

Briefing Paper

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PREVENTING DIVERSION

Comparing ATT and African measures
for importing states

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Front cover photo

Weapons seized by the Nigeria Customs Service are displayed at the port of Lagos, January 2017.

Source: Nigeria Customs Service



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Overview

The diversion of conventional arms can occur at any stage in the transfer chain, adversely affecting security, stability, and sustainable development. Preventing the diversion of conventional arms is a key objective of the Arms Trade Treaty (ATT). In 2018 the ATT Working Group on Effective Treaty Implementation (WGETI) compiled a paper listing ‘possible measures to prevent and address diversion’. While diversion often occurs in the importing state, the ATT WGETI provides only a limited number of measures that can be taken to prevent and address such diversion. A comparison of the ATT WGETI paper and African small arms control instruments identifies significant overlaps, but also notable differences. African initial reports on measures to implement the ATT do not include information on national measures to prevent and address diversion in importing states.

Key findings

- African small arms control instruments do not explicitly address diversion carried out through unauthorized re-export and retransfer. The ATT provides a forum that could be used to strengthen post-delivery cooperation between arms-exporting and -importing states parties. African ATT states parties could do more to contribute to the development of norms and recommended practices for addressing diversion in the ATT WGETI.
- African ATT states parties’ reports on UN Programme of Action (PoA) implementation reveal more information on counter-diversion measures than their ATT initial reports. Encouraging ATT states parties to share more information on the diversion of conventional arms in importing states could help to increase understanding of diversion methods and identify effective measures to prevent and address such diversion.
- The majority of African ATT states parties seek international assistance to strengthen their infrastructure and capacities in order to effectively implement measures to prevent diversion at or after importation and from post-delivery storage.

Introduction

The UN Secretary-General has called the diversion of conventional arms ‘a colossal problem in many parts of the world’, noting that diversion can ‘occur as a result of a transfer without proper controls, unauthorized retransfer, thefts from poorly secured stockpiles, hand-outs to armed groups or barter involving natural resources’ (UNSC, 2015, para. 9). The diversion of conventional arms and ammunition can take many forms and can undermine security, stability, and sustainable development not only in countries and regions affected by conflict, but also in places with comparatively low levels of lethal arms violence. There is broad international agreement on the importance of preventing and addressing the diversion of conventional arms to the illicit market and unauthorized end uses and end users (UNGA, 2018).

Preventing the diversion of conventional arms is a key objective of the ATT, and the issue of preventing and addressing diversion is explicitly addressed in the treaty (UNGA, 2013, arts. 1, 11). The preamble of the treaty identifies three forms of diversion:

- diversion from the legal to the illicit market;
- diversion for unauthorized end use; and
- diversion to unauthorized end users (UNGA, 2013, Preamble; Arrocha Olabuenaga and Gramizzi, 2015, p. 191; Switzerland, 2018, p. 2).

Diversion to the illicit market is generally understood to refer to the situation in which conventional arms that have been legally produced and owned come into the possession of rebels, gangs, criminal organizations, pirates, terrorist groups, or other entities that have not been authorized by competent national authorities to possess these previously legally owned weapons.¹ There are also cases when a state authorizes a transfer, but it is still considered to constitute diversion. For example, the Small Arms Survey has defined unauthorized re-export and retransfer as

a type of diversion in which the arms are retransferred by the authorized importer or end user to an end user in another state (unauthorized re-export) or within the same state [unauthorized retransfer], in violation of commitments made by the authorized importer or end user prior to export (Holtom, Pavesi, and Rigual, 2014, p. 117).

During preparations for the Fourth Conference of States Parties to the ATT (CSP4), the ATT WGETI established a sub-working group that focused on how to implement the treaty’s provisions on preventing and addressing diversion. Several states parties asked the subworking group to identify how, when, and where diversion takes place and compile a list of concrete measures that ATT states parties could use on a voluntary basis to prevent and address diversion (Argentina et al., 2018, pp. 1–2; Japan, 2018; Switzerland, 2018). In response, the subworking group drew up a list of ‘Possible measures to prevent and address diversion’ throughout the transfer chain (see ATT Secretariat, 2018, pp. 18–24; hereafter referred to as the ‘WGETI diversion measures paper’), which CSP4 welcomed as a ‘living document’ of a ‘voluntary nature’ that can be ‘reviewed and updated regularly by the [WGETI]’ (ATT Secretariat, 2018, para. 23). The WGETI diversion measures paper identified four stages in the transfer chain at which states could take measures to prevent and address diversion:

- transfer chain stage 1: before the transfer/in the country of origin/at the point of embarkation;
- transfer chain stage 2: during the transfer/en route to the intended end user/in transit;
- transfer chain stage 3: at or after importation/post-delivery; and
- transfer chain stage 4: from post-delivery storage/from national stockpiles (ATT Secretariat, 2018, pp. 18–24).²

The WGETI diversion measures paper was heavily influenced by the experience and input of states that are major exporters of conventional arms, as well as multi-lateral instruments and related guidance that these states helped to develop, which is why the section on measures to take during stage 1 is more substantial than for the other three stages.

This Briefing Paper presents the results of a preliminary investigation into the measures that African ATT states parties undertake when importing conventional arms to prevent and address their diversion during transfer stages 3 and 4 (that is, at or after importation and from post-delivery storage—see next section).

African ATT states parties have been selected because (a) several African sub-regional instruments contain measures to prevent and detect diversion for states that are not major producers or exporters, which are also relevant for the ATT; and (b) these states face challenges in implementing such measures that are shared by many other countries, especially developing countries, that are ATT states parties. As such, the present paper is intended to contribute to the ongoing development of the WGETI diversion measures paper, as well as to inform discussions on the role of importing states in preventing diversion. These discussions are scheduled to take place in the WGETI subworking group on diversion in advance of CSP7 in 2021.

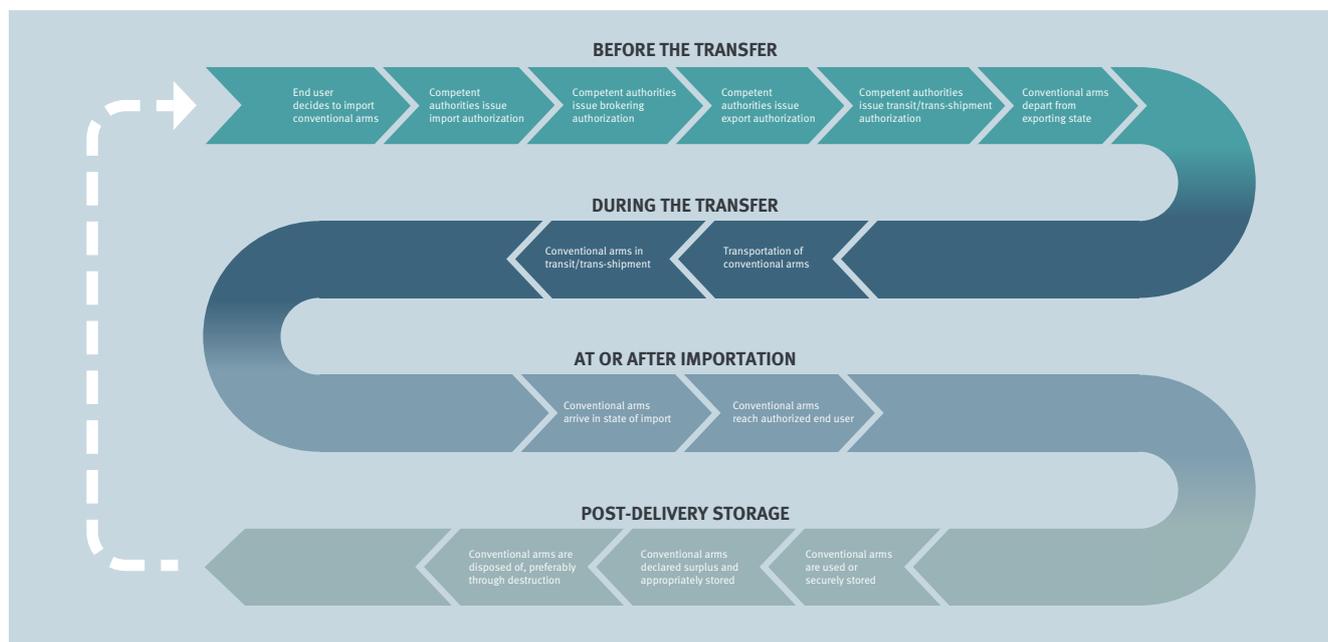
The first section of this Briefing Paper provides an overview of the circumstances in which conventional arms are diverted in Africa, including via unauthorized

re-export and retransfer. The second section compares the specific measures to prevent and address diversion in the importing state as outlined in the WGETI diversion measures paper with related measures in African small arms control instruments. The third section examines measures undertaken by African ATT states parties to prevent and address diversion at or after the time of import (transfer chain stage 3), including from post-delivery storage (transfer chain stage 4). Box 1 examines whether initial reports on ATT implementation are useful to efforts to document such measures. The paper concludes by highlighting the as yet unrealized potential of the ATT to support efforts by states parties to prevent and address the diversion of conventional arms.

What constitutes diversion in an importing state?

It is difficult to determine the exact stage in the transfer chain at which diversion occurs (CAR, 2018, p. 4). The planning and execution of diversion takes place at all stages in this transfer chain (see Figure 1), but appears to occur most frequently after weapons shipments arrive in the importing state (CAR, 2018, p. 4; Schroeder, Close, and Stevenson, 2008, p. 115). For the purposes of this paper, at or after importation (transfer chain stage 3) covers the period between the arrival of a shipment at a designated entry point in the importing state (for example, at a land border crossing, a seaport, or an

Figure 1 Arms transfer chain stages



Source: Small Arms Survey (2018)

Figure 2 Scenario of conventional arms diversion after importation



Source: Small Arms Survey (2018)

airport) and its delivery to the authorized end user. Post-delivery storage (transfer chain stage 4) begins when the shipment is delivered to the end user and ends with the disposal of the conventional arms in whatever form that may take. Efforts to prevent and address diversion in the ATT context include diversion within or from the authorized country of destination.

The Small Arms Survey's *Trade Update 2018* noted that unauthorized re-export and retransfer can take place both at or after importation and from post-delivery storage. In the first case—at or after importation—the importing state unloads the shipment of conventional arms at the point of import (for example, a port) and then immediately transfers the arms to another means of transport that then delivers the items to another state without the authorization of the original exporting state (see, for example, Figure 2). In the second case—unauthorized re-export or retransfer from post-delivery storage—conventional arms that have been in the national stockpile for several years, or even decades, are retransferred to end users within the state's national borders, or re-exported to another state, in contravention of conditions contained in a contract or end-use/user documentation that prohibited the retransfer or re-export of the conventional arms without the express permission of the original exporting state (Holtom and Pavesi, 2018, pp. 55–56).³

This type of diversion typically occurs with the permission of the competent authorities in the importing state. In some cases the authorities intentionally ignore the exporting state's conditions, allowing an individual or group to facilitate the diversion of imported arms to another country for financial gain or to meet political and ideological objectives (UNIDIR, 2016, p. 9). In other cases the competent authorities authorize a re-export without seeking the permission of the original

exporting state due to a lack of awareness of conditions agreed to by a previous government regarding conventional arms that have been used or kept in storage for many years. This latter type of case can also happen when multiple entities are permitted to issue end-use/user documentation and authorize exports of surplus conventional arms, and there is limited or no centralized record-keeping and oversight.

Other forms of diversion at or after importation are related to loss, leakage, and theft between arrival in the importing state and receipt by the authorized end user. For example, criminals could break into a port where a container with a shipment of conventional arms is being stored for collection by the authorized end user or hijack a vehicle transporting the arms from the point of delivery to the military depot that is intended to be the final destination of the shipment (Ship Technology, 2017). These types of diversion are facilitated by inadequate security, including corruption or negligence on the part of those responsible for security at the port or the transportation of the shipment.

The issue of diversion from post-delivery storage has attracted considerable international and African attention since the loss of state control and subsequent looting of Libya's national stockpile in 2011 (Small Arms Survey and AU Commission, 2019, p. 50; UNSC, 2013, para. 6; 2015, para. 46). Such large-scale diversion has a significant negative impact on national and regional peace, security, stability, and sustainable development (Bevan, 2008, pp. 60–62). Yet diversion from the national stockpile is only rarely the result of military or state collapse. The seizure of conventional arms on the battlefield also constitutes a significant method for diverting weapons (CAR, 2018, pp. 8–9), while diversion from peacekeeping missions in Africa represents another important source (Berman, 2019).

Diversion from post-delivery storage due to theft, loss, and leakage is commonly linked to inadequate security, poor stockpile management practices, and corruption at all levels, ranging from those responsible for guarding storage sites to political elites who exploit the loopholes in and limited oversight of arms procurement processes and storage (Bevan, 2008, pp. 49–56) (see Figure 3). For example, corrupt senior and junior officers in Niger's security forces have supplied Boko Haram with conventional arms diverted from the national stockpile, while Boko Haram's attack in June 2016 on the Boso military base also resulted in the group's capture of significant quantities of military materiel from the national stockpile (de Tessières, 2018, pp. 55–60). Diversion from national stockpiles also takes place in African states that are not involved in conflict. For example, the South African Police Service (SAPS) reported that 3,070 police firearms were stolen during a four-year period (2014/2015–2018) (SAPS, 2018, p. 88). In addition, firearms designated for disposal by destruction appear to represent a particular risk, and corrupt police officers and gun dealers in South Africa diverted small arms designated for destruction to criminals in the Western Cape province (Gun Free South Africa, 2017).

Comparing the ATT diversion measures paper and African regional instruments

Several ATT states parties have recommended that efforts to identify good practices to prevent and combat diversion use the work of existing initiatives carried out by relevant multilateral organizations (Argentina et al., 2018, pp. 1–2). The WGETI diversion measures paper drew upon multilateral politically and legally binding instruments, international standards, and guidelines to provide an extensive set of measures to prevent, address, and detect diversion (ATT Secretariat, 2018). This Briefing Paper compares the contents of the WGETI diversion measures paper to the measures contained in the following African regional small arms control instruments:

- Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components that Can Be Used for Their Manufacture, Repair and Assembly ('Kinshasa Convention') (ECCAS, 2010);

Figure 3 Scenario of diversion from post-delivery storage



Source: Small Arms Survey (2018)

- Economic Community of West African States Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials (ECOWAS Convention) (ECOWAS, 2006);
- The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa (Nairobi Protocol) (Nairobi Protocol, 2004); and
- Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (SADC Protocol) (SADC, 2001).

This comparison focuses on measures that can be taken to prevent, address, and detect diversion at or after importation (transfer chain stage 3) and from post-delivery storage (transfer chain stage 4). It takes into account the differences in scope of the items covered by the ATT, on the one hand, and African small arms control instruments, on the other, as well as the different objectives of these instruments. Recommended practice for ATT states parties and African regional standards often overlap, but there are also important differences.

The WGETI diversion measures paper encourages the use of three specific measures that importing states should take to prevent diversion at or after importation (transfer chain stage 3), which can be summarized as follows:

- 1) notify the exporting state that the conventional arms have been received (that is, using delivery receipts signed by the importations customs service, the delivery verification certificate,⁴ etc.);

- 2) keep records of imports and receipt by the authorized end user; and
- 3) initiate and respond in a timely manner to tracing requests regarding diverted conventional arms (ATT Secretariat, 2018, pp. 21–22) (see Figure 4).

These measures are already present in the Nairobi Protocol, which obliges the importing state to inform the exporting state that small arms have been delivered (Nairobi Protocol, 2004, art. 10.d). All African regional small arms control instruments contain provisions on record-keeping, marking, and tracing in line with the second and third measures given above.⁵

The WGETI diversion measures paper identifies two broad sets of measures that importing states can use to prevent diversion from post-delivery storage (transfer chain stage 4):

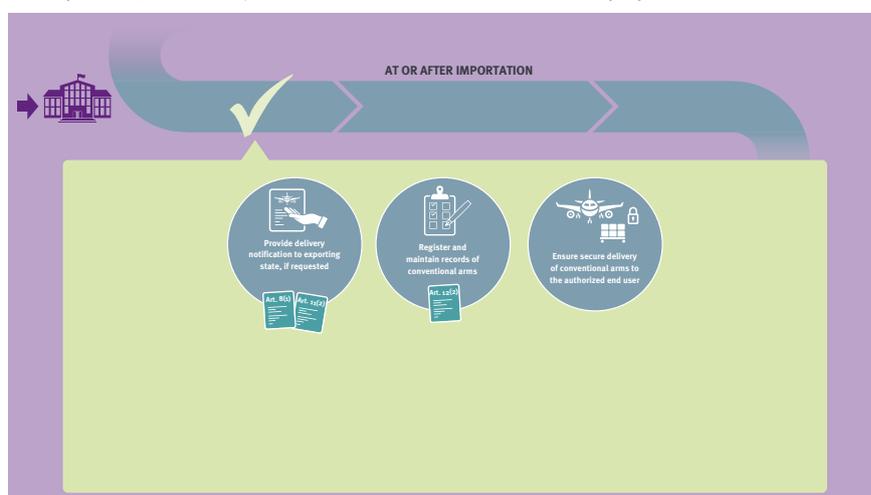
- 1) effective stockpile management and security; and
- 2) adequate border controls (ATT Secretariat, 2018, pp. 22–23) (see Figure 5).

These sets of measures are addressed in all four African regional small arms control instruments: the Kinshasa Convention (ECCAS, 2010, arts. 16, 17), the ECOWAS Convention (ECOWAS, 2006, arts. 16, 22), the Nairobi Protocol (Nairobi Protocol, 2004, arts. 4, 6, 15), and the SADC Protocol (SADC, 2001, arts. 6, 8, 11).

Table 1 outlines 13 provisions in the WGETI diversion measures paper that importing states can use to prevent and address diversion, and indicates which African small arms control instruments include these provisions. It shows that all four main African regional small arms control instruments contain provisions on national transfer control systems, stockpile management and security, marking and record-keeping, responsible disposal of surplus arms, adequate border controls, cooperation and information sharing at the national and regional levels, and international transparency and confidence-building measures. Further, the ECOWAS Convention, Kinshasa Convention, and Nairobi Protocol require transparency and confidence-building measures, cooperation to trace illicit and diverted small arms, and measures to prevent and address corruption. The Nairobi Protocol is the only African small arms control instrument that contains a provision that requires the importing state to confirm delivery of an arms shipment.

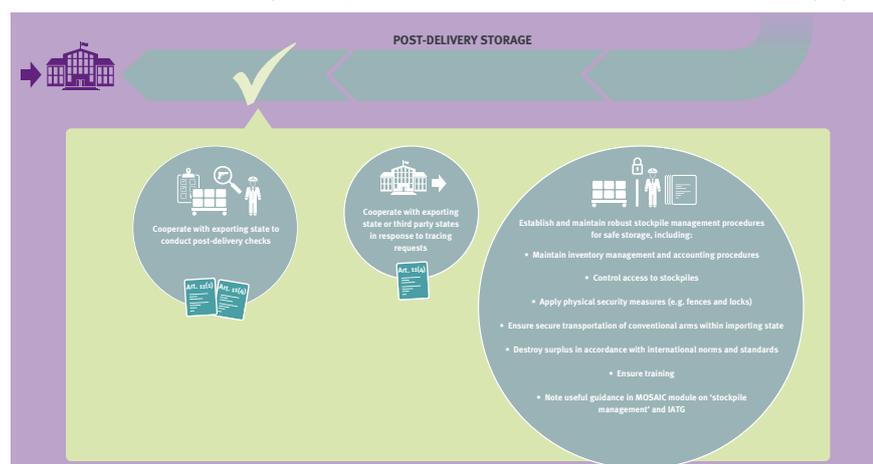
The African instruments do not contain articles on post-delivery cooperation with the exporting state, compliance with assurances on re-export or retransfer,⁶ or measures to take to address identified

Figure 4 Measures to prevent diversion at or after importation, as recommended to importing states by the WGETI diversion measures paper



Source: Small Arms Survey (2018)

Figure 5 Measures to prevent diversion from post-delivery storage, as recommended to importing states by the WGETI diversion measures paper



Source: Small Arms Survey (2018)

cases of diversion (beyond initiating a tracing request). Yet these instruments contain other measures that importing states can use to prevent or mitigate the risk of diversion that are not contained in the WGETI diversion measures paper. For example, the Kinshasa Convention requires states parties to determine ‘the mode of transport for export and import, as well as a precise and limited number of points of entry’, and designates all small arms as ‘illicit’ if they are not imported via

official entry points (ECCAS, 2010, arts. 18(1), 18(4)). All of the African instruments also include specific provisions on regulating civilian possession of small arms, as well as on manufacture and repair by gunsmiths and dealers, which touch on the issue of preventing and addressing the diversion of imported parts and components. Because the issues they cover are beyond the scope of the ATT, it is very unlikely that these provisions will be addressed within the ATT WGETI framework.

National measures to prevent, detect, and address diversion at and after importation

This section presents information on national measures to prevent, detect, and address diversion in importing states, based on a review of official materials made publicly available by Africa’s 25 ATT states parties.⁷ Half of the 22 African ATT states parties that should have submitted an initial report on measures to implement the ATT had done so by 3 May 2019.⁸ Only five African ATT initial reports are publicly available for review, however.⁹ All five of these states used the ATT initial reporting template, which does not specifically require information on measures to prevent and address diversion in the importing state (see Box 1). Therefore, given the small sample and lack of relevant information contained in the five publicly available African ATT initial reports, this section relies primarily on information contained in Burkina Faso’s completed ATT Baseline Assessment Project survey,¹⁰ 21 national reports on PoA implementation, and other official government materials. The first part of this subsection shows the most commonly self-identified

Table 1 Comparison of provisions of the ATT WGETI diversion measures paper to prevent and address diversion and those of African regional small arms control instruments

Provisions contained in the ATT WGETI diversion measures paper and African regional instruments	Stage(s) at which transfer chain diversion measure applies	ATT WGETI diversion measures paper	Nairobi Protocol	ECOWAS Convention	Kinshasa Convention (ECCAS)	SADC Protocol
Confirmation of delivery provided to the exporting state	Stage 3	Yellow	Yellow	Green	Green	Green
Post-delivery cooperation between the exporting and importing states	Stages 3 and 4	Yellow	Green	Green	Green	Green
Compliance with assurances on re-export and retransfer	Stages 3 and 4	Yellow	Green	Green	Green	Green
Marking and record-keeping	Stages 3 and 4	Yellow	Yellow	Yellow	Yellow	Yellow
Tracing	Stages 3 and 4	Yellow	Yellow	Yellow	Yellow	Green
Stockpile management and security	Stage 4	Yellow	Yellow	Yellow	Yellow	Yellow
Responsible disposal of surplus arms	Stage 4	Yellow	Yellow	Yellow	Yellow	Yellow
Measures to take when diversion is detected	All stages	Yellow	Orange	Green	Green	Green
National transfer control system	All stages	Yellow	Yellow	Yellow	Yellow	Yellow
Measures to prevent and address corruption	All stages	Yellow	Yellow	Yellow	Yellow	Green
Adequate border controls	All stages	Yellow	Yellow	Yellow	Yellow	Yellow
International cooperation and information sharing	All stages	Yellow	Yellow	Yellow	Yellow	Yellow
Transparency and confidence-building measures	All stages	Yellow	Yellow	Yellow	Yellow	Yellow

Notes: Yellow indicates that the measure is contained in the African regional instrument; orange indicates that an element of the measure is contained in the African regional instrument; green indicates that the measure is not contained in the African regional instrument.

Sources: ATT Secretariat (2018); ECCAS (2010); ECOWAS (2006); Nairobi Protocol (2004); SADC (2001)

Box 1 African ATT initial reports: limited utility for identifying counter-diversion measures

The ATT initial reporting template contains a section on measures to implement the ATT's provisions on diversion, which is split into two parts. The first part requests information on 'binding obligations' under the treaty, while the second part seeks information on 'provisions in the Treaty which are estimated to be binding to a lesser degree, or non-binding' (ATT, 2018).

Five African states parties have made their initial report publicly available: Côte d'Ivoire, Liberia, Sierra Leone, South Africa, and Togo. All five indicate that their national system provides for cooperation and information exchange with other states parties to prevent diversion, 'pursuant to their national laws, where appropriate and feasible' (UNGA, 2013, art. 11(3)). Sierra Leone, South Africa, and Togo reported that their national system contains a wide range of measures to prevent and detect diversion. At the time it submitted its initial report, Liberia's national system did not include such provisions for all categories of conventional arms, but some measures are used 'on a case by case basis, for example sharing relevant information with other states parties or requesting additional information' (Liberia, n.d., s. B, subs. 7.C). Liberia's national system also provides only for national-level investigations and law enforcement measures, not for alerting potentially affected states when a diversion is detected or using international tracing mechanisms to identify points of diversion (Liberia, n.d., s. B, subs. 7.D). Sierra Leone and South Africa provided additional information on measures to prevent diversion. Sierra Leone uses 'sea patrols' to prevent diversion (Sierra Leone, n.d., s. B, subs. 7.F), while South Africa cooperates with other intelligence agencies to acquire relevant information for preventing and detecting diversion (South Africa, n.d., s. 7.F). The national system in four of these five states provides for appropriate measures to be taken when a diversion of transferred conventional arms has been detected. These states provide no additional information on cooperation and information exchange, nor on measures that are taken when a diversion has been detected. Liberia does not have such measures at present, but reports that 'this provision will be addressed in a comprehensive national control system' (Liberia, n.d., s. A, subs. 7.B).

measures taken to prevent and address diversion at or after importation (transfer chain stage 3), and the second explores post-delivery storage (transfer chain stage 4).

Measures taken by states to prevent and address diversion at or after importation

The types of measures to prevent diversion at or after importation identified in Table 1 include delivery confirmation, post-delivery cooperation, marking, record-keeping, and tracing. Twenty-one African ATT states parties provided information on measures for post-delivery cooperation, marking, record-keeping, and tracing in their national reports on the implementation of the PoA during the period 2014–18 (see Table 2). According to this information, 11 African ATT states parties permit an exporting state to conduct a physical check at the point of delivery for small arms, while 16 require imported small arms to be marked at the time of import and require importers to keep records of their activities. Thirteen states have procedures in place for tracing. Most African

ATT states parties therefore report that they have some measures in place to prevent diversion at or after importation for small arms, but it is unclear if these measures also apply, where relevant, to other conventional arms covered by Article 2(1) of the ATT.

National reports on PoA implementation submitted during the period 2014–18 do not contain information on how these measures function, but show that most respondent states face capacity or resource constraints. Eighteen African ATT states parties used PoA reports to request international assistance for record-keeping and marking. For example, Nigeria requested marking machines and training for staff to undertake marking, as well as a common computerized registry and specialized training for its staff, because records are currently kept manually and separately by different state agencies, which makes it 'difficult to maintain appropriate record keeping for state and private arsenals' (Nigeria, 2018). Four of the other 18 African ATT states parties requested international assistance to acquire marking machines, while eight sought support to centralize and computerize their record-keeping systems. These requests signal that African ATT states parties require additional support to put in place effective measures to

prevent the diversion of imported conventional arms.

The South African Police Service (SAPS) provides some concrete examples of good practice with regard to imported conventional arms. During 2017–18 SAPS marked 3,000 imported Beretta PX4 pistols before they were issued to officers. The pistols were also test fired and ballistic information was entered into INTERPOL's Integrated Ballistic Identification System. By recording ballistic information for weapons issued to police officers, it will be subsequently possible to determine if these firearms were diverted to illicit use when ballistic information is recovered from a crime scene. SAPS takes further steps to mitigate the risk of diversion through loss or theft by using biannual and annual inspections and stocktaking. In addition, the number of firearms held in police stations and at unit level is limited (SAPS, 2018, p. 72).

The PoA reporting template does not ask states to indicate (a) if they confirm the delivery of small arms by informing the exporting state or (b) if they ensure that the re-export or retransfer of small arms complies with assurances provided in the initial contract or end-use/user documentation provided to the competent authorities in the original exporting state. Several African states reportedly include a commitment in their end-use/user documentation to confirm delivery to the competent authorities in the exporting state and declare that they ensure compliance with re-export conditions agreed with the exporting state (UNIDIR, 2017, pp. 17, 35–37).

This overview of measures undertaken by African ATT states parties to prevent and address the diversion of small arms at or after importation shows an awareness of effective measures and practices. There is a question, however, as to whether African ATT states parties have the necessary infrastructure, expertise, and capacity to effectively prevent diversion at this stage in the transfer chain—as indicated by the international assistance requests they have made in their national PoA reports.

Measures taken by states to prevent diversion from post-delivery storage

Measures to prevent and address diversion from post-delivery storage include stockpile management and security, and the responsible disposal of surplus weapons and ammunition. Information in national reports on the implementation of the PoA contains some details on

Table 2 Measures to prevent diversion at or after importation recorded in national reports on PoA implementation, 2014–18

Post-delivery cooperation	Yes	No	No response
When importing, does your country grant the right to the exporting state to conduct a physical check at the point of delivery?	11	4	6
Marking and record-keeping	Yes	No	No response
Does your country require that imported small arms be marked at the time of import?	16	3	2
Does your country require that exporters and importers of small arms keep records of their activities?	16	3	2
International tracing	Yes	No	No response
Does your country have procedures in place to trace small arms?	13	6	2

Source: UNODA (n.d.)

measures to prevent diversion from post-delivery storage dealing with marking, stockpile management and security, and the responsible disposal of surplus materiel. Table 3 shows the responses that 21 African ATT states parties provided in their national PoA reports on these issues. At the same time, several African states appear to have developed and utilized effective counter-diversion measures that are not outlined in their national reports or other publicly available documentation (Poitevin, 2015, p. 7).

According to their national reports on PoA implementation, 19 African ATT states parties take measures to ensure that small arms in the national stockpile are marked (see Table 3). Yet, as noted above, four of them are seeking international assistance to acquire marking machines and train personnel to undertake marking. African ATT states parties report that they have relevant standards and procedures in place for the effective management and security of government stockpiles of small arms. For example, 20 of the 21 African ATT states parties reviewed in this section have in place standards and procedures relating to the management and security of small arms held by the armed forces, police, or any other entity authorized to hold these weapons (see Table 3). Seventeen of these 21 states requested assistance on stockpile management in their PoA reports, while nine requested some form of technical assistance. Several states provided more detail on their particular needs: five states requested training, four asked for support to strengthen stockpile management procedures, and four are seeking assistance to construct storage facilities.

Côte d'Ivoire has already taken some important steps to develop its infrastructure and capacities in this area. For example, since the electoral crisis in 2011 it has invested in the refurbishment and modernization of 80 ammunition and 140 weapons storage facilities. Further, Côte d'Ivoire has

developed a strong physical security and stockpile management strategy and standard operating procedures, given appropriate training to staff, and marked more than 90 per cent of its state-owned small arms (UNIDIR, 2019, p. 13). Yet it also requested international assistance to develop its stockpile management and security measures and infrastructure in its 2018 PoA report (Côte d'Ivoire, n.d., s. 10).

The PoA reports contain information on the methods used by ATT African states parties to dispose of surplus small arms. The overwhelming majority of states indicate that they use destruction for this purpose, almost half transfer surplus arms to another national state agency, and a small number sell or donate small arms to another state, civilians, or legal entities (for example, museums, private security companies, etc.). It appears, therefore, that some African ATT states parties export surplus small arms to other states.

The PoA national reporting template does not ask for information on compliance with assurances to not re-export or retransfer small arms without notifying or seeking the approval of the original exporting state. Burkina Faso nevertheless reports that it investigated a case of illegal re-export and suspended the registration of two gunsmiths who 'sold imported small arms' that were not authorized to leave the country 'to foreigners' (Burkina Faso, n.d., s. 5.12.1). The value of the ATT for preventing and addressing diversion could be increased if it provided a mechanism for states parties to share more information on such cases.

Conclusion

The ATT provides a framework and the WGETI subworking group a forum that could be utilized to identify how, when, and where diversion takes place and which measures have proved to be particularly effective for preventing and addressing

the diversion of conventional arms. Drawing on the WGETI diversion measures paper and some of the national practices cited in this paper, ATT states parties could further develop the list of measures to prevent and address diversion at or after importation (transfer chain stage 3) and from post-delivery storage (transfer chain stage 4).

As noted in this Briefing Paper, many of the measures contained in the WGETI diversion measures paper correspond with measures contained in African small arms control instruments. Yet not one of these instruments explicitly addresses post-delivery cooperation between the exporting and importing states or compliance with assurances on re-export and retransfer; only the Nairobi Protocol includes delivery confirmation and measures to be taken when diversion has been detected. A comprehensive comparison of these instruments and the WGETI diversion measures paper could help to further stimulate exchanges at the regional level and within the ATT community on effective counter-diversion measures. The ATT also provides a forum that could be used to strengthen post-delivery cooperation between exporting and importing states parties.

This paper clearly shows the challenge of seeking to identify effective measures to prevent and address diversion at or after importation and from post-delivery storage, using responses provided by state parties in their initial reports on measures to implement the ATT. The corresponding ATT reporting template does not encourage states parties to provide such information. National reports on PoA implementation are of greater value in this regard, but lack detailed information on specific counter-diversion measures and do not show which measures have proved to be most effective or the types of assistance that would help to strengthen their implementation. At the same time, the PoA reports reveal that most African ATT states parties require

Table 3 Measures to prevent diversion from post-delivery storage recorded in national reports on PoA implementation, 2014–18

Stockpile management and security		Yes	No*
Does your country take measures to ensure that all small arms in the possession of government armed and security forces and intended for their own use are duly marked?		19	2
Does your country have standards and procedures in place for the management and security of small arms held by the armed forces, police, or any other entity authorized to hold small arms?		20	1
If so, which of the following provisions are included in these standards and procedures?	Appropriate locations for stockpiles	19	2
	Physical security measures	20	1
	Measures to control access to stocks	19	2
	Inventory management and accounting controls	18	3
	Staff training	20	1
	Security and accounting controls for small arms held or transported by operational units or authorized personnel	18	3
	Procedures and sanctions in the event of theft or loss	19	2
Surplus disposal		Yes	No*
Which of the following methods may be used to dispose of surplus arms stocks?	Destruction	17	4
	Sale to another state	2	19
	Donation to another state	2	19
	Transfer to another state agency	9	12
	Sale to civilians	3	18
	Sale or transfer to legal entities (e.g. museums, private security companies, etc.)	3	18
When government weapons stocks are transferred to civilians or private companies in your country, are such stocks marked to indicate that these weapons have been transferred?		6	15

Note: * This covers both 'no' and 'no response' answers
Source: UNODA (n.d.)

international assistance to put in place the infrastructure and develop the capacity needed to prevent and detect the diversion of imported arms (Holtom and Ben Hamo Yeger, 2018).

ATT states parties from Africa could share more examples of efforts to divert conventional arms at or after importation (transfer chain stage 3) and from post-delivery storage (transfer chain stage 4), thus increasing understanding of diversion methods and effective counter-diversion measures, and helping other states to strengthen their regulation of conventional arms imports. Since diversion is a dynamic and evolving phenomenon, it is only through the continuous exchange of information on diversion methods and actors that prevention measures can be kept up to date and effective. The ATT WGETI subworking group on diversion is scheduled to discuss the role of importing states in preventing diversion in advance of CSP7 in 2021. The experience of African ATT states parties needs to be brought to the table if the ATT is to serve the interests of all of its stakeholders, namely importing and exporting states, but also those individuals and communities that count on the realization of the ATT's primary objective of 'reducing human suffering' (UNGA, 2013, art. 1). ●

Abbreviations and acronyms

- ATT** Arms Trade Treaty
- CSP4** Fourth Conference of States Parties
- CSP7** Seventh Conference of States Parties
- ECCAS** Economic Community of Central African States
- ECOWAS** Economic Community of West African States
- PoA** Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
- SADC** Southern African Development Community
- SAPS** South African Police Service
- WGETI** Working Group on Effective Treaty Implementation

Notes

- 1 Greene and Kirkham (2010, p. 9); McDonald (2008, p. 156); Parker (2016, p. 118); Small Arms Survey and AU Commission (2019, p. 46); UNSC (2015, para. 9).
- 2 The four stages of the transfer chain contained in the WGETI diversion measures paper are broadly comparable to the four stages in the Survey's 'transfer chain': 'licensing, in-transit movement, delivery, and post-delivery use and retransfer' (McDonald, 2008, p. 157).

- 3 In addition to prohibiting re-export or retransfer, the original exporting state could permit re-export or retransfer to designated states if the competent transfer control authorities in the importing state authorize the export. In such circumstances there could be a requirement for the importing state to notify the original exporting state that the competent transfer control authorities in the importing state have authorized a re-export or retransfer.
- 4 A delivery verification certificate is 'a written proof, usually certified by customs, that the authorized end user has received the items covered by the export licence and end-use/r documentation. This document, therefore, reassures the export licensing authorities that the items have not been diverted since leaving the exporting State' (UNIDIR, 2017, p. 21).
- 5 See ECCAS (2010, arts. 14, 20); ECOWAS (2006, arts. 9, 19); Nairobi Protocol (2004, art. 7); and SADC (2001, arts. 9, 14, 15).
- 6 The ECOWAS Convention and Kinshasa Convention require states parties to deny an authorization for export or transfer if there is the risk of diversion to the illicit trade by re-export, but make no reference to the obligation of an African state that is importing small arms to comply with assurances to seek authorization or notify the original exporting state before authorizing a retransfer or re-export of imported arms (ECOWAS, 2006, art. 6(5); ECCAS, 2010, art. 5.a). The Nairobi Protocol calls for states parties to promote legal uniformity and

- minimum standards regarding re-export (Nairobi Protocol, 2004, art. 3(C)V).
- 7 As of 1 May 2018 the 25 African states parties to the ATT are: Benin, Burkina Faso, Cameroon, Cape Verde, the Central African Republic, Chad, Côte d'Ivoire, Ghana, Guinea, Guinea-Bissau, Lesotho, Liberia, Madagascar, Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Senegal, Seychelles, Sierra Leone, South Africa, Togo, and Zambia. In addition, the following 14 states are signatories: Angola, Burundi, Comoros, Djibouti, Gabon, Libya, Malawi, Namibia, the Republic of the Congo, Rwanda, São Tomé and Príncipe, Swaziland, Tanzania, and Zimbabwe.
 - 8 Cameroon's initial report is due on 15 September 2019, Guinea-Bissau's on 20 January 2020, and Mozambique's on 13 March 2020.
 - 9 The following five African states have made their initial reports publicly available: Côte d'Ivoire, Liberia, Sierra Leone, South Africa, and Togo. The following six African states have requested that their initial reports be made available to states parties only: Benin, Burkina Faso, Madagascar, Mauritius, Nigeria, and Senegal.
 - 10 Burkina Faso has submitted an ATT initial report, but it is not publicly available; however, its completed ATT Baseline Assessment Project survey is available.

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