

Following the MV Faina's release from Somali pirates, a military officer in Mombasa guards the ship which was carrying tanks and weapons destined for South Sudan, February 2009.

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Trade Update

TRANSFERS, RETRANSFERS, AND THE ATT

INTRODUCTION

Given the complex dynamics of the small arms trade, the impact of the Arms Trade Treaty (ATT) is difficult to predict. Yet this chapter, building on the considerable advances made in our understanding of the small arms trade in recent years, examines some of the factors that will determine the treaty's future impact on transfers, retransfers, and transparency. After reviewing the main actors of the authorized trade and global trends from 2001 to 2011, using the United Nations Commodity Trade Statistics Database (UN Comtrade), the chapter considers some of the possibilities—and opportunities—the ATT offers for addressing unauthorized retransfers. One of the main purposes of the ATT is to increase transparency in the international arms trade. After presenting the 2014 edition of the Transparency Barometer, this chapter reflects on how the ATT can build upon existing instruments to achieve this goal.

The main findings of the chapter include:

- In 2011, the top exporters of small arms and light weapons (those with annual exports of at least USD 100 million), according to available customs data, were (in descending order) the United States, Italy, Germany, Brazil, Austria, Switzerland, Israel, the Russian Federation, South Korea, Belgium, China, Turkey, Spain, and the Czech Republic.
- In 2011, the top importers of small arms and light weapons (those with annual imports of at least USD 100 million), according to available customs data, were (in descending order) the United States, Canada, Germany, Australia, Thailand, the United Kingdom, France, and Italy.
- The value of the global trade in small arms and light weapons almost doubled between 2001 and 2011, according to UN Comtrade. The category of small arms ammunition has seen the greatest increase (USD 959 million or 205 per cent).
- While the ATT does not specifically refer to unauthorized retransfers, other instruments and good practice guidelines outline relevant measures. Guidance is scarce, however, on how to respond to suspected or detected cases of unauthorized retransfers.
- The 2014 edition of the Transparency Barometer identifies Switzerland, Germany, Serbia, and the United Kingdom as the most transparent of the major exporters, while Iran, North Korea, Saudi Arabia, and the United Arab Emirates are the least transparent.
- Although overall transparency improved slightly since last year, with more countries improving or maintaining their level of transparency than not, the Barometer shows that more than half of the countries under review do not provide any information on licences granted or refused, despite the categories overall importance to transparency.
- The ATT offers an important opportunity to increase transparency in small arms transfers. Yet, to achieve this goal, ATT reporting needs to take its inspiration not only from the UN Register of Conventional Arms (UN Register), but also from UN Comtrade and national arms export reports.

AUTHORIZED SMALL ARMS TRANSFERS

Since 2001, the Small Arms Survey has provided annual information on authorized small arms transfers. This year, the authorized transfers update presents data provided by states for trade conducted in 2011, as reported in UN Comtrade. A decade's worth of Comtrade data helps to identify key trends in the global trade.

Definitions and sources

For the purposes of this section, 'authorized transfers' are 'international transfers that are authorized by the importing, exporting, or transit states' (Dreyfus et al., 2009, p. 9). The term 'small arms' refers to small arms and light weapons, including their parts, accessories, and ammunition. While there is no single comprehensive source of data on small arms transfers, the trend analysis for 2001–11 uses exclusively UN Comtrade data so as to ensure comparability.¹

UN Comtrade compiles customs data submitted annually by exporters and importers worldwide.² It remains the most extensive source of data on global transfers for pistols and revolvers, small-calibre ammunition, sporting rifles, and sporting shotguns.³ Yet it provides only partial coverage of the trade in military firearms, firearm parts and accessories, and light weapons and their ammunition—partly because some Comtrade categories include a mix of small arms and larger-calibre weapons and ammunition. At the same time, several major small arms exporters do not report to UN Comtrade at all, while others under-report or omit categories.⁴



Military and security officials look at weapons at the Bahrain International Air Show, Sakir, January 2014. © Hamad I Mohammed/Reuters

Although UN Comtrade can be used to map trends in the global small arms trade over time, it does not capture the total value of the trade, or its undocumented component. The Small Arms Survey estimates the total value of the global small arms trade at approximately USD 8.5 billion, based on an analysis of sources such as national arms export reports, the UN Register, and UN Comtrade (Grzybowski, Marsh, and Schroeder, 2012, p. 251).

Top and major exporters and importers in 2011

This year, the authorized transfers update presents UN Comtrade data provided by states for trade conducted in 2011, contrasting these figures with their 2010 equivalents.⁵

In 2011, the number of top exporters (exporting at least USD 100 million⁶ of small arms annually) rose to 14, from 12 in 2010. They were, in descending order, the United States, Italy, Germany, Brazil, Austria, Switzerland, Israel, the Russian Federation, South Korea, Belgium, China, Turkey, Spain, and the Czech Republic (see Table 4.1). The new top exporters in 2011 were China (whose exports increased from USD 89 million in 2010 to USD 112 million in 2011), Turkey (from USD 98 million to USD 108 million), and the Czech Republic (USD 91 million to USD 104 million).

Sweden moved from the top exporter category to that of ‘major exporter’, as its exports decreased from USD 132 million in 2010 to USD 44 million in 2011. The number of top and major exporters (exporting at least USD 10 million annually) was 39 in 2011, four more than in 2010. The new major exporters in 2011 were Pakistan (from USD 4

Table 4.1 Exporters of small arms based on UN Comtrade, 2011

Category		Value (USD)	Exporters (listed in descending order of value exported)
Top exporters	Tier 1	≥500 million	1: United States
	Tier 2	100-499 million	13: Italy, Germany, Brazil, Austria, Switzerland, Israel, Russian Federation, South Korea, Belgium, China, Turkey, Spain, Czech Republic
Major exporters	Tier 3	50-99 million	8: Japan, Canada, Norway, United Kingdom, France, Pakistan, Finland, Croatia
	Tier 4	10-49 million	17: Sweden, Portugal, Mexico, India, Serbia, Taiwan, Philippines, Singapore, Cyprus, Ukraine, Australia, Denmark, Argentina, Hong Kong, Romania, Poland, Hungary

Table 4.2 Importers of small arms based on UN Comtrade, 2011

Category		Value (USD)	Importers (listed in descending order of value imported)
Top importers	Tier 1	≥500 million	1: United States
	Tier 2	100-499 million	7: Canada, Germany, Australia, Thailand, United Kingdom, France, Italy
Major importers	Tier 3	50-99 million	14: Norway, Switzerland, Colombia, Côte d’Ivoire, Netherlands, Afghanistan, Russian Federation, Belgium, Israel, Sweden, Spain, Austria, Denmark, Mexico
	Tier 4	10-49 million	42: Poland, Jordan, Turkey, United Arab Emirates, South Korea, Singapore, Philippines, Portugal, Morocco, Cambodia, Indonesia, Saudi Arabia, Iraq, Japan, Finland, Pakistan, Lebanon, New Zealand, Brazil, Estonia, Argentina, South Africa, Chile, Czech Republic, Ukraine, Sudan, India, Kenya, Kuwait, Peru, Cyprus, Honduras, Malaysia, Greece, Hungary, Bulgaria, Venezuela, Oman, Slovakia, China, Luxembourg, Dominican Republic

million in 2010 to USD 76 million in 2011),⁷ Ukraine (from USD 3 million to USD 21 million), Hong Kong (from USD 1 million to USD 13 million), and Poland (USD 8 million to USD 12 million). Overall, the United States remains the largest exporter of small arms, with at least USD 917 million exported in 2011, almost 100 million more than in 2010 (when it reported USD 821 million).

In 2011, the top importers (importing at least USD 100 million of small arms annually) were, in descending order, the United States, Canada, Germany, Australia, Thailand, the United Kingdom, France, and Italy (see Table 4.2). Their identity and number (eight) underwent limited changes between 2010 and 2011. Only South Korea dropped from the list of top importers (with a decrease from USD 130 million in 2010 to 40 million in 2011), whereas Italy joined the list (with an increase from 68 million in 2010 to USD 108 million in 2011). In contrast, the number of top and major importers (importing at least USD 10 million annually) rose significantly: from 56 in 2010 to 64 in 2011. Almost all of the new major importers were Tier 4 countries, with imports of between USD 10 million and USD 49 million (Cambodia, Sudan, India, Kenya, Honduras, Hungary, Oman, China, Luxembourg, Dominican Republic; see Table 4.2).⁸

Principle data

Caliber	12.7 mm
Effective Range	1,500 m
Weight (without sight)	12 kg
Length	1,480 mm
Muzzle Velocity	800 m/s
Magazine Capacity	5
Sight Magnification	×8, ×10

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Principle data

Targets: fighter-bomber, attacker, armed helicopter, UAV, cruise missile etc.

Operation Air Space	10–4,000 m
Effective altitude	500–6,000 m
Effective slant range	3,000 m
Max. course short-cut	≥80%
Single shot killing probability	≥0.90
Reliability	

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A worker prepares for the opening of the Chinese pavilion at the Eurosatory Defense Exhibition, Villepinte, France, June 2010. © Jacques Brinon/AP Photo

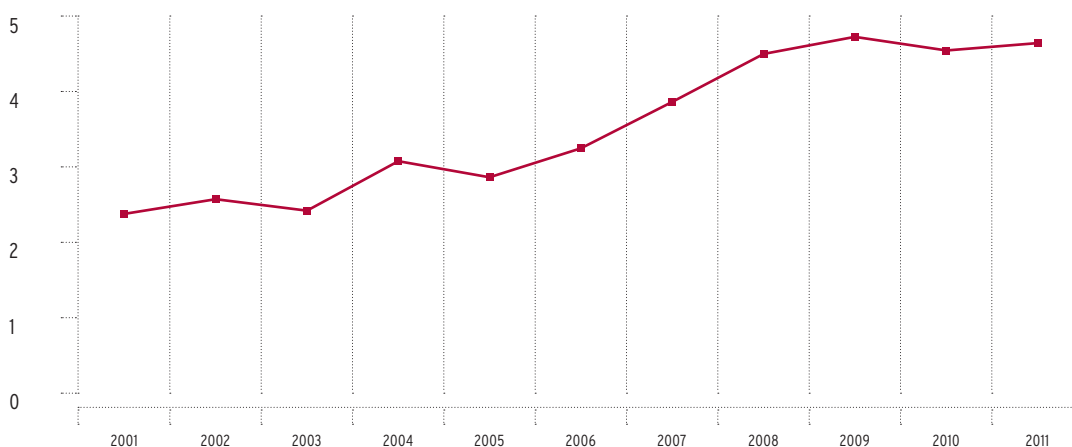
International trends: 2001-11

Global trends by total value

As captured by UN Comtrade, between 2001 and 2011 the global value of the small arms trade increased by approximately USD 2.254 billion in constant 2011 dollars—a total increase of 95 per cent over the decade (see Figure 4.1 and Table 4.3).⁹ As noted in the 2009 edition of the *Small Arms Survey*, this increase has not been constant from year to

Figure 4.1 **Changes in the value of the global small arms trade based on UN Comtrade (USD billion*), 2001-11**

VALUE OF THE SMALL ARMS TRADE (USD BILLION)



Notes: * All values are expressed in constant 2011 US dollars; all figures have been rounded to the nearest million.

Sources: NISAT (n.d.); UN Comtrade (n.d.)

Table 4.3 **Trends in small arms transfers per category, as reported to UN Comtrade, 2001-11**

Types of weapons	2001 value (USD million*)	2011 value (USD million)	Absolute change 2001-11 (USD million)	% change
Small arms ammunition (≤ 12.7 mm)	468	1,427	959	205
Pistols and revolvers	275	653	378	138
Sporting rifles	198	475	277	140
Sporting shotguns	349	552	203	58
Shotgun cartridges	223	374	151	68
Parts and accessories for pistols or revolvers	57	190	133	232
Parts and accessories for shotguns or rifles	171	302	131	77
Military small arms and light weapons**	593	605	13	2
Shotgun barrels	46	55	9	19
Total	2,380	4,634	2,254	95

Notes: * All values are expressed in constant 2011 US dollars; all figures have been rounded to the nearest million. ** Broadly speaking, this category reflects the trade in small arms designed to military specifications. It includes three specific Comtrade categories: military weapons (930100), rocket and grenade launchers (930120), and military firearms (930190).

Sources: NISAT (n.d.); UN Comtrade (n.d.)

year.¹⁰ Since 2001 there have been decreases, rather than increases, in 2003, 2005, and 2010, with annual drops of 6, 7, and 4 per cent, respectively (see Figure 4.1).

Global trends by weapon category

Regarding changes by weapon category, from 2001 to 2011 the international trade in small arms ammunition saw the greatest absolute increase: an absolute growth of USD 959 million (see Table 4.3). In 2011 it was the most exported category of materiel, with exports worth USD 1.427 billion, marking a surge of 205 per cent since 2001.

The three other categories that have experienced the largest increases in traded values since 2001 are pistols and revolvers, sporting rifles, and sporting shotguns. The value of exported parts and accessories for pistols and revolvers has seen the greatest relative change, with a 232 per cent increase since 2001, but the magnitude of its trade remains low compared to most other categories: USD 190 million in 2011. Although it fluctuated during the period, the trade in military small arms and light weapons increased by only 2 per cent from 2001 to 2011, remaining at around USD 600 million.

Figure 4.2 shows changes in traded values for six selected small arms categories. The value of the trade in small arms ammunition increased from 2001 to 2011, with two slight decreases in 2005 and 2009.

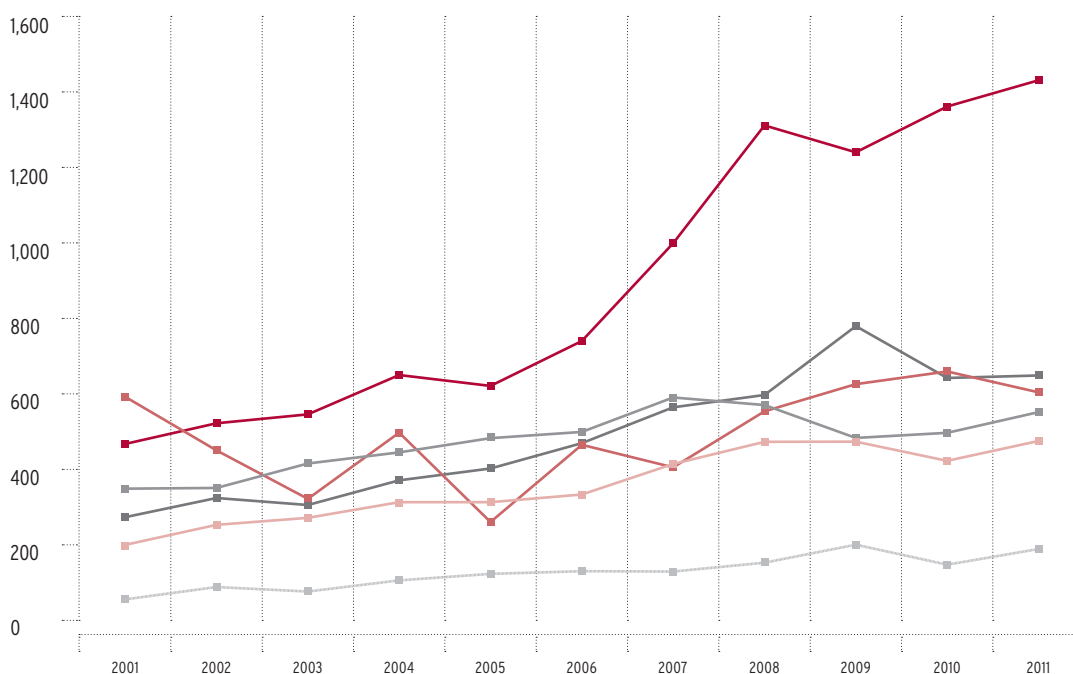


9 mm bullets at an outlet for sport shooting supplies, Pennsylvania, April 2013. © Keith Srakocic/AP Photo

Figure 4.2 **Changes in traded values for six categories of small arms and light weapons based on UN Comtrade (USD million*), 2001-11**

■ Small arms ammunition (≤12.7 mm) ■ Pistols and revolvers ■ Military small arms and light weapons ■ Sporting shotguns ■ Sporting rifles
■ Parts and accessories for pistols or revolvers

VALUE OF TRADE (USD MILLION)



Notes: * All values are expressed in constant 2011 US dollars; all figures have been rounded to the nearest million.

Sources: NISAT (n.d.); UN Comtrade (n.d.)

The rise in ammunition transfers accounts for a large portion (42.5 per cent) of the overall increase in the small arms trade since 2001. In 2011 ammunition alone represented 30.8 per cent of the total trade. Table 4.4 examines some of the dynamics of this trade, presenting the ten largest exporters of ammunition between 2001 and 2011, along with changes in their exports during that period.

The United States is the most important exporter of small arms ammunition, capturing 26 per cent of the global trade in this category between 2001 and 2011. Yet several other countries have contributed to the global rise in ammunition exports, with dramatic increases in exports from, in descending order, Germany (537 per cent), Norway (517 per cent), Switzerland (412 per cent), Brazil (397 per cent), and the Russian Federation (332 per cent) during the decade. All told, the top ten exporters presented in Table 4.4 accounted for 71 per cent of the ammunition trade during this period.

An analysis of top importers sheds further light on the ammunition market during the decade. As illustrated in Table 4.5, several countries have seen large relative increases in their imports of small arms ammunition. These include the Netherlands (up 888 per cent since 2001) and Israel (728 per cent), as well as the United Kingdom (486 per cent), Switzerland (386 per cent), and Norway (338 per cent). Although the United States had a lower percentage increase (266 per cent), it imported far more ammunition than any other state during the decade—almost four times the value of the second most important importer.

Table 4.4 Changes in the exports of the ten largest exporters of small arms ammunition as reported to UN Comtrade (USD million*), 2001-11

Exporter	Average exports (USD million)	% of all exports in this category	Absolute change in exports (USD million)	% change
United States	237	26	221	136
Germany	77	9	115	537
Switzerland	64	7	93	412
South Korea	50	6	46	155
Russian Federation	49	5	61	332
Canada	43	5	27	177
Norway	42	5	65	517
Brazil	28	3	34	397
Sweden	28	3	13	62
Czech Republic	25	3	9	37
Total ammunition	901	100	959	205

Notes: * All values are expressed in constant 2011 US dollars; all figures have been rounded to the nearest million.

Sources: NISAT (n.d.); UN Comtrade (n.d.)

Table 4.5 Changes in the imports of the ten largest importers of small arms ammunition as reported to UN Comtrade (USD million*), 2001-11

Importers	Average imports (USD million)	% of all imports in this category	Absolute change in imports (USD million)	% change
United States	211	23	209	266
Australia	57	6	66	183
Germany	54	6	48	176
Canada	42	5	61	282
United Kingdom	40	4	48	486
Israel	28	3	39	728
France	27	3	20	183
Netherlands	27	3	40	888
Switzerland	26	3	46	386
Norway	24	3	41	338
Total ammunition	904	100	986	211

Notes: * All values are expressed in constant 2011 US dollars; all figures have been rounded to the nearest million.

Sources: NISAT (n.d.); UN Comtrade (n.d.)

As captured by customs data, the value of the authorized small arms trade reflects a clear upward trend from 2001 to 2011, with an especially pronounced rise for ammunition.¹¹ As the global small arms trade picks up, the Arms Trade Treaty, which covers small arms and, to some extent, their parts, components, and ammunition, retains all its importance. That said, the increasing importance of the ammunition trade poses a problem for the ATT, which, as discussed in the next section, does not cover the diversion, including unauthorized retransfers, of this materiel.

PROFILING UNAUTHORIZED RETRANSFERS

An unauthorized retransfer is 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, in violation of commitments made by the authorized importer or end user prior to export.¹² Unauthorized retransfers can lead to the same negative consequences as other types of diversion, such as the supply of arms to undesirable end users, including criminals and terrorists, or for fuelling conflict and the commission of human rights abuses. Although the Arms Trade Treaty does not explicitly mention unauthorized retransfers, it contains several provisions that could be utilized to address the problem (see Box 4.1).

The challenges posed by unauthorized retransfers are not new and are not confined to any particular region of the world. They occur after delivery to the authorized importer or end user, but at very different times and in different forms after such delivery. For example, it is reported that the tanks, artillery, small arms, and ammunition delivered by Ukraine to Kenya in 2007–08 were quickly sent to South Sudan without the authorization of the Ukrainian government (Lewis, 2009). It appears that the tanks were used against opposition forces in South Sudan in 2011,

Box 4.1 The ATT and unauthorized retransfers

The Arms Trade Treaty represents a significant development in international efforts to improve regulation of the international arms trade and combat the illicit arms trade (UNGA, 2013b; ARMS TRADE TREATY). Nevertheless, the lack of a specific reference to unauthorized retransfers or to measures designed to address the problem—and the fact that the diversion article does not apply to ammunition, parts and components, or licensed production—limit the ATT's utility in this area. As the cases described in this section demonstrate, the latter items and arrangements are particularly susceptible to unauthorized retransfers. ATT negotiators, drawing upon existing regional instruments and guidelines, could have taken the opportunity to reflect good practices in preventing unauthorized retransfers. That said, the ATT can still be utilized to combat the problem by taking the following measures:

- **Risk assessment:** Articles 6 and 7 require exporters, including re-exporters, to prohibit particular arms exports and undertake risk assessments designed to prevent arms exports from having certain negative consequences.
- **Preventing diversion:** Article 11(1) requires all states parties to take measures to prevent the diversion of arms, including, at least implicitly, unauthorized retransfer. However, the provision only applies to the eight ATT arms categories, which exclude ammunition, parts and components, and licensed production arrangements.
- **Record-keeping:** Article 12 on record-keeping, particularly by importing states, could prove useful to exporting states seeking to investigate suspected or detected unauthorized retransfers.
- **Reporting:** Article 13 on reporting requires states parties to report on authorized or actual imports and exports—including re-exports—and encourages them to report on effective measures to prevent diversion, presumably including unauthorized retransfer.
- **International cooperation:** Article 15(5) on international cooperation can provide a basis for assistance with investigations, prosecutions, and judicial proceedings after unauthorized retransfers have been detected.
- **Information sharing:** Article 17 on Conferences of States Parties could provide a forum for states parties to share information on diversion risks, including information on detected and suspected unauthorized retransfers, as well as on measures to prevent, detect, and respond to unauthorized retransfers.

Source: UNGA (2013b)



President of Venezuela Hugo Chavez shows a Swedish-made anti-tank rocket as an example of weapons allegedly stolen by FARC from the Venezuelan military, before their subsequent seizure by the Colombian military, Caracas, August 2009. © Thomas Coex/AFP Photo

with civilian casualties also reported (AI, 2012, pp. 18–20). Unauthorized retransfers can also take place decades after initial delivery, as in the case of the Carl Gustav (AT-4) anti-tank ammunition, which Sweden had delivered to Venezuela in 1988, but which the Colombian government discovered in a camp of the Revolutionary Armed Forces of Colombia (FARC) in 2008 (AFP, 2009; BBC, 2009).

Unauthorized retransfers of parts and components that are supposed to be incorporated into weapons systems produced by the recipient are another challenge. For example, parts and components supplied by China to Iran for the production of surface-to-air missiles and PG-7-AT1 rocket-propelled grenades were reportedly transferred to armed groups in Iraq and then used against Coalition and Iraqi forces, as well as civilians (Rayner, 2011). Concerns have also been raised with regard to the unauthorized retransfer of arms and ammunition produced under licence, in particular the G-3, FN FAL, and Kalashnikov rifles. FN FAL rifles produced under licence in Argentina in the early 1990s, though officially destined for Panama and Venezuela, were in fact delivered to Ecuador during its conflict with Peru (Vranckx, 2005, pp. 13–14).

Since 2011, considerable media attention has focused on a number of cases of unauthorized retransfers of arms and ammunition from European suppliers to Libyan and Syrian non-state armed groups via members of the Gulf Cooperation Council. Another case in point is Col. Muammar Qaddafi's Libya, which, prior to the regime's collapse, had a reputation for undertaking unauthorized retransfers to armed groups in Africa (see Box 4.2).

Although several high-profile cases have come to light in recent years, it remains difficult to know how common unauthorized retransfers are and how many are detected. Even in cases of suspected or detected unauthorized retransfers, both exporting and importing states may deny that an unauthorized retransfer has taken place. When Somali pirates hijacked the merchant vessel *Faina* in September 2008, Kenyan, South Sudanese, and Ukrainian officials insisted that its cargo of military equipment was destined for end users in Kenya (Solomko and Stroginov, 2008). There was, however, substantial evidence indicating that it would follow previous Ukrainian shipments and be retransferred to South Sudan (Lewis, 2009). Kenyan officials

did eventually inform US officials of Kenya's role in retransferring Ukrainian arms imports to South Sudan (Gettleman and Gordon, 2010), but apparently not their Ukrainian counterparts. Even in 2010 the former head of the Ukrainian state arms exporter, Ukrspetsexport, stated that arms deliveries to Kenya were staying there (Shevchenko, 2010).

When presented with evidence of an unauthorized retransfer, major exporters in Europe and Asia tend to use the same refrain—that there are limited options available for responding to such incidents and that responsibility ends at the original exporter's border. The first signs that Yugoslav-origin M79 anti-tank weapons were being used by Syrian rebels appeared in January 2013 (Brown Moses Blog, 2013). Investigative journalists revealed that 3,000 tons of weapons—including M79 Osa anti-tank weapons, RPG-22s, RBG-6s, and M60 recoilless rifles—had been transported by air from Croatia to Jordan between November 2012 and February 2013, with unknown quantities retransferred by Jordan to Syrian rebels (Žabec, 2013). When questioned on the unauthorized retransfer, Croatian president Ivo Josipović stated that, 'what third countries or countries that we or someone else export weapons to do with (arms) afterward, we unfortunately cannot control' (Hina, 2013).

The remainder of this section presents some of the main features of the problem, as well as some of the measures that can be used to address it.

Box 4.2 Weapons flows to and from Libya

Libya has been a concern with regard to unauthorized retransfers of arms since the Qaddafi era. The country provided Soviet-supplied man-portable air defence systems (MANPADS) to the Irish Republican Army and Saharawi armed forces in the late 1980s and Belgian-supplied 106 mm recoilless rifle cartridges to armed groups in Sudan in the 21st century (Lutterbeck, 2009, pp. 510-11; UNSC, 2008, paras. 217-25). Unauthorized retransfers to embargoed entities in Liberia and Sierra Leone continued while Libya was itself subject to a UN arms embargo (Fruchart et al., 2007). After the lifting of the UN arms embargo in 2003 Libya imported small arms from a wide range of European suppliers, as well as China and the United States (NISAT, n.d.).

At the same time, however, there were signs that the leopard had not changed its spots. In 2006, the Italian police revealed that Libyan authorities were purchasing 500,000 Chinese-made Type-56 rifles in a deal brokered by Italian organized criminals. The weapons were to be shipped to Libya and then retransferred, most likely to the government of Chad or rebels in Sudan (Mampaey and Santopinto, 2009). The UK cited the risk of re-export to unauthorized end users as the reason for its denial of a brokering licence that a UK-based company had requested for the transfer of 130,000 Kalashnikov rifles from Ukraine to Libya (Bromley, 2012, p. 12).

In early 2012, investigators documented in Libya 1980s vintage Pakistani-made 7.62 x 51 mm ammunition and Swiss-made M-80 ammunition, which Pakistan and Switzerland had initially exported to Qatar in 1981-82 and 2009, respectively (UNSC, 2012, paras. 97-102; 2013, paras. 62-73; AMMUNITION PROFILING). In both cases it appears that Qatar breached its agreements not to re-export these items without authorization from the original exporting states (UNSC, 2012, para. 98; UNSC, 2013, para. 69). The Pakistani-made ammunition has since been found in shipments from Libya to the Syrian opposition (UNSC, 2013, paras. 70, 171).

A Syrian rebel holds a Serbian-made grenade launcher, allegedly shipped by the Saudi Arabian government to support rebel groups, Kfar Nbouda, February 2013.

© David Enders/MCT/Getty Images





International and regional instruments: an overview

Several international and regional instruments and good practice guidelines outline steps that exporting and re-exporting states can or should take to prevent the risk of unauthorized retransfer, with several focusing on MANPADS (see Table 4.6). The politically binding UN Programme of Action (PoA) explicitly addresses unauthorized retransfers of small arms, asking states:

to make every effort, in accordance with national laws and practices, without prejudice to the right of States to re-export small arms and light weapons that they have previously imported, to notify the original exporting State in accordance with their bilateral agreements before the retransfer of those weapons (UNGA, 2001, para. II.13).

Usefully, the PoA provisions on unauthorized retransfers address retransferring states directly; yet they are relatively weak in that they merely encourage those states to notify the original exporting state before a retransfer.

The regional instruments referenced in Table 4.6 contain measures exporting states can take to prevent unauthorized retransfers, with an emphasis on the pre-shipment stage. Guidelines have been produced to assist states with the implementation of the European Union (EU) Common Position, the Nairobi Protocol, and the Document on Small Arms and Light Weapons of the Organization for Security and Co-operation in Europe (OSCE), all of which also include options for post-delivery measures. The Wassenaar Arrangement has produced several best practice guidelines, including one that specifically addresses unauthorized re-exports.

Table 4.6 International and regional instruments that address unauthorized retransfers

Scope	Instruments	Pre-shipment measures		Post-delivery measures	
		For initial exporter	For re-exporter	For initial exporter	For re-exporter
International	PoA (UNGA, 2001, para. II.13)		•		
Regional and export control	ECOWAS Convention (ECOWAS, 2006, art. 6.5)	•			
	EU Common Position (EU, 2008, arts. 2.7, 6) and <i>User's Guide</i> (EU, 2009)	•		•	
	Kinshasa Convention (2010, art. 5.5.a)	•			
	Nairobi Protocol (2004, art. 3) and Nairobi Best Practices Guidelines (2005)	•			•
	OSCE Document (OSCE, 2000, ss. III.A.2.b.vii, III.B.6, III.C) and <i>Handbook of Best Practices</i> (OSCE, 2003)	•	•	•	
	OSCE Standard Elements (OSCE, 2004b, art. 1)	•			
	Wassenaar Arrangement (WA, 2005, elements 5-6; 2011, arts. 1-3)	•	•	•	
	MANPADS	APEC Guidelines (APEC, 2003, point 3)	•		
	OAS resolution (OAS, 2005, appendix, art. 3)	•			
	OSCE Principles (OSCE, 2004a, arts. 1.2, 2)	•			
	Wassenaar Arrangement Elements (WA, 2003, arts. 2.7-2.9)	•		•	

Pre-shipment controls

Under Article 11(2) of the ATT, exporting states parties 'shall seek to prevent' diversion—and therefore also unauthorized retransfers—by undertaking risk assessments. For this purpose, they are to consider the establishment of mitigation measures such as 'examining parties involved in the export, requiring additional documentation, certificates, assurances, not authorizing the export or other appropriate measures', normally in cooperation with importing states parties (UNGA, 2013b, art. 11.2).

A number of regional instruments require exporting state authorities to conduct a risk assessment to determine the likelihood that arms or ammunition will be retransferred without authorization. The OSCE Document calls upon each participating state to:

avoid issuing licences for exports where it deems that there is a clear risk that the small arms in question might [. . .] be either re-sold (or otherwise diverted) within the recipient country or re-exported for purposes contrary to the aims of this document' (OSCE, 2000, s. III, para. A.2.b.vii).

The 2006 Convention of the Economic Community of West African States and Kinshasa Convention of 2010 contain stronger provisions, obliging states parties to deny an export application if the risk assessment determines that the small arms or ammunition are likely to be retransferred to unauthorized end users in the recipient state or a third country (ECOWAS, 2006; Kinshasa Convention, 2010). Such assessments focus on several areas:

- the accuracy of the information contained in end-use or end-user documentation (McDonald, 2008; Wood and Danssaert, 2011, p. 10);
- the identity of the end user and/or importer, paying particular attention to the appropriateness of the items to be transferred and the end user's record of compliance with non-retransfer undertakings; and
- the importing state's export control policies and the effectiveness of its export control system, particularly if parts and components are to be exported or a licence for production is to be granted.

In practice, the end user and importing state authorities are primarily responsible for preventing unauthorized retransfers—as reflected in their provision of assurances to abide by the requirements of the original exporting state in this regard (Wood and Danssaert, 2011, pp. 28–29). These assurances are contained in the contract, end-use or end-user certificate (EUC), or other documentation provided by the intended recipient and/or end user. States currently utilize a variety of measures to hinder retransfer, including by:

- prohibiting retransfers;
- permitting retransfers only with the written authorization of the original exporting state; or
- granting the right to retransfer to states that are identified in the EUC, contract, or other relevant documentation (EU, 2009, p. 19).¹⁵

Figure 4.3 provides examples of two types of non-re-export clauses, one from Germany and one from Finland. The German EUC template is one of several the German export control agency asks

Figure 4.3 Examples of non-re-export clauses in end-user documents: Germany and Finland

The figure displays two forms used for export control documentation. The top form is a German 'END-USE CERTIFICATE' for presentation to the Export Control Authorities of the Federal Republic of Germany. It includes fields for the consignee's letterhead, supplier name/address, and details of the goods (name, description, quantity, value). It contains a certification statement and a signature line for the end-user. The bottom form is a Finnish 'DECLARATION BY END-USER TO THE GOVERNMENT OF FINLAND' from the Finnish Ministry of Defense. It includes fields for purchaser and supplier information, a declaration of exclusive use, and a signature line. Both forms include a 'SAMPLE' watermark.

The figure displays two forms used for export control documentation. The top form is a German 'END-USE CERTIFICATE' for presentation to the Export Control Authorities of the Federal Republic of Germany. It includes fields for the consignee's letterhead, supplier name/address, and details of the goods (name, description, quantity, value). It contains a certification statement and a signature line for the end-user. The bottom form is a Finnish 'DECLARATION BY END-USER TO THE GOVERNMENT OF FINLAND' from the Finnish Ministry of Defense. It includes fields for purchaser and supplier information, a declaration of exclusive use, and a signature line. Both forms include a 'SAMPLE' watermark.

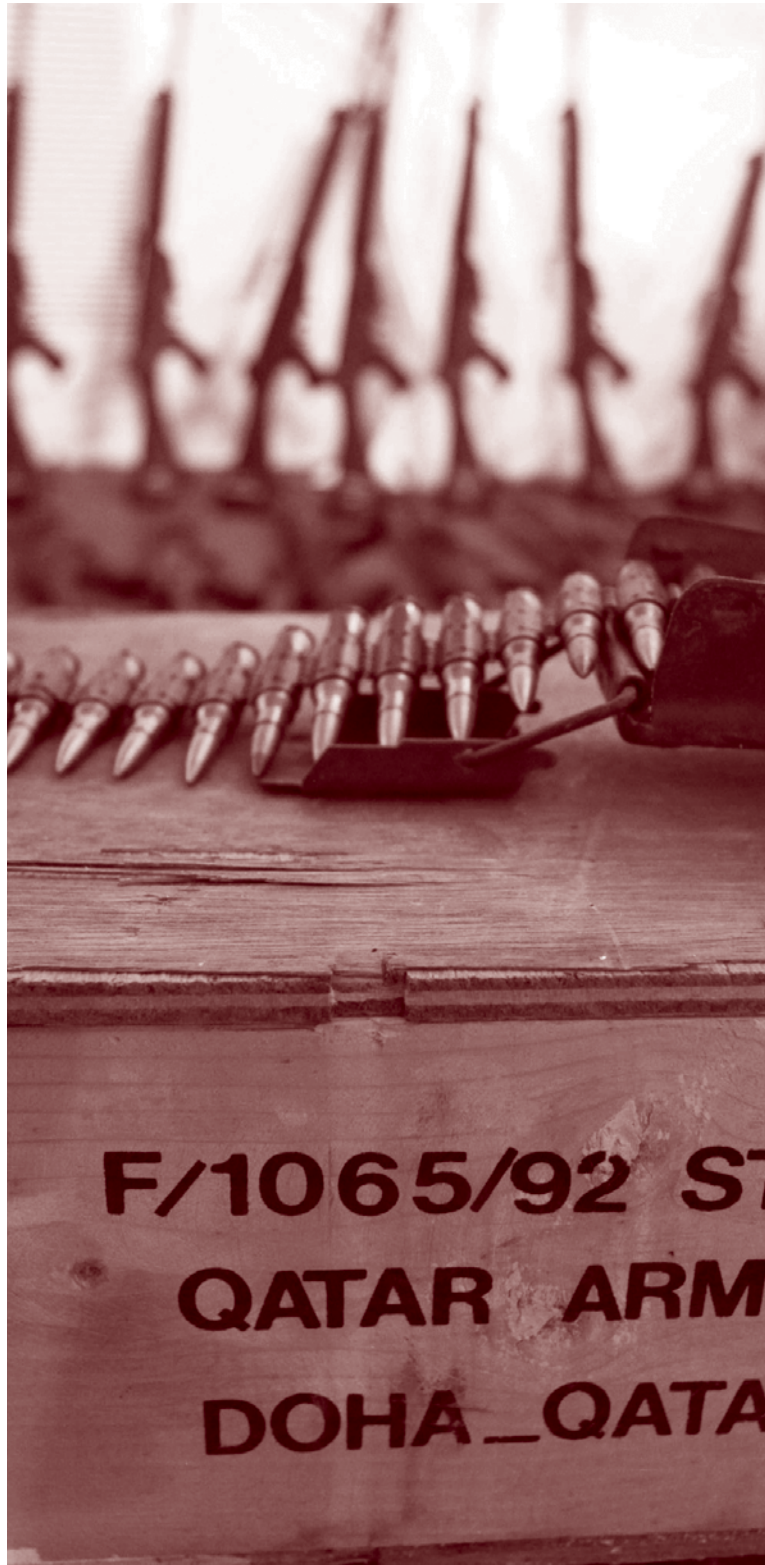
Sources: Germany (n.d.); Finland (n.d.)

exporters and end users to fill out (Germany, n.d.). In this particular example, Germany authorizes the importer to retransfer without seeking its prior approval if the controlled items are to be retransferred to a designated state. The Finnish EUC template requires the importer to obtain prior written consent from Finland before any retransfer is undertaken (Finland, n.d.). Nevertheless, as indicated above, experience shows that the provision of such assurances is not sufficient to prevent unauthorized retransfers.

Post-delivery controls

The ATT makes no provision for post-delivery controls. In fact, they do not always feature among the tools states use to prevent diversion or unauthorized retransfers. For example, the UK government states that an export licensing system is sufficient for preventing diversion and unauthorized retransfers since licences will be denied if there is a high risk of retransfer (UK, 2012, para. 57). In addition, the UK government argues that 'it is not feasible for the Government to track all UK origin goods once they have been exported', noting that such a system could deter customers (para. 56).

Nevertheless, the EU *User's Guide to Council Common Position* (EU, 2009), the OSCE Document (OSCE, 2000), and the Wassenaar Arrangement's consolidated list of common end-user assurances (WA, 2005) all provide exporting states with optional provisions they can include in EUCs to grant them the right to conduct on-site inspections of transferred arms in the recipient state after delivery. Finland, Norway, Romania, Sweden, and Switzerland include such provisions in their EUCs (Wood and Danssaert, 2011, p. 22; see Figure 4.3). These provisions are most



The Qadaffi government shows journalists confiscated weapons and ammunition which they claim was bound for rebels, Janzur, Libya, July 2011. © Mahmud Turkia/AFP Photo



often activated when there is an allegation of diversion or an unauthorized retransfer (McDonald, 2008, p. 163). A number of European countries have shown greater interest in the issue of post-delivery controls as a result of the Arab Spring and the armed conflicts in Libya and Syria.

The United States maintains two comprehensive end-use monitoring programmes that include post-delivery controls to ensure that recipients are in compliance with US laws and regulations, in particular those relating to the prevention of diversion and unauthorized retransfers. The US Department of Defense is responsible for the Golden Sentry programme, which covers equipment provided under government-to-government contracts (DSCA, 2012). Depending on the type of arms, and the physical security environment and other potential threats in the recipient country, Golden Sentry applies one of two types of end-use monitoring—routine or enhanced. Routine monitoring consists of reporting on misuse or unapproved retransfers, visits to installations, and the gathering of other sources of information, with the results entered into a database. Enhanced monitoring is for a limited set of items, of which MANPADS are the only type of small arm or light weapon; the approach includes an annual on-site physical inventory check as well as record-keeping of reported recipient use, loss, or destruction.

The US Department of State is responsible for the Blue Lantern programme, which calls for comprehensive end-use monitoring of direct commercial sales of arms to provide 'reasonable assurance' that the recipient is complying with applicable US requirements, including declared end use (DDTC, 2013).

On-site post-delivery checks are conducted based on the potential risk of diversion, including unauthorized retransfers, or misuse.

At the post-delivery stage, the importing state is supposed to abide by any non-retransfer assurances it has given the original exporting state. If the end-user assurances are comparable to those contained in the Finnish EUC shown in Figure 4.3, the importing state could seek authorization to retransfer the items if, for example, it deemed them surplus to requirements at some point. The Wassenaar Arrangement best practice guidelines on re-export controls call on participating states to review such requests 'as expeditiously as possible and on a non-discriminatory basis', but still to apply the same criteria they would use to assess potential exports from their own territory (WA, 2011, art. 3).

Box 4.3 Switzerland's prevention measures and responses to unauthorized retransfers

Switzerland has made information on unauthorized retransfers publicly available, issuing reports on three cases detected since 2004 and putting in place new preventive measures. The first case concerns the export of 40 M-109 howitzers to the United Arab Emirates (UAE), as authorized in 2004. The UAE signed a non-re-export declaration but subsequently retransferred the howitzers as a 'gift' for 'training purposes' to Morocco (SFC, 2006). At the time, gifts were not covered by Swiss non-re-export declarations. Switzerland responded, first, by imposing a one-year moratorium on arms exports to the UAE and, second, by strengthening its non-re-export declaration to cover gifts (SFC, 2007, p. 2021; SECO, 2012).

In 2011, Swiss media reported that insurgent forces in Libya were using Swiss-produced M80 7.62 x 51 mm ammunition. The ammunition had been exported to the Qatar Armed Forces in 2009 after Qatar signed a non-re-export declaration for the ammunition (UNSC, 2012, paras. 97-102). While Qatar denied that it had provided arms and ammunition to Libyan rebels, military authorities from the Libyan opposition told the UN Panel of Experts on Libya that Qatar was providing them with these materials (UNSC, 2012, para. 101; 2013, paras. 62-66). The Qatari ambassador to Switzerland informed Swiss authorities that the unauthorized retransfer 'was a misadventure' and that Qatar had taken 'appropriate measures to prevent similar events in the future' (UNSC, 2012, para. 98).

The third case came to light in 2012, when Swiss-made hand grenades were identified in Syria. They were supplied to the UAE in 2003 and retransferred to Jordan in 2004. A preliminary investigation conducted by the Swiss export control agency concluded that the UAE had retransferred the grenades without Swiss authorization, although, as in the howitzer case, as a gift (CCNC, 2012). Switzerland responded with a range of measures. It introduced a temporary moratorium on arms exports to the UAE and lent a set of 2006 rules on non-re-export declarations firmer legal footing, incorporating them in the Ordinance on War Material (SFC, 2013, art. 5a.2). Switzerland will also require future non-re-export declarations with the UAE to be signed by a high-level government representative and will reserve the right to conduct on-site inspections in the country after any arms delivery (SECO, 2012; SFC, 2013).

Responding to unauthorized retransfers after the fact

While regional instruments and best practice guidelines outline a number of measures that can help states prevent and detect unauthorized retransfer cases, they do not provide guidance on possible responses to such suspected or confirmed cases. This section examines existing national practices that could help to fill this gap at the regional and international levels.

At a minimum, evidence of unauthorized retransfers will factor into assessments of future applications for the export of similar items to the same end user or importing state. Such evidence can also lead to the revocation or suspension of export licences that have been granted but not implemented, in the sense that deliveries have not begun or are incomplete. States may also impose a temporary moratorium on export licence applications for a particular destination (see Box 4.3).

States investigate suspected or detected unauthorized retransfers using several different approaches. First, the recipient state government may undertake an investigation in response to a request from its parliament, the exporting state, or a UN panel or group of experts. In practice, this approach yields mixed results. For example, Swedish authorities were dissatisfied with the response from

Venezuela to their request for an investigation into how FARC acquired Carl Gustav anti-tank ammunition, but satisfied with the results of an Indian investigation into Carl Gustav anti-tank weapons that had been delivered to India in 2003 and detected in Myanmar in 2012.¹⁴ Second, the exporting state may carry out its own investigation, via either its embassy or experts from its licensing authority. Third, authorities in the exporting and recipient states may undertake a joint investigation. Fourth, in very rare instances, an independent team of experts may be asked to investigate the case. For example, at the request of the Ukrainian government, a UK–US team conducted an independent investigation into allegations of a Ukrainian export of a Kolchuga radar system to Iraq when the latter was subject to a UN arms embargo (USEU, 2002). The ATT could also be of assistance in this area as it provides for states parties to ‘afford one another the widest measure of assistance in investigations, prosecutions and judicial proceedings in relation to violations of national measures established pursuant to this Treaty’ (UNGA, 2013b, art. 15(5)).

Not only can the results of such investigations feed into the export or import licensing decisions of states that are directly affected, but they can also be shared with other states. At present, exporting states can use the Wassenaar Arrangement and the EU Working Group on Conventional Arms Exports, known as COARM, as forums in which to share information on end users and importing states that do not abide by non-retransfer guarantees. Once established, the ATT Conference of States Parties could provide another forum for such exchanges. In addition, Articles 11(6) and 13(2) of the ATT encourage states parties to report on measures they have taken to prevent diversion, which would include unauthorized retransfers.

Certain unauthorized retransfer cases have led to the imposition of UN sanctions. The unauthorized retransfer of arms and ammunition by Liberia, under Charles Taylor, to the Revolutionary United Front in Sierra Leone and by the current government of Eritrea to armed groups in Somalia were among the factors cited for the imposition of UN sanctions on both of these regimes (UNSC, 2001; 2009).

Unauthorized transfers are a form of diversion that many states seem reluctant to acknowledge.

Conclusions on unauthorized retransfers

Unauthorized retransfers are a form of diversion that many states seem reluctant to acknowledge. They can occur very shortly after delivery to the authorized importer or end user, or take place decades later.

Existing international and regional instruments and best practice guidelines tend to emphasize preventive measures, in particular risk assessments and the inclusion of non-retransfer provisions in end-use and end-user documentation. Although such standards are now common in sub-Saharan Africa and Europe, a reliance on documentation provided by importers and on past records of compliance with end-user and end-use assurances is not always a good indication of the future intentions of end users and importers. The best preventive measure remains, in fact, the denial of an export licence where there is a high risk of unauthorized retransfer.

Despite their importance to the prevention and detection of unauthorized retransfers, post-delivery controls remain under-utilized. Even the provision in EUCs of a right to conduct post-delivery on-site checks remains the exception, rather than the norm, although some of the states that opposed such provisions most vocally are now accommodating these requests. For example, India has expressed considerable resistance to post-delivery controls by exporters but has nonetheless agreed to US end-use monitoring arrangements (Chellaney, 2009; Lakshmanan, 2009).

There could also be a greater focus on the development of international and regional standards for responding to suspected or confirmed cases of unauthorized retransfer. This is currently something of a ‘missing element’ for many regional control regimes, as well as for the Wassenaar Arrangement. National practices that have proven effective in responding to unauthorized retransfer could be codified in the form of multilateral measures and suggested best practice documents.

As unauthorized retransfers are not explicitly addressed in the ATT, it is not evident that the treaty will help states overcome their seeming reluctance to acknowledge and respond to suspected and detected cases. Nevertheless, as indicated above, the ATT contains a series of provisions that could be utilized to prevent unauthorized retransfers and address them when detected. Yet, if the ATT is to make a difference in this area, states parties will have to make it clear that they understand their responsibilities under the ATT to include the prevention of unauthorized retransfers. Sharing experiences, information, and best practices via ATT reporting mechanisms and Conferences of States Parties would help a wide range of states to utilize the treaty to this end.

THE 2014 TRANSPARENCY BAROMETER

The most transparent countries are Switzerland, Germany, Serbia, and the United Kingdom. This section presents the 2014 edition of the Small Arms Trade Transparency Barometer, designed to assess countries' transparency in reporting on their small arms and light weapons exports. The Barometer examines countries that claim—or are believed—to have exported USD 10 million or more of small arms and light weapons, including their parts, accessories, and ammunition, during at least one calendar year between 2001 and 2012. The three main sources used to assess state transparency are: (1) national arms export reports;¹⁵ (2) the UN Register; and (3) UN Comtrade (see Table 4.7). The Barometer does not assess the veracity of the data states provide. The 2014 edition assesses national transparency in small arms export activities undertaken in 2012, generally based on state reporting in 2013.¹⁶ Like the 2013 Barometer, it reviews the reporting practices of 55 countries.¹⁷

For the second consecutive year, the Barometer identifies Switzerland, Germany, and Serbia as the most transparent countries, although this year the United Kingdom joins Serbia in a tie for third place.¹⁸ The least transparent countries are Iran, North Korea, Saudi Arabia, and the United Arab Emirates, all scoring zero points.

Compared to the last edition, the top ten has remained unchanged with two exceptions: Norway and Montenegro have replaced Belgium and Spain. Having gained 2.25 points, Norway slightly exceeded its all-time highest score, reached in 2005, to place 7th, tied with Croatia; the increase is attributable to enhanced information on transfer control and brokering legislation and to more comprehensive reporting to the UN Register. Montenegro broke into the top ten thanks to its relatively recent contributions to all three reporting mechanisms for the first time since its inclusion in the Barometer, thus advancing from the 31st to the 9th position (with a 6.75-point increase).

The Russian Federation and Egypt also improved their scores in the last year, with 4.75- and 2.50-point increases, respectively; both countries reported transfers of small arms, parts, accessories, and ammunition to UN Comtrade, in contrast to previous years.

Austria, Bosnia and Herzegovina, and Hungary lost points. Neither Austria¹⁹ nor Bosnia Herzegovina²⁰ published a national report in 2013, and neither submitted new background information on small arms transfers to the UN Register. These omissions resulted in a loss of 3.75 and 2.50 points, respectively. Hungary's score fell by 2.75 points, mainly due to a less comprehensive submission to the UN Register.

Overall transparency improved slightly since last year. While the average score increased by only 1.2 per cent, from 10.75 to 10.88 out of a maximum of 25 points, more countries improved or maintained their level of transparency than not. The Barometer reveals specific improvements with regard to the comprehensiveness of information provided in various areas (+5 per cent) and on licences refused (+4 per cent). Nevertheless, 51 per cent and 65 per cent of the countries under review do not provide any information on licences granted and refused, respectively, despite this category's overall importance to transparency.

Table 4.7 Small Arms Trade Transparency Barometer 2014, covering major exporters*

	Total (25.00 max)	Export report**/ EU Annual Report****	UN Comtrade	UN Register	Timeliness (1-50 max)	Access and consistency (2.00 max)	Clarity (5.00 max)	Comprehensiveness (6-50 max)	Deliveries (4.00 max)	Licences granted (4.00 max)	Licences refused (2.00 max)
Switzerland	20.00	X	X	X	1.50	1.50	4.00	5.00	3.00	4.00	1.00
Germany	19.75	X/EU Report	X	X	1.50	1.50	4.25	4.00	3.50	3.50	1.50
Serbia ¹	19.50	X(II)	X	X	1.50	1.50	3.75	4.75	3.50	2.50	2.00
United Kingdom	19.50	X/EU Report	X	X	1.50	2.00	4.50	5.25	3.50	1.50	1.25
Netherlands	19.25	X/EU Report	X	X	1.50	2.00	4.25	5.00	2.50	2.50	1.50
Romania	19.00	X/EU Report	-	X	1.50	2.00	2.50	5.00	3.00	3.00	2.00
Croatia	17.25	X(II)	X	X	1.50	1.50	3.25	3.50	3.00	3.00	1.50
Norway	17.25	X	X	X	1.50	1.50	4.75	4.75	3.00	1.00	0.75
Italy	16.25	X/EU Report	X	-	1.50	1.50	3.50	6.00	2.50	1.25	0.00
Montenegro	16.25	X	X	X(II)	1.50	1.00	2.50	5.25	3.00	2.00	1.00
Spain	16.25	X/EU Report	X	X	1.50	1.50	2.50	3.75	3.50	2.00	1.50
Belgium ²	16.00	X/EU Report	X	X	1.50	2.00	3.25	2.25	2.50	2.50	2.00
Slovakia	16.00	X/EU Report	X	X	1.50	1.50	2.50	3.50	3.00	2.00	2.00
United States ³	15.75	X	X	X	1.50	1.50	4.25	4.00	2.50	2.00	0.00
France ⁴	15.00	X/EU Report	X	X	1.50	1.50	4.00	3.75	2.50	1.25	0.50
Sweden	15.00	X/EU Report	X	X	1.50	1.50	2.75	4.25	2.50	1.50	1.00
Denmark	14.75	X(II)EU Report	X	X	1.50	1.00	4.25	3.50	2.50	2.00	0.00
Finland	14.75	X/EU Report	X	X	1.50	1.50	3.00	3.50	3.00	2.00	0.25
Czech Republic	14.50	X/EU Report	X	X	1.50	1.50	2.50	4.00	3.00	2.00	0.00
Poland	14.25	X/EU Report	X	X	1.50	1.00	3.00	3.75	3.00	1.50	0.50
Bulgaria	13.25	X/EU Report	-	X	1.50	1.50	2.25	3.25	3.00	1.50	0.25
Portugal	12.75	X/EU Report	X	X	1.50	1.50	3.00	2.50	3.00	1.00	0.25
Greece	11.75	EU Report	X	X	1.50	1.00	2.00	2.50	3.00	1.50	0.25
Australia	11.25	-	X	X	1.50	1.00	1.50	3.75	3.50	0.00	0.00
Hungary	11.00	X/EU Report	X	X	1.50	1.50	1.50	2.50	2.50	1.50	0.00
Austria	10.50	X(10)EU Report	X	X	1.50	1.00	2.25	1.75	2.50	1.50	0.00
Canada	10.25	-	X	X	1.50	0.50	1.50	3.75	3.00	0.00	0.00
Lithuania	10.25	EU Report	X	X	1.50	1.00	1.50	2.25	2.50	1.50	0.00



Note: The online version of the Transparency Barometer incorporates updates and corrections, all of which affect states' scores as well as their rankings. For these reasons, the online editions—rather than the printed version—should be considered definitive. See Small Arms Survey (n.d.).

* Major exporters are countries that export—or are believed to export—at least USD 10 million worth of small arms, light weapons, their parts, accessories, and ammunition in a given year. The 2014 Barometer includes all countries that qualified as a major exporter at least once during the 2001-12 calendar years.

** X indicates that a report was issued; X(year) indicates that, as a report was not issued by the cut-off date, the country was evaluated on the basis of its most recent submission, covering activities for the period reported in brackets.

*** The Barometer assesses information provided in the EU's Fifteenth Annual Report (CoEU, 2014), reflecting military exports by EU member states in 2012.

Δ The country submitted data to the UN Register for its 2012 activities, but its contribution was not available for analysis by the cut-off date (UNODA, 2013; UNGA, 2013d; 2013e). It is therefore evaluated on the basis of its most recent submission, when available, covering activities in 2011.

Scoring system

The scoring system for the 2014 Barometer remains the same as in 2013. The Barometer's seven categories assess: timeliness, access and consistency in reporting, clarity, comprehensiveness, and the level of detail provided on actual deliveries, licences granted, and licences refused. For more complete information on the scoring guidelines, see Small Arms Survey (n.d.).

Explanatory notes

Note A: The 2014 Barometer is based on each country's most recent arms export report, made publicly available between 1 January 2012 and 31 December 2013.

Note B: The 2014 Barometer takes account of national submissions to the UN Register from 1 January 2012 to 31 August 2013, as well as information states have submitted to UN Comtrade on their 2012 exports up to and including 29 November 2013.

Note C: The fact that the Barometer is based on three sources—national arms export reports, UN Register submissions, and UN customs data—works to the advantage of states that publish data in all three outlets. Barometer scores reflect the information provided to each of the three sources. The same information is not credited twice, however.

Country-specific notes

1. Serbia published a national arms export report in 2013 that was limited to 2011 activities.

2. In addition to the national report issued by the Belgian federal government, each Belgian region (Brussels, Flanders, and Wallonia) reports separately on its arms exports. As the Brussels and Flanders regions did not issue their arms export reports by the cut-off date, Belgium's 2014 score is derived from the Belgian national report and the report issued by Wallonia.

3. For the purposes of the Barometer, the US annual report refers to the State Department report, issued pursuant to Section 655 of the Foreign Assistance Act on direct commercial sales, and the report on foreign military sales, which is prepared by the US Department of Defense.

Sources: Small Arms Survey (2014)

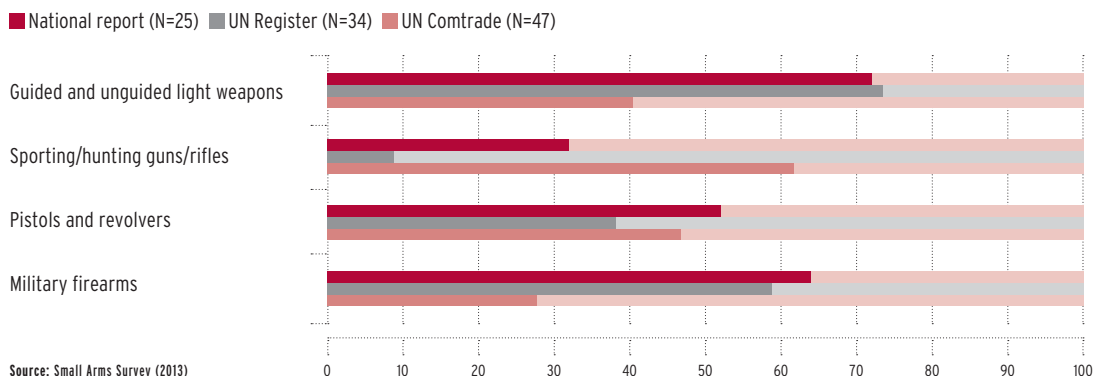
TRANSPARENCY ON SMALL ARMS TRANSFERS UNDER THE ATT

The Arms Trade Treaty (ATT) is the first global legally binding instrument for the control of the international transfer of conventional arms, including small arms and light weapons, and promoting transparency in the international arms trade is one of its declared purposes (UNGA, 2013b, art. 1). To meet this goal, the ATT requires states parties to make available: (a) an initial, one-off report on measures undertaken to implement the treaty, including national laws, regulations, and administrative measures, and (b) an annual report on authorized or actual exports and imports of conventional arms (art. 13). States parties are also encouraged to share information on good practices in combating diversion (arts. 11(6), 13(2)).

The ATT does not indicate what specific types of information should be provided in the annual report. The UN Secretary-General's 1991 report on 'ways and means of promoting transparency in international transfers of conventional arms' identifies ten types of information:

- a. the supplier and recipient;
- b. the type of arms transferred;
- c. the number of units;
- d. a description of the item, components, knowledge, or services transferred;
- e. the final end user or end use;

Figure 4.4 **Percentage of states providing information on small arms and light weapons exports undertaken in 2011, by type of weapon and reporting mechanism**



- f. the dates of agreement and deliveries;
- g. the condition of the weapons;
- h. the financial value of the transfer;
- i. how the transfer is being carried out; and
- j. any technical support and training provided (UNGA, 1991, para. 116).

This study influenced the content of the UN Register and it remains an important reference point for arms transfer reporting.

Article 12 of the ATT requires states parties to maintain national records of export authorizations or actual exports; it encourages record-keeping for conventional arms that are transferred to, or authorized to transit across, their territory. While the ATT does not dictate the specific content of those records, it does encourage states parties to include information on ‘the quantity, value, model/type’ and authorizations of international transfers of conventional arms covered under Article 2(1) (with the exception of ammunition and parts and components), along with ‘conventional arms actually transferred, details of exporting State(s), importing State(s), transit and trans-shipment State(s), and end users’ for conventional arms covered under Article 2(1) (UNGA, 2013b, art. 12).

The ATT seeks to address reporting burden concerns by noting that the annual report on arms transfers ‘may contain the same information submitted by the State Party to relevant United Nations frameworks, including the United Nations Register of Conventional Arms’ (UNGA, 2013b, art. 13). Other frameworks for small arms transfer reporting, both UN-related and not, include UN Comtrade and national arms export reports (see Figure 4.4).²¹ Even when these different frameworks are taken into account, public reporting on small arms transfers by UN member states remains limited. The following sections consider the example of these instruments, along with their implications for meaningful ATT reporting on small arms.

The United Nations Register of Conventional Arms

The UN Register was established in 1991 to promote transparency in conventional arms transfers and holdings. It includes seven of the eight categories of conventional arms covered by the ATT: small arms is the only ATT category that does not have a counterpart in the UN Register. However, since 2003 some light weapons are included in the large-calibre artillery category and MANPADS are included in the missiles and missile launchers category. Since 2003

states have also been invited to provide ‘background information’ on their international small arms transfers (UNGA, 2003, paras. 112–13). In 2006 a standardized form, which is identical to the form used for reporting to the UN Register, was introduced to facilitate such reporting. A definition of small arms was not provided, but the form contains six subcategories for small arms and seven subcategories for light weapons.²²

The UN Secretary-General appoints a group of governmental experts (GGE) every three years to consider the operation and further development of the UN Register. The inclusion of small arms in the UN Register has been considered at length and the abovementioned developments of 2003 and 2006 are the result of recommendations made by GGEs. The 2009 GGE was expected to recommend the creation of an eighth category for reporting on small arms transfers, but the Russian expert opposed this move (Holtom, 2010, p. 81). The 2009 GGE recommended that member states submit their views on the inclusion of a small arms category. As of July 2013, ten states had submitted their views, nine of them favouring such a category (UNGA, 2013c, para. 25). The issue of a small arms category was also considered by the 2013 GGE, which met shortly after the adoption of the ATT. This time, the Chinese and Cuban experts objected (Morley, 2013). The group repeated the earlier recommendation for states to submit their views on such a category. As a result, states will continue to report on small arms transfers as background information to the UN Register.

Since 2004, 80 UN member states have provided background information on their small arms transfers at least once (UNGA, 2013c, para. 24). At the same time, the overall level of participation in the UN Register declined from 126 states in 2001 to an all-time low of 52 states in 2012 (Holtom et al., 2011, p. 2; UNGA, 2013c, para. 16). In 2012, 32 states provided background information on international small arms transfers, down from 49 states in 2011 (UNGA, 2013c, para. 21, table 2).

The UN Register invites states to provide information on actual transfers, yet some countries only report on authorizations. For example, Germany previously indicated that its background information on small arms exports was derived from data on authorizations (UNGA, 2007, p. 104); it is not alone in this regard (Holtom, 2008, p. 26). This practice probably explains why ATT states parties were given a choice of reporting either authorizations or actual exports and imports. States could, however, routinely require those authorized to export or import small arms to report their actual exports and imports to national licensing authorities. Poland, for example, has indicated that this is its preferred option for collecting data on actual exports (Poland, 2011, p. 15). As described below, customs practices offer further scope for improved reporting on actual exports and imports.

The ATT balances the goal of greater transparency with negotiated language that appears to act as a constraint on the same. For example, the ATT states that ‘[r]eports may exclude commercially sensitive or national security information’ (UNGA, 2013b, art. 13(3))—language that is not found in the UN Register. There is an obvious risk that this phrase could be used as a blanket justification for non-reporting. It will also be important to confirm that the phrase, ‘Reports shall be made available, and distributed to States Parties by the Secretariat’ (art. 13(3)), means that ATT reports will be made available to the public.

Such uncertainties notwithstanding, the ATT could draw upon existing good practices in reporting to fulfil its stated goal of enhanced arms trade transparency. Most of the states that report small arms transfers to the UN Register provide information on subcategories of small arms transferred, suppliers, recipients, and the number of items transferred. Several states have provided a description of the small arms and additional types of information (see Table 4.8); in some cases, they indicate the type of end user or end use when reporting small arms imports.²³ This additional information—such as on the type of end user—could be incorporated into an ATT reporting template along with the elements of the UN Register template. To the extent that ATT states parties provided the same information to the UN Register, a robust ATT template would also enhance the UN Register’s contribution to arms trade transparency.

A robust ATT template would enhance the UN Register’s contribution to transparency.

Table 4.8. Background information on international exports of small arms and light weapons provided by states to the UN Register on 2010 and 2011 activities²⁴

State	Year of activities	Category [#]	Final importer state(s)	No. of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on transfer	Additional comment	UNGA source [*]
Australia	2011	-	-	Yes [^]	Yes	-	General description	General	List of aggregated totals of licences granted by state	2012b
Austria	2010	Yes (2)	Yes	Yes	Yes	-	-	-	-	2011
Bosnia and Herzegovina	2010	Yes (5)	Yes	Yes	-	-	-	-	-	2011
Bulgaria	2011	Yes (8)	Yes	Yes	Selected	-	Selected	-	-	2012c
Canada	2010	Yes (5)	Yes	Yes	-	-	Selected	Donations and demilitarized	-	2011
Croatia	2010	Yes (1)	Yes	Yes	-	-	Yes	-	-	2011*
Denmark	2010	Yes (5)	Yes	Yes	Yes	-	Yes	Temporary exports	-	2012a
France	2011	Yes (3)	Yes	Yes	-	-	Yes	-	-	2012b
Germany	2011	Yes (7)	Yes	Yes	-	-	-	United Nations end user	German arms transfer policy	2013a
Hungary	2011	Yes (6)	Yes	Yes	Yes	-	Yes	Surplus export	-	2013a
Italy	2010	Yes (2)	Yes	Yes	-	-	-	-	-	2012a
Lithuania	2011	Yes (3)	Yes	Yes	Yes	-	-	Temporary import	-	2012b
Montenegro	2011	Yes (5)	Yes	Yes	Yes	-	Yes	-	-	2013a
Netherlands	2011	Yes (4)	Yes	-	Selected	-	-	Destruction	-	2012b

State	Year of activities	Category#	Final importer state(s)	No. of items	State of origin (if not exporter)	Intermediate location (if any)	Description of item	Comments on transfer	Additional comment	UNGA source+
Norway	2011	Yes (3)	Yes	Yes ^x	Selected	-	-	-	-	2012b
Poland	2011	Yes (11)	Yes	Yes	-	-	-	-	-	2012b
Portugal	2011	Yes (11)	Yes	Selected	-	-	-	Government end user	-	2013a
Romania	2011	Yes (11)	Yes	Yes	-	-	Selected	Export of kits; hunting and sporting exports	-	2012c
Serbia	2010	Yes (10)	Yes	Yes	Yes	Yes	-	Information on transit states	-	2011
Slovakia	2011	Yes (11)	Yes	Yes	-	-	-	Re-export	-	2012b
South Korea	2011	Yes (4)	Yes	Yes	-	-	Yes	-	-	2013a
Sweden	2011	Yes (2)	-	-	-	-	Yes	Classified information	-	2012c
Switzerland	2011	Yes (5)	Yes	Yes	-	-	Selected	-	-	2013a
Turkey	2010	Yes (3)	Yes	Yes	-	-	-	-	-	2011
Ukraine	2010	Yes (8)	Yes	Yes	-	-	-	-	-	2011
United Kingdom	2011	Yes (4)	Yes	Yes	-	-	Selected	-	-	2012b

Notes: + For a full listing of sources, see the bibliography.

The number in brackets indicates on how many small arms and light weapons categories the state reports.

* The state provides the total number of licences granted.

x The state provides aggregated totals per arms category.

* The state contributed to the UN Register for 2011, but its contribution was not available for analysis at the time of writing.

UN Comtrade

Every year, countries around the world report standardized customs data to UN Comtrade. The database is considered the most comprehensive repository of trade data, as it contains detailed information on commodity imports and exports for almost all UN member states since 1962. Customs data is collected by national statistics authorities and reported according to the Harmonized Commodity Description and Coding System, now at its fourth revision. Some states use customs data as one of the sources of information for their national arms exports reports (AI, 2011; Holtom and Bromley, 2011). They report arms data to UN Comtrade under the overarching category 93—‘Arms and ammunition, parts and accessories thereof’—and its seven subcategories. Although Comtrade does not have a specific subcategory for small arms and is not traditionally regarded as a transparency instrument, states provide a considerable amount of information on their small arms transfers to it (see Table 4.9). Crucially, Comtrade information is publicly available.

That said, a number of limitations restrict the potential use of Comtrade data for reporting small arms transfers to the ATT. First, as with the UN Register, the information states provide varies in its level of detail. Another problem, specific to Comtrade, is that a number of major arms-exporting states do not report to Comtrade on arms, including small arms, that are delivered to military and security forces, whether commercially or as gifts, loans, or donations. Further, Comtrade contains considerably more information on transfers of sporting and hunting firearms in comparison to items that only military forces are likely to use, such as light weapons (including MANPADS and mortars; see Table 4.9).

Table 4.9 Percentage of states that report to UN Comtrade on the value and quantity of small arms and light weapons exports, by arms category for 2011 activities (n=47)*

UN Comtrade categories		% of states reporting	
		Value	Quantity
Guided and unguided light weapons	930111	12.8	8.5
	930120	27.7	14.9
	930119	27.7	12.8
	Average	22.7	12.1
Sporting and hunting guns and rifles	930320	70.2	72.3
	930330	76.6	78.7
	Average	73.4	75.5
Revolvers and pistols	930200	57.4	59.6
	Average	57.4	59.6
Military weapons	930190	38.3	19.1
	Average	38.3	19.1
Small arms and light weapons ammunition	930621	66.0	0
	930690	68.1	0
	930630	74.5	0
	930629	76.6	0
	Average	71.3	0
Parts and accessories of small arms and light weapons	930590	0	0
	930521	44.7	0
	930591	53.2	0
	930510	66.0	0
	930529	74.5	0
	930599	74.5	0
	Average	52.15	0

Note: * Under UN Comtrade, states can report on quantities in units and by weight. The categories marked in red contain exclusively small arms and light weapons while the others also contain other conventional weapons.

Sources: NISAT (n.d.); UN Comtrade (n.d.)

Despite these shortcomings, a large number of states are willing to provide customs data on their actual arms exports and imports to UN Comtrade. Customs data could also be used to report on actual exports and imports under the ATT, although several questions would need to be resolved beforehand. First, ATT reporting would need to permit information on either the number of units being transferred or the declared customs value of the transfer, as per Comtrade practice. Second, Comtrade arms classifications preclude the easy identification of small arms. The ATT's existence would argue for a revision of the Harmonized Commodity Description and Coding System to reflect the eight categories of the ATT, as well as ammunition and parts and components, thus allowing states parties to utilize customs data for ATT reporting on actual exports and imports. If states parties use customs data in this way, they would still need to ensure that any arms transfers not recorded in customs statistics were also reported to the ATT.

National arms export reports

Governments publish regular national reports on arms exports to provide information to the public on their export control systems and their arms export licensing decisions, including actual exports in some cases. As of January 2014, 35 states had produced at least one national report on arms exports, with 32 states submitting at least one report since 2009. Of these 32 countries, all but two—South Africa and the United States—are European.

Customs data could be used to report on exports and imports.

A prime reason for the large number of European reports is undoubtedly that the EU Common Position, adopted in 2008, requires EU member states to produce a national report on arms exports if they have authorized conventional arms exports. These reports must contain information on the number of licences issued and the value of licences for all items covered by the EU Military List, disaggregated by destination and military list category. This information is compiled and published in the EU Annual Report on Arms Exports (CoEU, 2008).²⁵ The EU Report also reflects data provided by some EU member states on the value of actual exports, licence denials, and brokering authorizations—although the state that has denied a licence is not identified. Non-EU states in South-eastern Europe have also produced national reports, with prospective EU membership a key driver of this process (Bromley, 2011).

Broadly speaking, states take one of three approaches when reporting on their authorizations and/or actual exports of small arms and light weapons: small arms-specific national reports (as is the case for Switzerland); sections on international small arms transfers in national reports (as provided by e.g. the Czech Republic, Germany, Norway, Sweden, and the UK); and reporting to other transparency instruments that use the Wassenaar Arrangement Military List (such as the EU Annual Report), which includes not only small arms, but also large-calibre artillery in the same category. In addition to these differences in format, the national reports are characterized by considerable variety in terms of the types of information on small arms transfers.

During the ATT negotiations, some states proposed sharing information on denials, as is the case, for example, under the EU Common Position and in the Wassenaar Arrangement. In the event, the ATT does not require states to provide information on denials, but such information would undoubtedly help elucidate the application of ATT prohibitions and licensing criteria, as well as the treaty's provisions on diversion. In fact, information on denials often signals potentially problematic transfers (Lazarevic, 2012, p. 304). Nevertheless, some countries are reluctant to share this information—as demonstrated by interventions states made on this issue during the ATT negotiations. First, these countries cite the potential harm to exporter–importer relations. Second, they claim that the exporting state risks revealing a potential business opportunity to unscrupulous suppliers. Finally, they assert that sharing denial information

can damage an importing state's reputation, even if it concerns a delivery of conventional arms to a company or dealer—as opposed to the importing state's armed or security forces—if the prospective end user is not identified.

In reporting on their small arms transfers, some states include information on registered arms brokers or licences for brokering transactions that they have granted or denied. Nearly one-third of the national reports captured by the Barometer provide information on brokering, but the level of detail varies as much as it does for exports.

National arms export reports also demonstrate that a significant number of major exporters, including many of the states that have signed the ATT, are able and willing to provide the public and peers with information on temporary exports, as well as applicable laws, regulations, and multilateral instruments (see Table 4.10). It remains to be seen whether the ATT will build on these efforts—or instead undermine them by encouraging lowest-common-denominator reporting.

Table 4.10 Information on small arms and light weapons provided by national reports (n=25)

Type of information provided	No. of states	% of states
Small arms distinguished from other conventional arms	20	80
Multilateral commitments relating to the control of international small arms transfers, including brokering	19	76
Small arms ammunition distinguished from ammunition for other conventional arms	16	64
Measures to prevent and detect the diversion of international small arms transfers	13	52
Government transactions distinguished from those involving private industry	12	48
Temporary exports	6	24
Brokering control legislation covering small arms	7	28
Authorized (small) arms brokers	6	24
Transfer control legislation (covering small arms export, transit, and/or import)	5	20

Source: Small Arms Survey (2014)

Conclusions on transparency under the ATT

In line with its stated purposes, the ATT offers a unique opportunity to boost transparency in the international transfer of conventional arms, including small arms. Yet there is a risk that the reports of many ATT states parties simply duplicate their submissions to the UN Register's seven categories—excluding small arms. At a minimum, states parties will need to supplement such submissions with information on their international transfers of small arms (UNGA, 2013b, art. 13(3)), perhaps using the corresponding UN Register reporting form. This measure alone would lead to an increase in the number of states providing information on small arms transfers, yet ATT reporting practices that stop at the UN Register would fall well short of what is possible and feasible.

The UN Register—and in particular its standardized reporting template—offers an established basis on which the ATT can build. A standardized reporting template will probably be one of the first items that ATT states parties consider once the treaty enters into force, with the Register undoubtedly exerting a strong influence on its development. Yet, as this section has explained, ATT reporting can also harness other practice to maximize broader transparency gains—such as by synchronizing the subcategories of the Comtrade category for 'arms, ammunition, parts and components thereof' with the ATT arms categories. This would allow states that provide arms data to Comtrade to use the same information to report on actual exports and imports under the ATT. As noted above, states parties could also

require recipients of arms export and import authorizations to report to national licensing authorities on actual exports and imports.

States parties will need to address several other questions as they consider what form ATT reporting should take. These include: whether a single category for small arms is sufficient; whether the subcategories of the UN Register reporting template for small arms should be retained or revisited; which national reporting practices should be introduced into the ATT; whether state parties should be encouraged to provide additional information on ammunition and parts and components; and what additional information states parties should provide on brokering, transit, denials, and measures to prevent diversion. The ATT reporting provisions offer only the most basic guidance on arms transfer reporting. If the ATT is to fulfil its goal of enhanced transparency in the international arms trade, states parties will need to draw inspiration from the full range of current reporting practices. ■

LIST OF ABBREVIATIONS

ATT	Arms Trade Treaty
EU	European Union
EUC	End-use(r) certificate
FARC	Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia)
GGE	Group of governmental experts
MANPADS	Man-portable air defence system
NISAT	Norwegian Initiative on Small Arms Transfers
OSCE	Organization for Security and Co-operation in Europe
PoA	United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
UAE	United Arab Emirates
UN Comtrade	United Nations Commodity Trade Statistics Database
UN Register	United Nations Register of Conventional Arms

ANNEXES

Online annexes at <<http://www.smallarmssurvey.org/publications/by-type/yearbook/small-arms-survey-2014.html>>

Annexe 4.1. Annual authorized small arms and light weapons exports for major exporters (annual exports of at least USD 10 million), 2011

Annexe 4.2. Annual authorized small arms and light weapons exports imports for major importers (annual imports of at least USD 10 million), 2011

ENDNOTES

- 1 The figures may differ from the values given in previous editions of the *Small Arms Survey* as countries sometimes revise their submissions to UN Comtrade. See Dreyfus et al. (2009, p. 54, n. 10).
- 2 The Small Arms Survey relies on the analysis of customs data provided by the Norwegian Initiative on Small Arms Transfers (NISAT) project at the Peace Research Institute Oslo. NISAT considers countries' self-reported exports as well as 'mirror data'—reported imports by destination countries—to generate a single value by transaction. See Marsh (2005).
- 3 See Dreyfus et al. (2009, p. 29, table 1.22); Grzybowski, Marsh, and Schroeder (2012, p. 247); and Figure 4.4 in this chapter.
- 4 In 2010, top exporters that did not report on their military firearm transfers to UN Comtrade were: Austria, Belgium, Brazil, China, Germany, Italy, the Russian Federation, Spain, and Sweden (Rigual, 2013). For an overview of UN Comtrade reporting, see the 2014 Transparency Barometer (Table 4.7).
- 5 Data for 2010 is not adjusted for inflation given the short (two-year) review period.
- 6 All values presented in this section are rounded to the nearest USD 1 million.

- 7 This increase, as well as the new status of Côte d'Ivoire as a major importer, reflects a single transaction: Côte d'Ivoire reported an import of USD 73 million worth of small arms ammunition from Pakistan in 2011.
- 8 The exception was Côte d'Ivoire, whose imports rose from around USD 5 million in 2010 to USD 77 million in 2011. See the previous note.
- 9 The UN Comtrade categories used to calculate the global small arms trade are presented in Annexes 4.1 and 4.2, available online. All figures from 2001 to 2011 are expressed in constant 2011 US dollars.
- 10 See Dreyfus et al. (2009, pp. 11–25) for an analysis of global trends from 2000 to 2006.
- 11 For an explanation for the increase in the value of the ammunition trade, see Corney and Marsh (2013, pp. 9–13).
- 12 This section uses the term 'unauthorized retransfer' to refer to both 'unauthorized re-export' and unauthorized retransfer to end users in the importing state in violation of commitments made by the authorized importer or end user prior to export.
- 13 For examples of non-re-export clauses in EUCs, see Wood and Danssaert (2011, table 3, pp. 82–84).
- 14 Author communication with the Swedish Agency for Non-Proliferation and Export Controls (Inspektionen för Strategiska Produkter), 12 December 2013.
- 15 This includes information EU states have contributed to the EU Annual Report on military exports (CoEU, 2014).
- 16 There are important exceptions to these yearly timeframes. See Lazarevic (2010) for full details of the scoring methodology and for a description of the changes to the Transparency Barometer scoring system since its introduction in 2004.
- 17 The Small Arms Survey relies on the NISAT Database of Small Arms Transfers to determine which states meet the minimum export threshold for inclusion (Marsh, 2005; NISAT, n.d.). Peru was not considered a 'major exporter' this year since the Survey counted two similar UN Comtrade transactions, reported separately by Peru (exporter) and the United States (importer), as a single transaction.
- 18 In the 2013 Barometer, Romania tied with Serbia for third place (Small Arms Survey, n.d.).
- 19 Since 2011, Austria has not issued a national arms export report, but it makes information on arms exports available in the EU Annual Report.
- 20 Bosnia and Herzegovina does not issue a national report but reports to the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), whose latest report covers 2011 activities.
- 21 Of the 14 countries whose small arms exports match or exceed USD 100 million in value, eight have issued national export reports and/or contributed to the EU Annual Report: Austria, Belgium, the Czech Republic, Germany, Italy, Spain, Switzerland, and the United States.
- 22 For the full list of categories, see the reporting template in annexes I and II of the 2006 GGE report (UNGA, 2006).
- 23 In 2011 and 2012 the following states provided such information on their arms imports: Albania, Grenada, Hungary, Portugal, Switzerland, and Trinidad and Tobago (UNGA, 2011; 2012b).
- 24 The table employs the same terms as those in the UN Register template.
- 25 As of January 2014, only Cyprus had not yet filed an EU report.

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