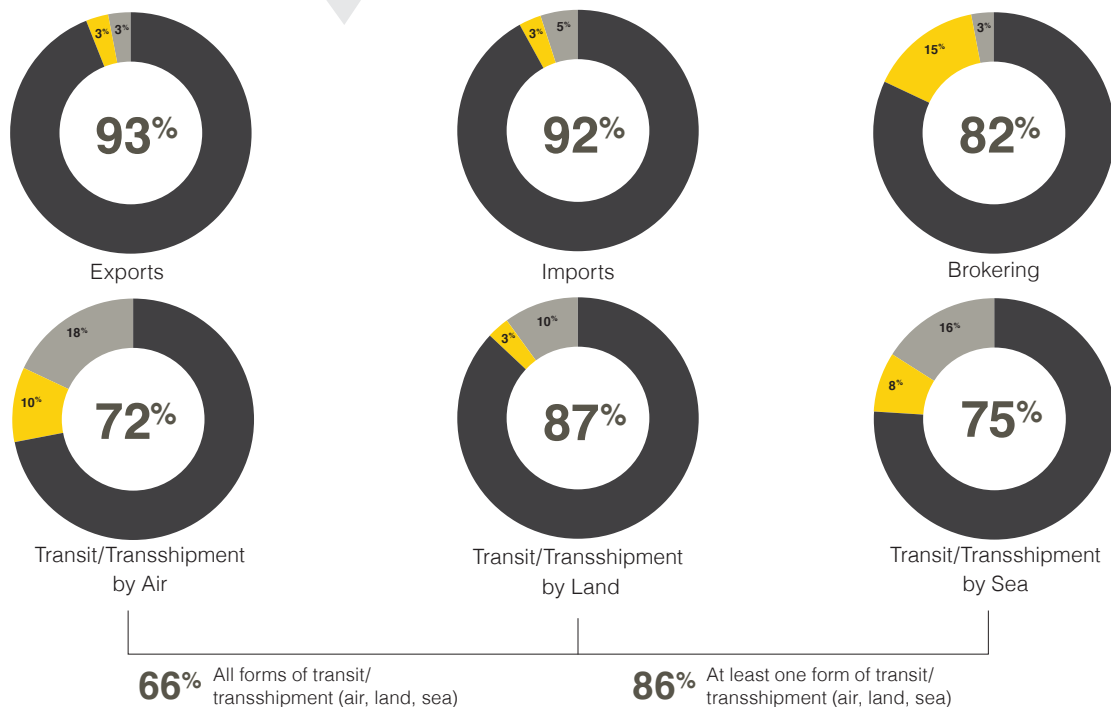
Articles 3, 4, and 5.2 of the ATT require States to establish and maintain an effective national system, including a national control list. States are required to control the export and regulate import, transit and transshipment, and brokering activities (defined as “transfers”) related to, at a minimum, eight categories of conventional arms, as well as exports of related ammunition and of parts and components that are used for assembling conventional arms covered by the Treaty.

Over 90 percent of respondents currently control exports and regulate imports, with a little more than 80 percent regulating brokering. Transit/transshipment had the most variance in responses, with only two-thirds of States regulating transit/transshipment by air, land, and sea. A little more than 80% of the respondents regulate at least one form of transit and/or transshipment. Transit/transshipment, in particular, is an area where States will require assistance to establish and maintain a national system.

(ARTICLES 3, 4, 5.2, 8, 9, 10)

Does your State maintain a national system for controlling or regulating:

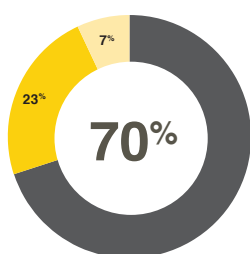
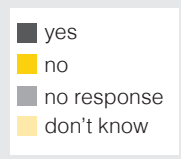
■ yes
 ■ no
 ■ no response



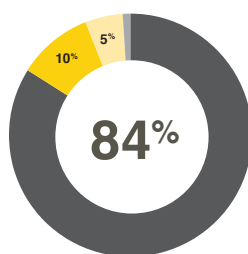


(ARTICLES 2.1, 3, 4, 5.2)

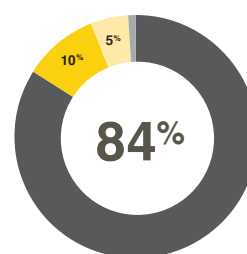
Does your national control list cover the following:



First seven categories of conventional weapons included in Article 2.1 of the Treaty



Small Arms and Light Weapons



Ammunition/Munitions

When asked about the items included in and covered by their national control lists, States provided a variety of different responses. Sixty-nine percent of States reported that their control lists cover all items included in Articles 2.1, 3, and 4 of the Treaty. Eighty-four percent of respondents noted that small arms and light weapons (SALW) are included in their national control lists, whereas ten percent reported they do not cover SALW. Of those that reported they do not cover SALW in their national control lists, 83 percent are from the Americas and two percent are from Africa. All countries that responded “don’t know” to this question are from the Americas.

When asked how they define items in their national control lists, more than 50 percent of respondents stated that they utilize the Wassenaar Arrangement Munitions List and/or the European Union Common Military List. These lists have been developed by national experts from some of the major arms exporting States, and adopted by States around the world that seek to have comprehensive control lists, even if they were not involved in the development of the control lists. When control lists are publicly available, States can utilize them to develop their own control lists. Forty-two Survey respondents make their lists publicly available, and more than three-quarters of those provided an internet link to their national control lists in their Survey. Twenty-five percent of Survey respondents noted that their national control lists are not publicly available.

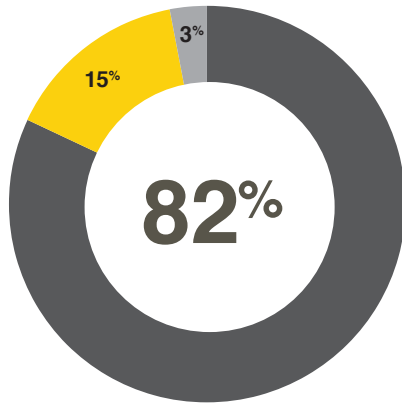
photo: Naval Surface Forces (navalsurfaceforces via Flickr)



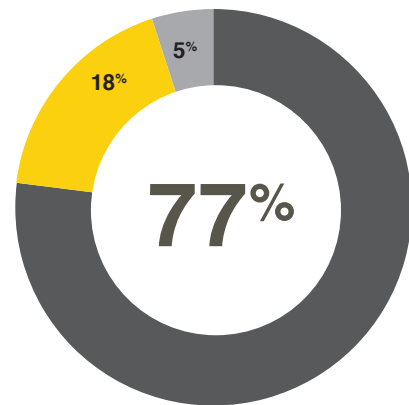
(ARTICLES 2.2, 5.2)

For which activities does your State maintain a national control list of conventional arms?

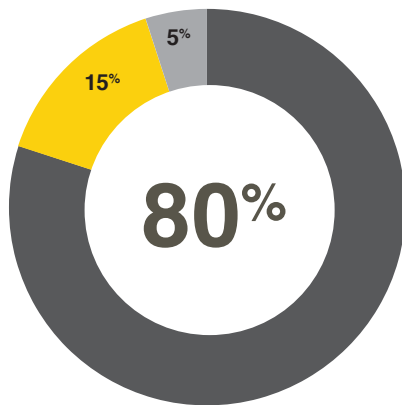
■ yes
■ no
■ no response



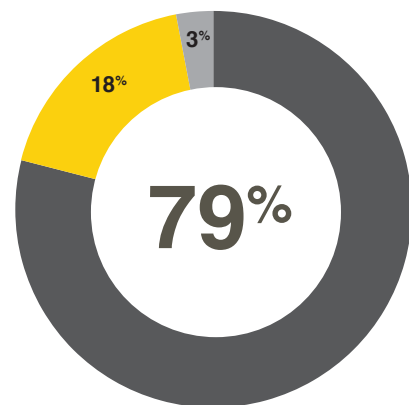
Exports



Imports



Transit/Transshipment



Brokering



Article 5.5 of the Treaty requires States to designate competent national authorities to be responsible for implementing their national arms transfer control systems. While some Survey respondents noted a wide range of agencies involved in regulating the different transfer activities, 49 percent of States indicated that the same agencies and/or ministries lead the implementation process for arms transfer controls across all activities.

For the majority of respondents, the Ministries of Economy and/or Defense were the lead agency for all transfer activities – with other ministries and agencies involved in implementation. Other commonly noted agencies and ministries involved in this process include customs and border protection services, Ministries of Finance, and national security agencies.

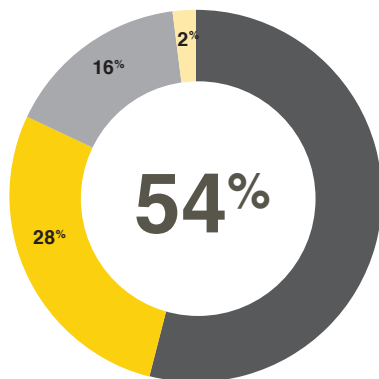


GOOD PRACTICE

The top five ministries that lead the process for implementing arms transfer controls are:

- Ministry of Economy/Commerce
- Ministry of Defense
- Ministry of Interior
- Ministry of Foreign Affairs
- Ministry of Justice and/or National Police Services

An important obligation for ATT implementation is to designate at least one national contact point responsible for exchanging information related to Treaty implementation (Article 5.6). Having a national contact point will better facilitate and streamline the sharing of good practice and provide a means to exchange information on all aspects of the ATT. However, only 54 percent of Survey respondents indicated that they have designated a national contact point for the ATT.



(ARTICLE 5.6)

Has your State designated a national contact point for the ATT?

- yes
- no
- no response
- don't know



Prohibitions

Article 6 of the ATT prohibits transfers of conventional arms, ammunition, or parts and components for the eight categories of conventional arms covered by the ATT – including small arms and light weapons – that would violate obligations under Chapter VII of the UN Charter, in particular arms embargoes; that would violate international agreements relating to the transfer of, or illicit trafficking in, conventional arms; or when there is knowledge that the items will be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, or other war crimes.

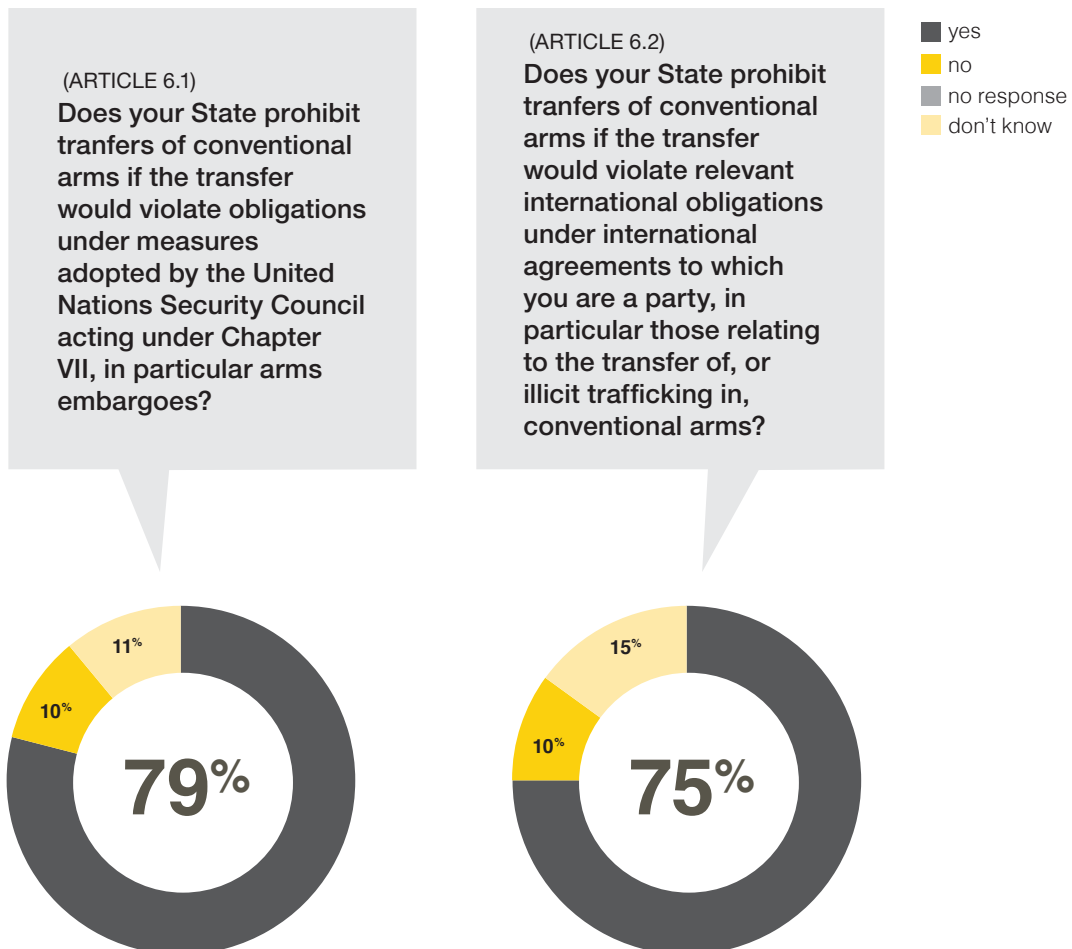
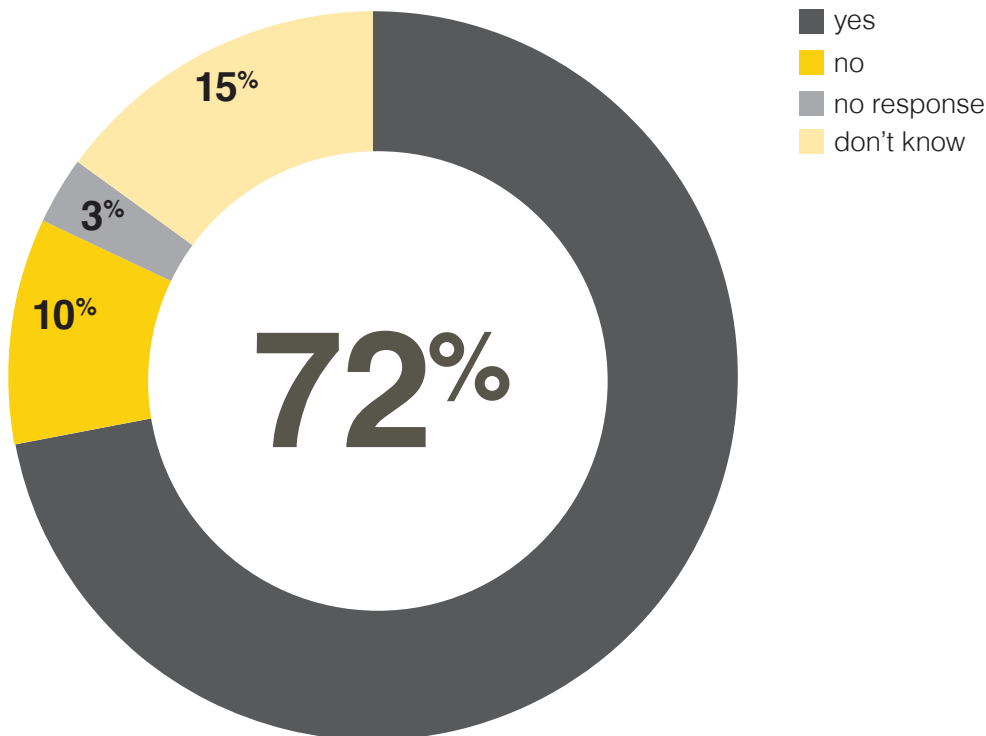


photo: U.S. Air Force (usairforce via Flickr)



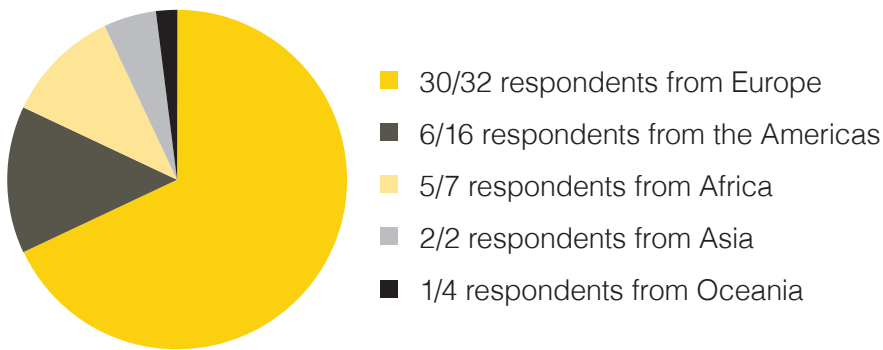
(ARTICLE 6.3)

Does your State prohibit transfers of conventional arms if you have knowledge at the time of authorization that the arms or items covered by your State's legislation would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which you are a party?





Seventy-two percent of respondents indicated that they prohibit arms transfers under all three criteria. For some respondents that stated they do not prohibit arms transfers under all three criteria identified in the Treaty text, they noted that this was due to the fact that their State does not export weapons. The pie chart below represents the geographical breakdown of States that prohibit arms transfers under each criteria.



States identified a number of different international agreements relevant to ATT implementation. Commonly identified agreements include:

TOP 10 BASED ON FREQUENCY OF CITATION:

- Geneva Conventions and Additional Protocols
- Rome Statute of the International Criminal Court
- Convention on Certain Conventional Weapons (CCW)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Treaty)
- Biological and Toxin Weapons Convention (BTWC)
- Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies
- Convention on Cluster Munitions (CCM)
- Chemical Weapons Convention (CWC)
- UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA)
- Firearms Protocol

photo: UN Photo/Loey Felipe (via unmultimedia.org/photo)



Relevant Instruments Under Article 6

UN instruments

- Chapter VII of the UN Charter
- Convention on the Safety of United Nations and Associated Personnel
- United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Convention on Certain Conventional Weapons (CCW / CCWC))
- United Nations Convention against Corruption
- United Nations Convention against Transnational Organized Crime (TOC) – Protocol against the Illicit Manufacturing of and Trafficking in Firearms their Parts and Components and Ammunition (Firearms Protocol)
- United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA)

Regional Agreements

- Andean Plan to Prevent, Fight and Eradicate Illicit Trafficking in Small Arms in All its Aspects
- Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition, Parts and Components that Can be Used for Their Manufacture, Repair or Assembly (Kinshasa Convention)
- Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials
- European Union (EU) Common Position 2003/468/CFSP on the Control of Arms Brokering
- European Union (EU) Common Position 2008/944/CFSP Defining Common Rules Governing the Control of Exports of Military Technology and Equipment
- Inter-American Convention Against Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other Related Materials (CIFTA Convention)
- Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa and Bordering States
- Organization for Security and Cooperation in Europe (OSCE) Document on Small Arms and Light Weapons
- South African Development Community (SADC) Protocol on the Control of Firearms, Ammunition and Other Related Materials

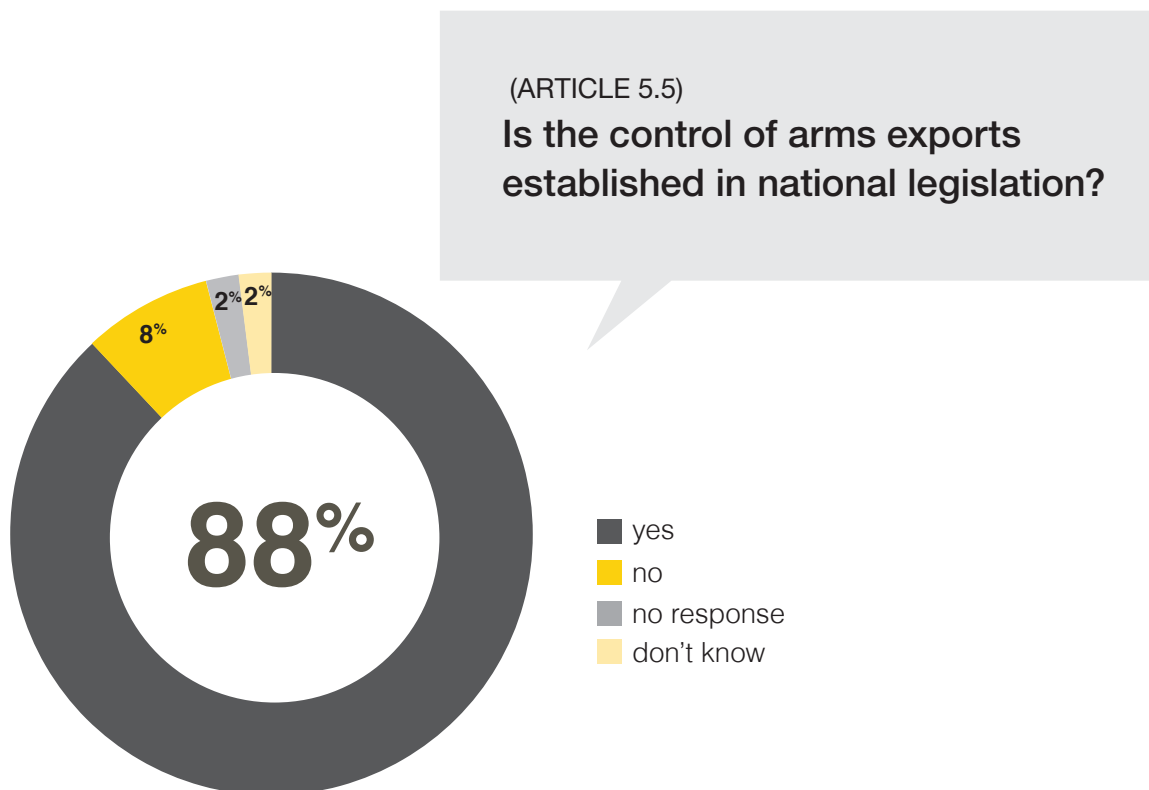
Multilateral / International Agreements

- Convention on Cluster Munitions (CCM)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Treaty)
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (Biological and Toxin Weapons Convention (BTWC) or Biological Weapons Convention (BWC))
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention (CWC))
- Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques
- Convention for the Protection of Cultural Property in the Event of Armed Conflict and Additional Protocols
- Geneva Conventions and Additional Protocols
- Hague Code of Conduct against the Proliferation of Ballistic Missiles (HCOG or International Code of Conduct against the Proliferation of Ballistic Missiles (ICOC))
- Hague Convention II of 1899 or IV of 1907 and its Regulations
- 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Second Protocol
- The Missile Technology Control Regime (MTCR)
- Treaty on Non-Proliferation of Nuclear Weapons (NPT)
- Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and Warfare (Geneva Protocol)
- Rome Statute of the International Criminal Court and its amendment to Article 8
- Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies



Exports

Under Article 5.5 of the Treaty, States are required to take measures necessary to implement the Treaty so as to have “an effective and transparent national control system” that regulates the transfer — including export — of arms, parts and components and ammunition. Seventy-five percent of States noted that they take measures to ensure that all authorizations are detailed and issued prior to export, and 80 percent of respondents stated that they are able to reassess an arms export authorization if they become aware of new and relevant information.





Austria: Exporters have to apply for a license for every transaction either to the Ministry of the Economy or Ministry of the Interior. The Ministry of Foreign Affairs and Ministry of Defense are consulted. MFA provides foreign policy advice such as IHL/HR issues, sanctions, internal or regional conflicts etc. Licenses specify goods, time etc, additional requirements (e.g. customs certificates of recipient country) may be stipulated. Denied licenses have to give the reasons for denial, exporter can take negative decisions to court.

Mexico: Among the main measures taken by Mexican authorities as part of the operative process prior to the authorization of an arms export are: i) a risk assessment, ii) an evaluation of the technical characteristics of the items, and iii) an assessment of the end-use/user and country of destination. [...] Additionally, the Federal Law of Firearms and Explosives, in its Article 55, establishes that in order to issue arms exporting permits of the arms, objects and materials covered by said law, exporters must notify the Ministry of the National Defense that they already have the corresponding importing permit issued by the destination country's government.

(ARTICLE 7.5)

Does your State take measures to ensure that all authorizations are detailed and issued prior to export?

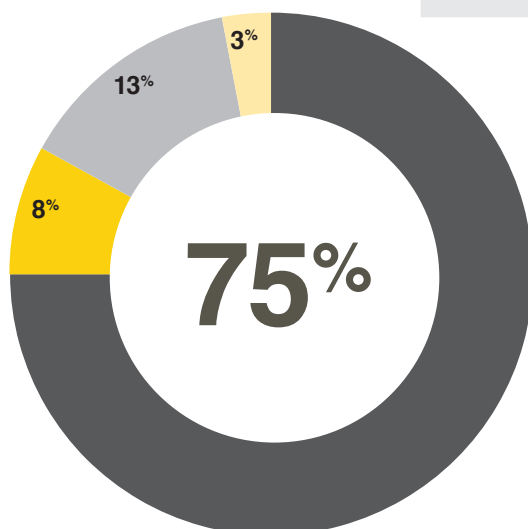
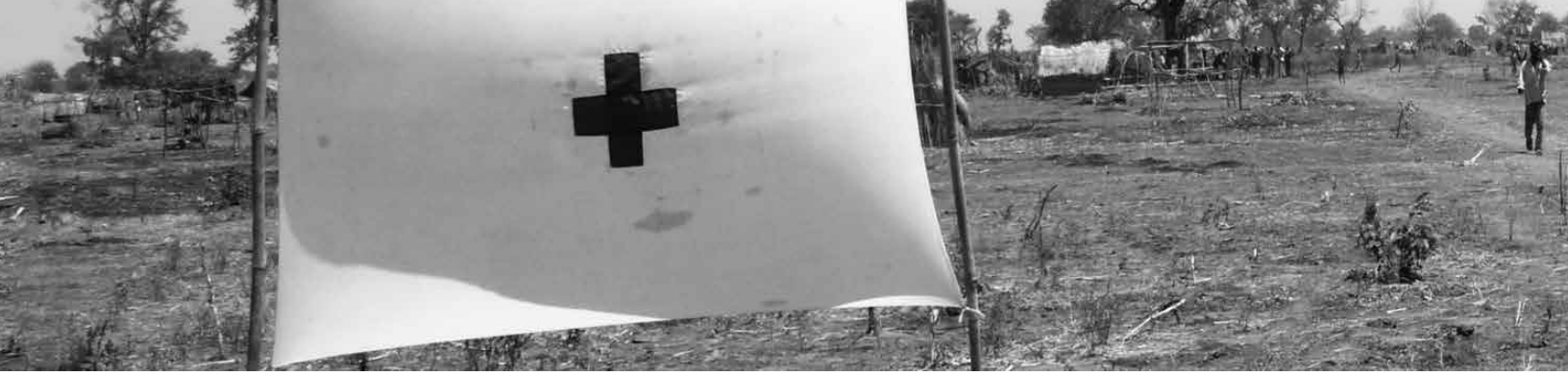


photo: U.S. Army (soldiersmediacenter via Flickr)



Risk Assessment

Article 7 requires States to review applications for exports of the eight categories of conventional arms covered by Article 2.1, as well as ammunition and parts and components covered by Articles 3 and 4, and to conduct risk assessments to consider whether the exported arms could have “negative consequences” for peace and security or be used to commit or facilitate serious violations of international humanitarian or human rights law, or offenses under international conventions or protocols relating to terrorism or transnational organized crime. The Treaty also requires States to deny an arms export if the assessment determines that there is an overriding risk that the exported arms will be used to commit or facilitate a serious violation of international humanitarian or human rights law or offenses under international conventions or protocols relating to terrorism or international organized crime; and to take into account the risk of the exported arms being used to commit or facilitate serious acts of gender-based violence or violence against women and children.

When specifying conditions under which risk assessments are not required, some States noted that they do not export conventional weapons and therefore do not conduct risk assessments. Other States noted that risk assessments are not required when the recipient country is an ally.

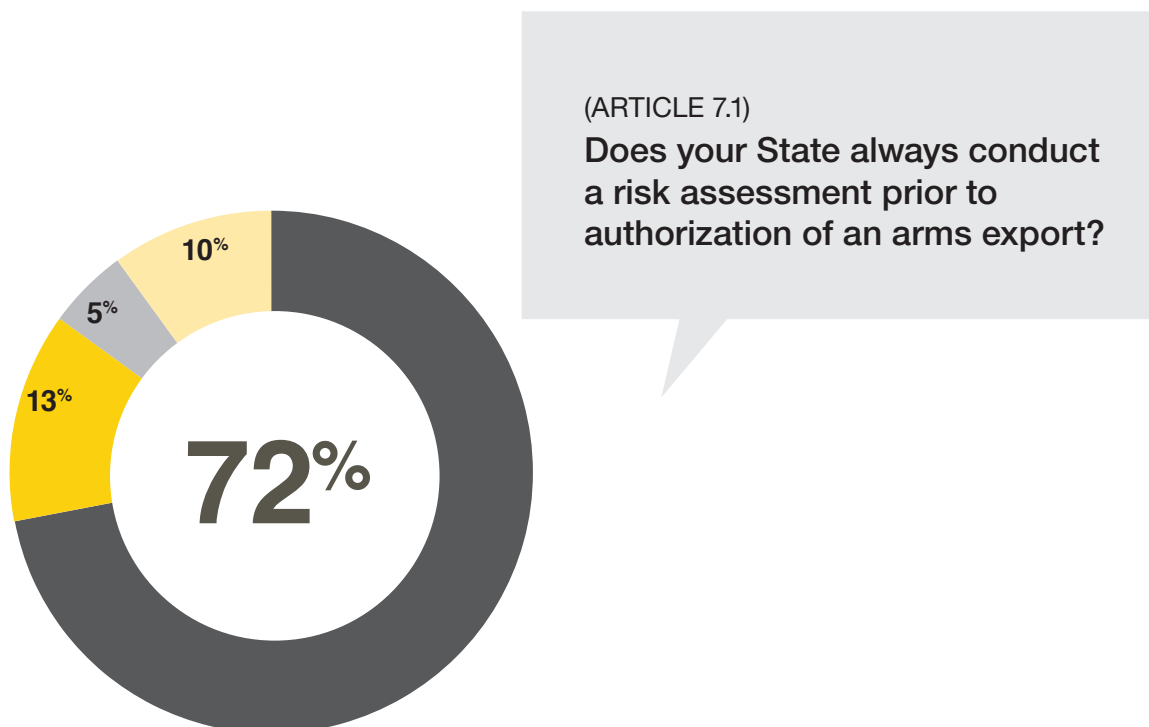
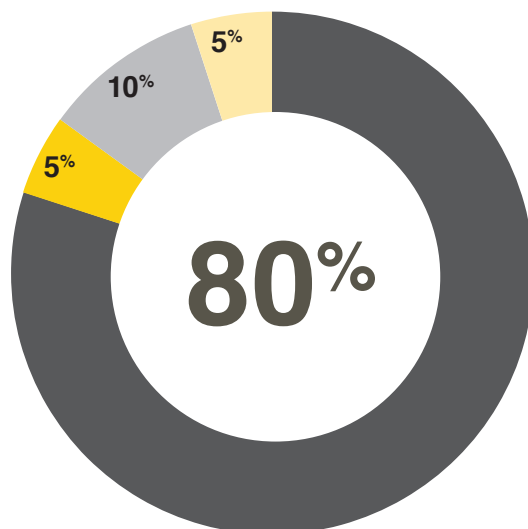


photo: Humanitarian and Development Partnership Team (hdptcar via Flickr)



Germany: A risk assessment is always required, but the German legislation and guidelines (“Political Principles Adopted by the Government of the Federal Republic of Germany for the Export of War Weapons and Other Military Equipment” of 19 January 2001 /“Political Principles”) contain a positive presumption in certain cases (e.g. exports to NATO or EU Member States or and NATO-equivalent countries (Australia, New Zealand, Japan, Switzerland), intra-EU trade). According to the German guidelines, such positive presumptions are just that. They do not obviate the requirement for an assessment and they are void if a situation covered by Article 6 of the Treaty (or the equivalent in the Common Position or the German Political Principles) is encountered.



(ARTICLE 7.7)

Can your State reassess an authorization if your State becomes aware of new and relevant information?

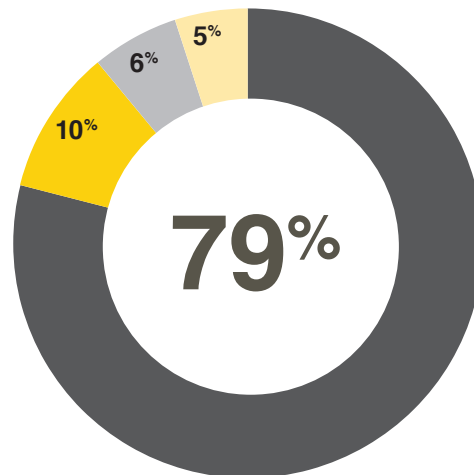
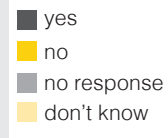
- yes
- no
- no response
- don't know



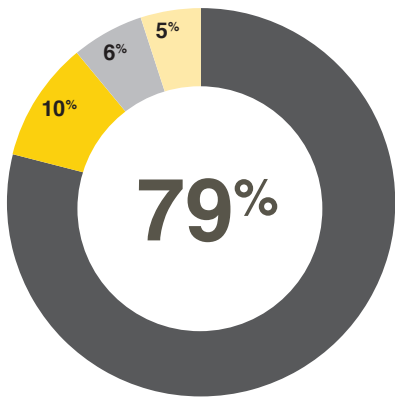
Article 7.1 of the Treaty requires States to include five criteria in their national assessments prior to export. Seventy-seven percent of States reported that they assess the potential that conventional arms or items could be used to undermine peace and security, and 79 percent of States reported that they assess the potential that the weapons could be used to commit or facilitate: a serious violation of international humanitarian law or human rights law; or an act constituting an offense under international conventions or protocols relating to terrorism or transnational organized crime to which they are a party.

(ARTICLE 7.1)

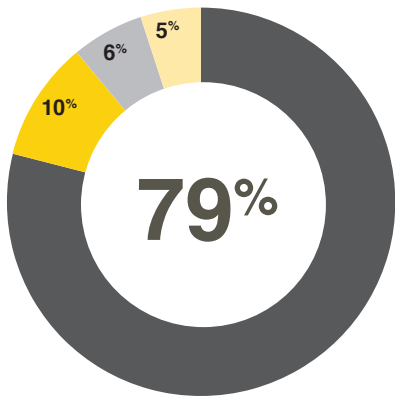
Does your State require that the following criteria are included in your national assessment prior to granting an export authorization: whether the arms would be used to commit or facilitate



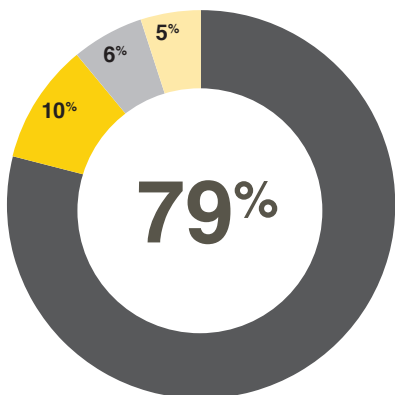
A serious violation of international humanitarian law?



A serious violation of international human rights law?



An act constituting an offense under international conventions or protocols relating to terrorism to which your State is a party?



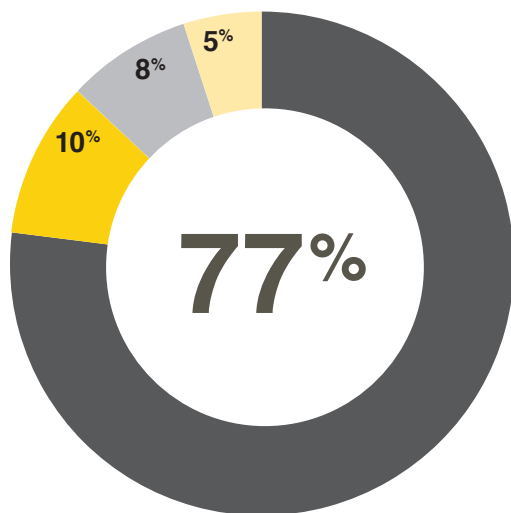
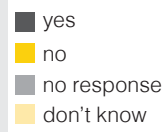
An act constituting an offense under international conventions or protocols relating to transnational organized crime to which your State is a party?



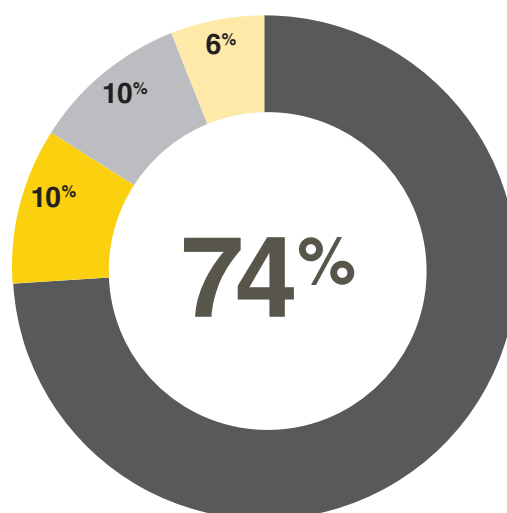
States also identified whether they consider additional criteria prior to authorizing an arms export — including the risk of diversion or whether the conventional arms could be used to commit acts of gender-based violence. Seventy percent of respondents noted that they consider the risk of diversion in their export assessments, and 74 percent said they consider the risk of conventional arms being used to commit acts of gender-based violence.

(ARTICLE 7.1)

Are additional criteria considered prior to authorizing a transfer?



Risk of diversion



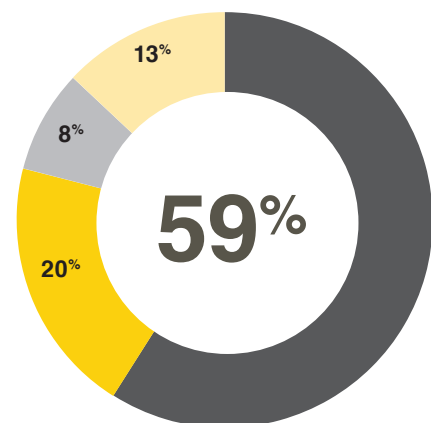
Acts of gender-based violence



The Treaty requires States to consider “whether there are measures that could be undertaken” to mitigate the risks identified in Article 7 of the Treaty. Fifty-nine percent of State respondents noted that they consider risk mitigation measures as part of their authorization process, whereas 20 percent said they do not. The most common forms of mitigation measures identified by States in their Baseline Assessment Surveys were additional consultations with countries and information sharing, as well as requiring end-user assurances. Other measures mentioned include additional checks via diplomatic channels, confidence-building measures, measures to ensure safe and secure transportation of conventional weapons, and specific clauses in contracts.

United States: The AECA requires consideration of many of these criteria prior to authorizing an export of conventional arms. In addition, the United States Conventional Arms Transfer Policy (Presidential Policy Directive 27 of January 15, 2014) (the “CAT Policy”) provides further criteria, including the human rights, counter-terrorism, and non-proliferation record of the recipient, which must be taken into consideration when evaluating a potential export. The United States considers a full range of mitigation measures, including, inter alia, licensing restrictions, and it also engages in post-shipment verification checks to monitor these measures. The United States requires that all States wishing to re-transfer U.S. origin arms secure U.S. consent to do so for the entire life cycle of the weapon.

(ARTICLE 7.2)
Does your State consider risk mitigation measures as part of its authorization process?





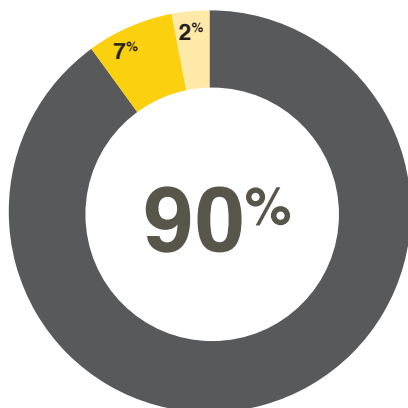
Imports

Article 8 specifies measures to regulate conventional arms imports. For example, when importing conventional arms, States are required to provide information to assist the exporting State Party in conducting its national export assessment, including by providing documentation on the end use or end user.

Albania: As by the Law on Export Control, we are obliged to issue an end-user, international import certificate if there is a request by the exporting country. If it is required by the exporting country, we issue a delivery verification certificate. Also in accordance to Article 11.3, we can share information regarding export-import-transit/transshipment authorizations issued by Albanian State Export Control Authority.

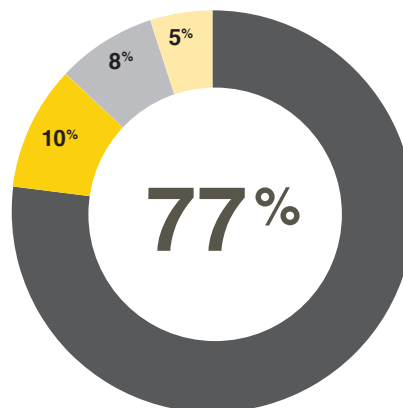
(ARTICLE 8.2)

Is the regulation of arms imports established in a national legislation?



(ARTICLE 8.1 and 11.3)

Does your State have measures to ensure that appropriate and relevant information is available to exporting States as part of their export assessment process?



yes
 no
 no response
 don't know



Transit/Transshipment

Article 9 requires States to take measures, where necessary and feasible, to regulate the transit and/or transshipment of conventional arms.



Forty States provided details on their national definitions or listed relevant laws and legislation that regulate transit/transshipment. Some European countries noted that they derive their national definitions from the EU Customs Code.



GOOD PRACTICE

States include the following elements in their definition of transit and/or transshipment in their national legislation:

- Transit: transportation of material through a given State's territory
- Transshipment: unloading or reloading the material or changing the means of transport within a given State's territory



Brokering

States are required under Article 10 of the Treaty to take measures to regulate brokering taking place under their jurisdiction.

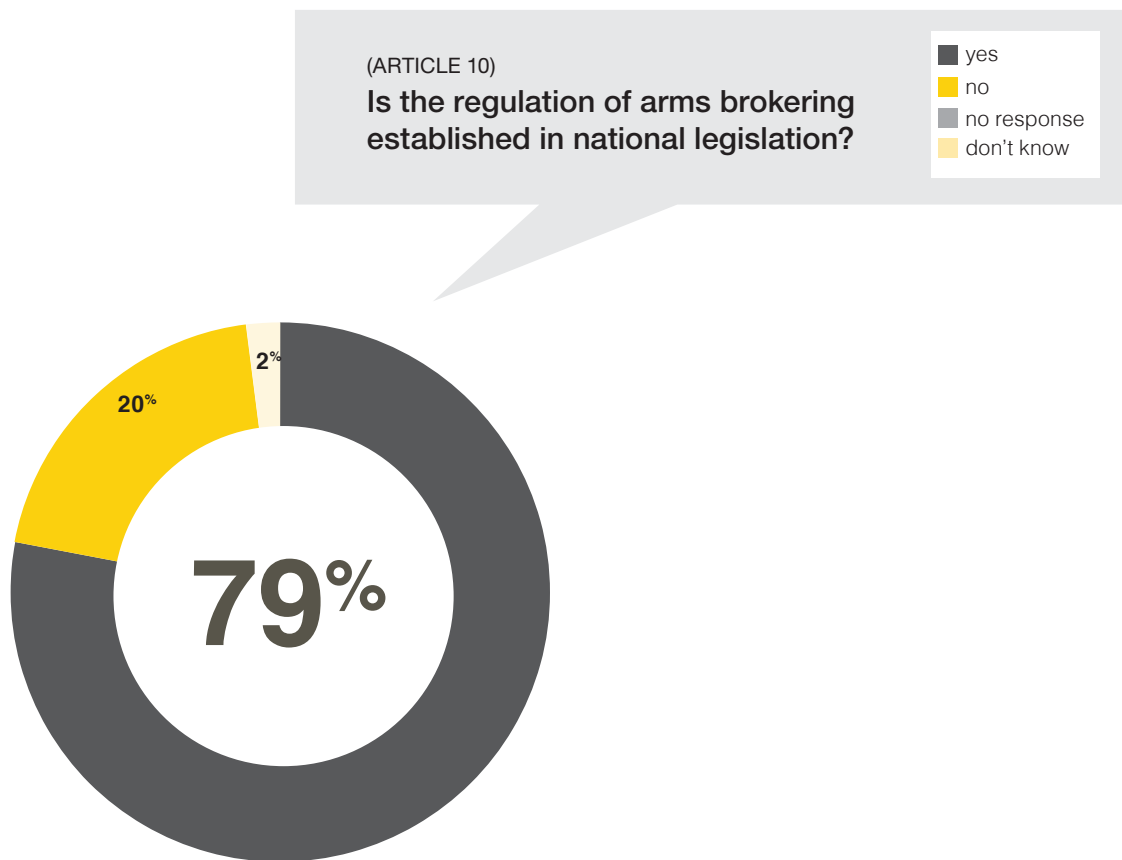


photo: United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (monusco via Flickr)



When asked to provide the definition of brokering used in national legislation, 41 countries provided details on their national definitions or listed relevant laws and legislation that regulate brokering activities of military items or defense goods and services.



GOOD PRACTICE

States include the following elements in the definition of brokering in their national legislation:

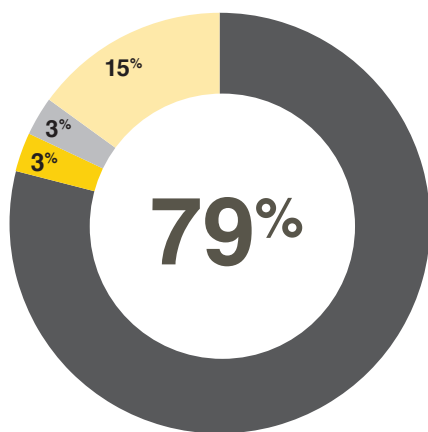
- A negotiation or transaction arranged or facilitated by a natural or legal person or entity for the manufacture, sale, and/or transfer of military items or defense-related materials between third parties/countries.
 - Some countries included dual-use items as well as intellectual property and “know-how” — as they relate to defense items — in their definitions.
- Many States also identified a “broker” to be a person or entity acting on behalf of a third party or as an intermediary between two or more parties in the manufacture, transfer, and supply of military goods and technology.
- Some States also identified services that they do not consider as brokering activities. These include transport, financial assistance/services, insurance or re-insurance, and advertising or marketing.



Diversions

The ATT is intended to curb the illicit trade in conventional arms. An essential component, therefore, is stopping the diversion of weapons from authorized end-users and uses to the illicit markets. States are required under Article 11 to take measures to prevent the diversion of conventional arms. Exporting States must assess the risk of diversion of the export and consider the establishment of mitigation measures, such as confidence-building measures or jointly developed and agreed programs by the exporting and importing States. States Parties are also required to cooperate and exchange information to mitigate the risk of diversion of the transfer of conventional arms, and if a State Party detects a diversion of transferred conventional arms, the State Party is required to take appropriate measures to address the diversion. Seventy-nine percent of Survey respondents said they take preventative measures to mitigate the risk of diversion.

States identified a variety of measures that they take to mitigate the risk of diversion. For some countries, a “new for old” principle is applied to exports of SALW to non-major partners or allies.

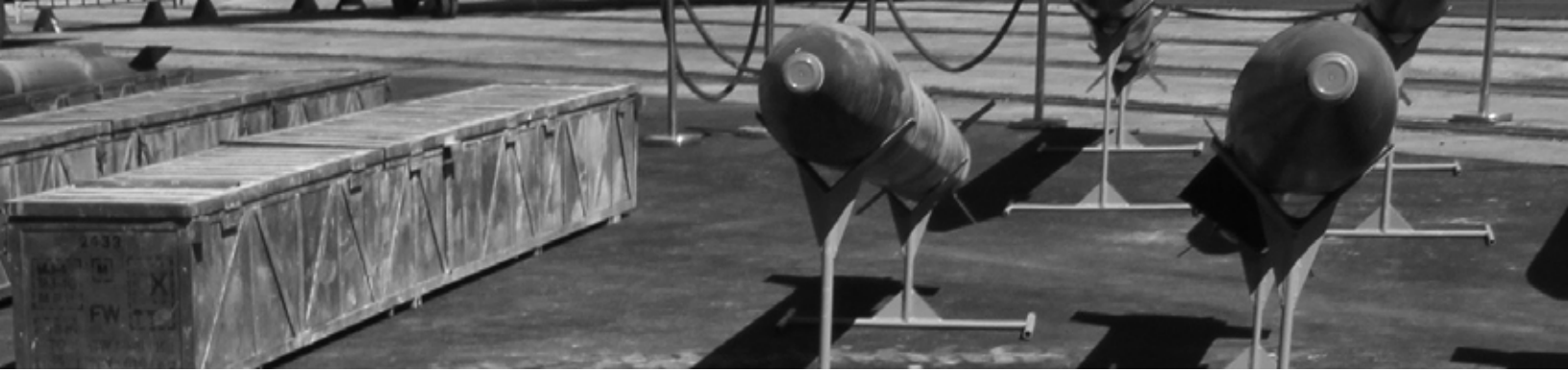


(ARTICLE 11.2)

Does your State take preventative measures to mitigate the risk of diversion?

■ yes
■ no
■ no response
■ don't know

Germany: Insofar as possible, in new supply contracts, the exporter is to require the consignee in a third country to destroy the weapons supplied in the case of a later removal from use. In this way, exports and recipients make an active contribution towards not increasing the number of small arms available worldwide, and preventing their proliferation across to grey or black markets.



GOOD PRACTICE

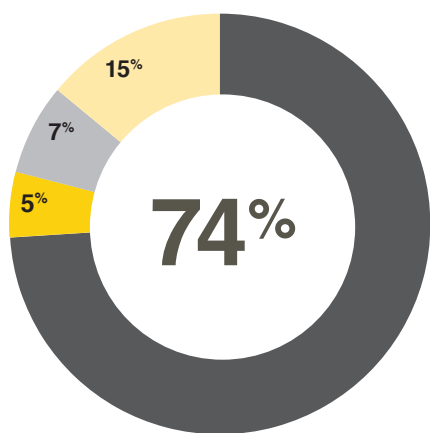
States may employ a number of other practical steps to mitigate the risk of diversion, including:

- Not authorizing export if risks are detected
- Using end user certificates
- Using delivery verification certificates
- Requiring transit license prior to the export authorization
- Using import licenses
- Documenting the transport or means of transport
- Conducting spot checks during the delivery
- Using non-re-export declarations
- Undertaking surplus stockpile destruction
- Undertaking stockpile management and firearms destruction measures
- Participating in information exchange
- Undertaking bona fide checks during the license assessment process

photo: Israel Defense Forces (idfonline via Flickr)



Seventy-four percent of respondents indicated that they take appropriate measures when a diversion of transferred conventional arms is detected.



(ARTICLE 11.2)

Does your State take appropriate measures when it detects a diversion of transferred conventional arms?

■ yes
■ no
■ no response
■ don't know



GOOD PRACTICE

States may take additional measures when they detect a diversion of transferred conventional arms, and Survey respondents provided the following examples of such measures:

- National black lists/watch lists
- Report to UN Security Council Sanctions Committees, if the item diverted goes in countries or groups under arms embargoes
- Revocation/temporary suspension of issued licenses
- Investigation of case(s)
- Post-shipment verification of exported items
- Information exchange
- Stopping the shipment
- Criminal prosecution



Record Keeping

Record keeping is required under Article 12 of the Treaty. States Parties must maintain national records of export authorizations or actual exports of the conventional arms covered under Article 2.1 for a minimum of 10 years, and are encouraged to maintain records of arms transferred to their territories as the final destination or that are authorized to transit or transship territory under their jurisdiction.

More States maintain records of arms exports authorizations (77 percent) than actual arms exports (67 percent). More than two-thirds of States keep records for actual exports, demonstrating that incorporating such practice is possible for State systems to develop. In addition, more than 82 percent of States maintain records of arms imports. More than two-thirds of Survey respondents keep track of arms that either transit or transship their borders.

Article 12.3 encourages States to include a variety of information in their records, including: the quantity, value, model/type, authorized international transfers of conventional arms covered under Article 2.1, conventional arms actually transferred, details of exporting State(s), importing State(s), transit and transshipment State(s), and end users.

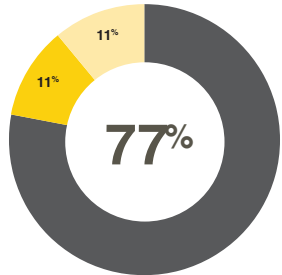
photo: (Archivo-FSP via Wikimedia Commons)



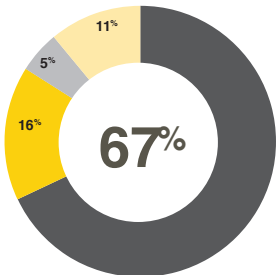
■ yes
 ■ no
 ■ no response
 ■ don't know

(ARTICLES 12.1, 12.2, 12.4)

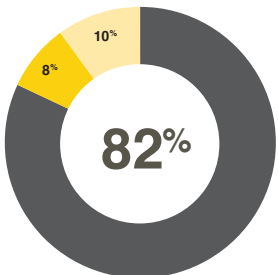
Does your State maintain records of:



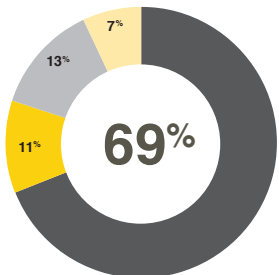
Arms exports authorizations?



Actual arms exports?



Arms imports?

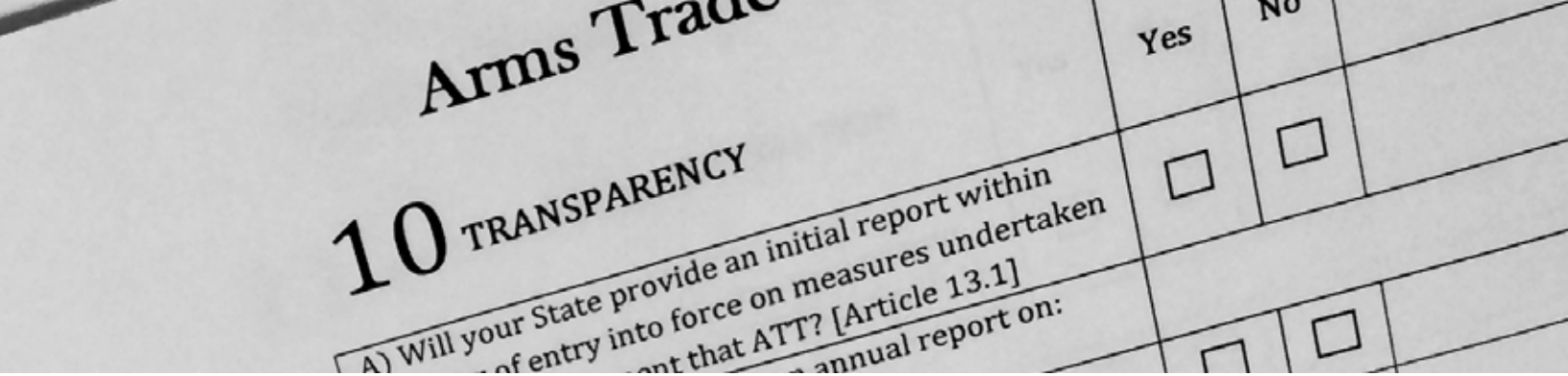


Arms that are authorized to transit and/or transship territory under its jurisdiction?

GOOD PRACTICE

Survey respondents also revealed that their records contain information on: weapons manufacturers, state or origin, serial number(s), delivery verification and/or end-user(r) certificates, as well as descriptions of goods and control list category numbers.

photo: Shannon Dick, Stimson Center



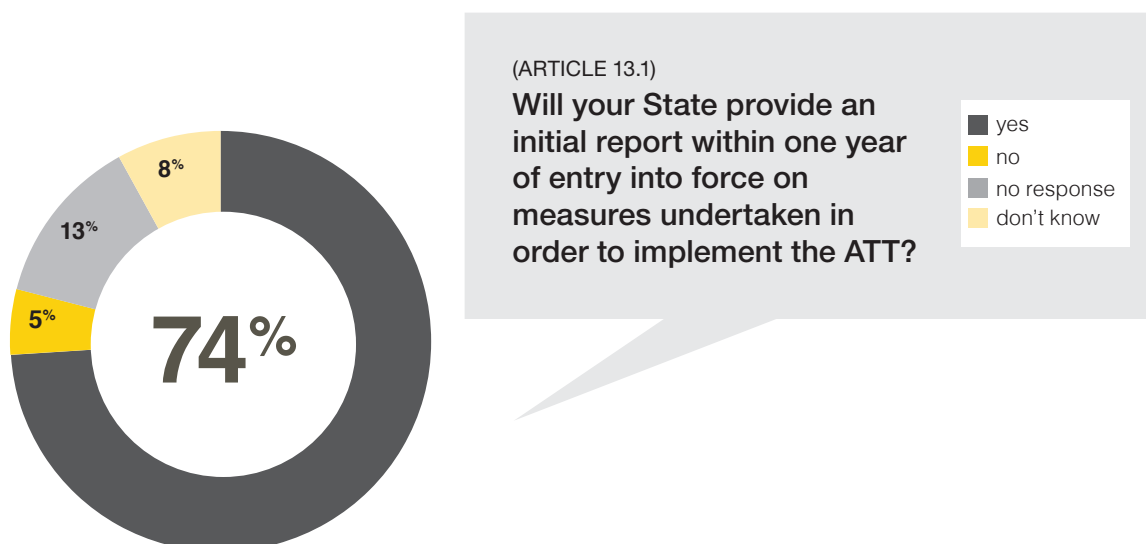
Transparency

Transparency is a cornerstone of the ATT. Reporting can build confidence amongst States as they demonstrate how they are implementing the Treaty, and can also provide a basis for States and civil society to assess how the ATT is being applied and implemented.

Article 13 of the Treaty includes provisions for the completion of three reports – a mandatory initial report on implementation of the ATT, a mandatory annual report on arms transfers, and a voluntary report on steps taken to limit diversion.

Initial Report

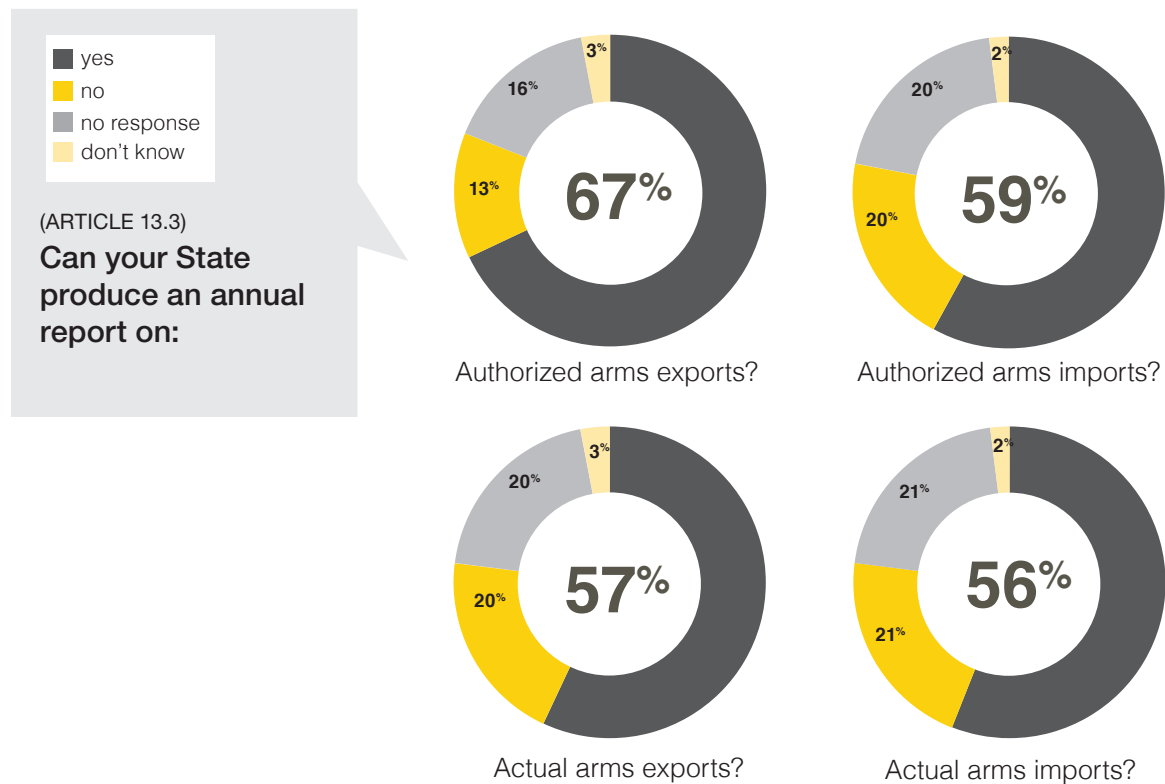
Under Article 13.1, States are required to provide a report on the measures they have undertaken to implement the ATT. States are only required to submit this report once and can provide updates as needed. Forty-nine States Parties have already completed their Baseline Assessment Survey, which demonstrates a willingness and ability to report on measures undertaken to implement that ATT – irrespective of the final reporting template. It is therefore surprising that five percent of respondents reported that they would not provide their initial report within one year of entry into force and that an additional 21 percent either did not know or provided no response to that Survey question.





Annual Report

Article 13.3 requires an annual report on authorized or actual exports or imports of conventional arms. Some States have noted that they do not produce annual reports on authorized or actual arms exports because their State does not export conventional weapons. Two-thirds of States have indicated that they can report on authorized arms exports, but those States able to report on authorized arms imports, actual arms exports, and actual arms imports are only between 50 and 60 percent. This would indicate a need for further investigation of what capacities or resources are required to assist States in completing their annual reports.





Voluntary Diversion Report

Article 13.2 encourages States to report to other States Parties on measures taken that have proven effective in addressing the diversion of transferred conventional arms.

(ARTICLE 13.2)

Can your State report on measures taken to address the diversion of transferred conventional arms?

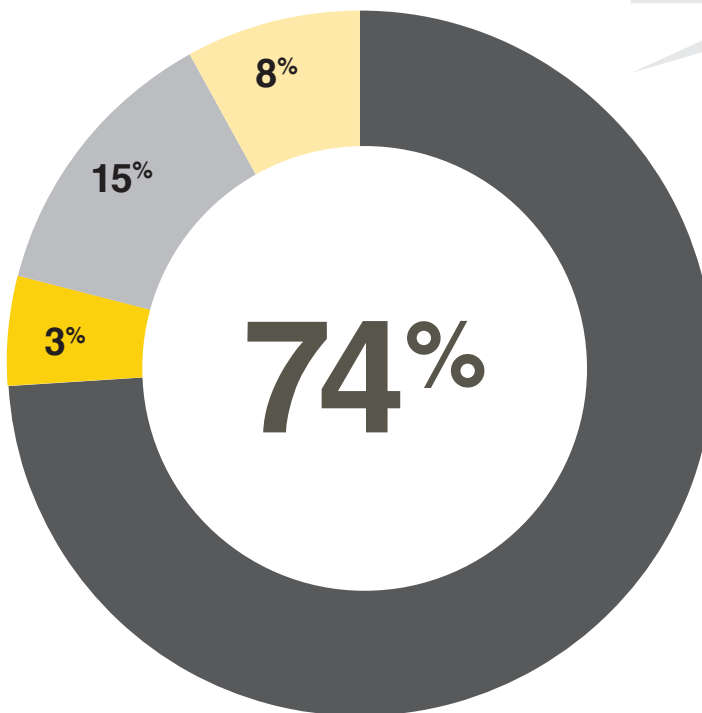


photo: Mines Advisory Group (mag-photos via Flickr)



Enforcement

Article 14 requires States to take appropriate measures to enforce national laws and regulations to implement the Treaty, but doesn't specify what these measures should include.

States undertake a wide variety of enforcement measures — while some focus on civil and administrative processes, others utilize the criminal justice system to enforce arms transfer violations.

For example, ten percent of respondents noted that they may temporarily suspend or revoke issued licenses if a party violates national laws and regulations that cover arms transfer activities – including import, export, transit/transshipment, and brokering. Twenty-six percent of States identified fines and/or criminal proceedings as an enforcement mechanism, and others noted outreach to industry and trainings/workshops for licensing officers as measures taken to enforce national laws and regulations to support Treaty implementation.



Liechtenstein: Liable to a term of imprisonment or to a fine of up to 1 million francs. In serious cases, the penalty is penal servitude for up to ten years. This may be combined with a fine of up to 5 million francs. If act is committed through negligence, the penalty is imprisonment for up to six months or a fine of up to 100,000 francs.



GOOD PRACTICE

States listed a variety of agencies responsible for enforcing arms transfer controls including:

State export control authorities, national police services, and trade licensing offices. The most commonly identified ministries/agencies to lead this process are Ministries of Defense, Foreign Affairs, Economy, and Interior, as well as customs and trade authorities. Other noted agencies involved in enforcing transfer controls include Ministries of Justice, Transport, and Finance, as well as State security and intelligence agencies.



International Cooperation

The ATT requires States to cooperate with other States Parties in order to implement the ATT effectively under Article 15. A broader discussion of cooperation and assistance is contained within the August 2015 ATT-BAP report, *International Cooperation and Assistance: Capacity, Experience, and Practices*, but it is worth noting that cooperation and assistance responses in the Survey can allow States to prioritize their resources and avoid duplication of programs and activities.

(ARTICLE 15.1)

Is your State involved in cooperative measures that will help to implement the ATT?

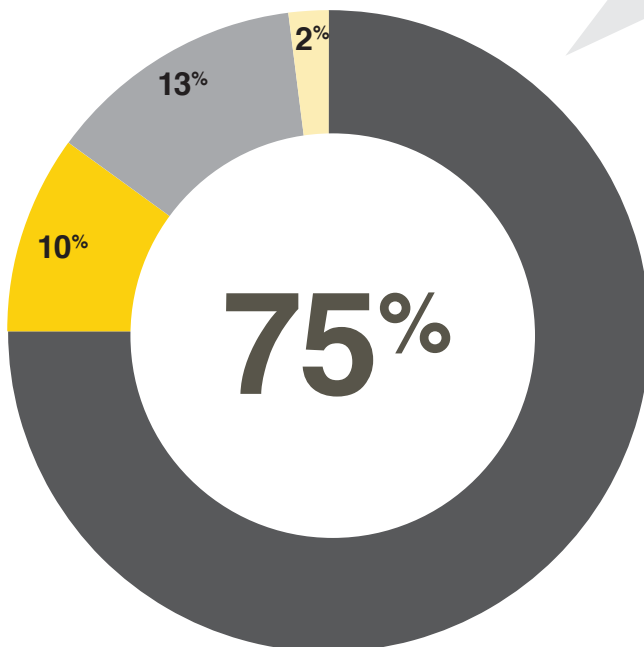
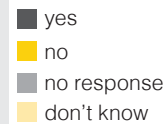
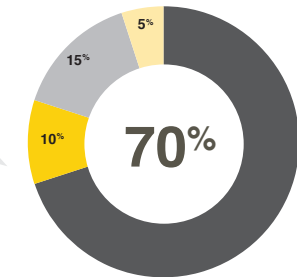


photo: UN Photo/ Staton Winter (via unmultimedia.org/photo)

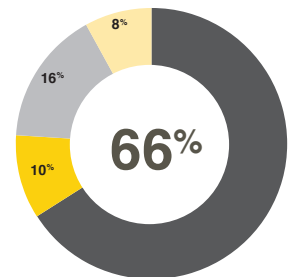


■ yes
 ■ no
 ■ no response
 ■ don't know

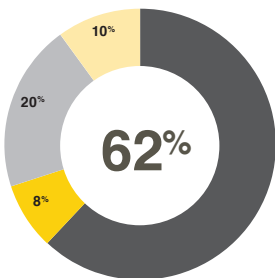
(ARTICLES 15.2-15.7)
Is your State currently involved in:



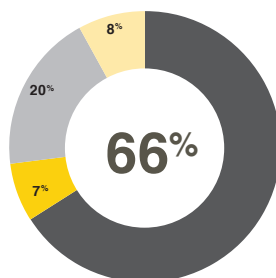
Exchange of information on conventional arms transfers?



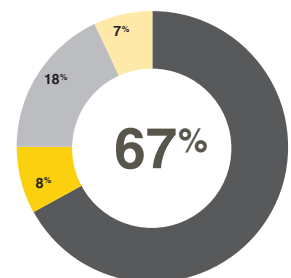
Cooperative measures to prevent diversion?



Widest measures of assistance in investigations, prosecutions, and judicial proceedings?



Measures to prevent corruption?



Development of best practices and lessons learned?



The Arms Trade Treaty-Baseline Assessment Project

ATT-BAP was launched in the summer of 2013 with a focus on helping stakeholders prepare for ratification and implementation. ATT-BAP utilizes five key objectives that are intended to facilitate successful implementation of the ATT:

- Give clear guidance on the obligations contained in the ATT
- Increase understanding of measures that can be taken to ensure that States are in a position to ratify the ATT and ensure effective implementation of the Treaty
- Contribute towards targeted and coordinated international assistance
- Deliver a baseline assessment of States' abilities to effectively implement the ATT
- Provide indicators for monitoring the Treaty's impact

ATT-BAP has four primary tools that offer guidance for ratification, implementation, and future monitoring of the Treaty:

- ATT Ratification Checklist
- ATT Baseline Assessment Survey
- ATT Baseline Assessment Project Reports
- ATT Baseline Assessment Project Portal



ATT Baseline Assessment Project Reports



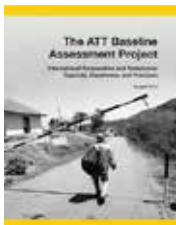
June 2014
*Supporting ATT Ratification
and Implementation*



October 2014
*Initial Findings and
Current State Practice*



August 2015
*Identifying Good Practice
and Implementation Measures*



August 2015
*International Cooperation and Assistance:
Capacity, Experience, and Practices*

ATT-BAP has benefited from the generous support of a variety of partners and has received funding from the Governments of Australia, the Netherlands, Norway, Switzerland and the United Kingdom, as well as from UNSCAR (the United Nations Trust Facility Supporting cooperation Arms Regulation). In addition, the project has benefited from its partnerships with States, the UN Office of Disarmament Affairs and its regional centers, regional organizations (including CARICOM and the European Union), Control Arms, and several other civil society organizations.

For more information, visit the Arms Trade Treaty – Baseline Assessment Project Portal at www.armstrade.info or contact us at ATT@stimson.org.

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Baseline Assessment Project