



## **Middle East Regional Expert Workshop organized as part of the project on 'Strengthening Implementation and Enforcement of the Arms Embargo on North Korea' (SAENK), Amman, Jordan, 6–7 November 2019**

### **Report**

#### **[1] Background**

The SAENK project is intended to strengthen national implementation and enforcement of United Nations (UN) sanctions on the Democratic People's Republic of Korea (North Korea). A key element of the project is identifying and sharing best practice and lessons learned regarding the implementation and enforcement of UN sanctions at regional and national levels. To this end, the SAENK project organized a Middle East Regional Expert Workshop to:

- (1) Raise awareness of UN arms embargoes, their functions, the techniques used to evade them, and possible countermeasures.
- (2) Facilitate an exchange of information on good practice and lessons learned regarding the implementation and enforcement of UN sanctions and arms embargoes.
- (3) Identify effective measures to prevent, detect, and respond to attempts to circumvent UN arms embargoes.

This report provides a brief summary of the workshop, which took place in Amman, Jordan, on 6–7 November 2019.

#### **[2] Partnership and participation**

The Small Arms Survey collaborated with the Arab Institute for Security Studies in the organization of the workshop. Over 30 national representatives of ministries of foreign affairs, ministries of interior, customs authorities, and non-governmental institutions from 13 Middle Eastern countries took part in the meeting.\*

#### **[3] Workshop outline and process**

The workshop consisted of presentations by the Survey team and other experts, a sharing of country experiences and good practice, two capacity-building exercises (a more general one

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\* Delegates and subject-matter experts in attendance represented the following Middle East subregions: Maghreb and north east Africa (Algeria, Libya, Morocco, and Sudan); Mashreq (Egypt, Jordan, and Lebanon); and Arabian Peninsula and Iraq: Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates, and Iraq).

on the sharing of national experiences of implementing UN arms embargoes; and a more specific one aimed at building awareness of and capacity to assess risk, in order to improve the prevention and detection of illicit shipments and the trafficking of arms and other prohibited items from North Korea), and feedback on the workshop from the participating countries. Presentations included:

- A general overview of UN sanctions, challenges related to the interpretation and implementation of arms embargoes, and prerequisites for the effective implementation and enforcement of the arms embargo.
- A general presentation on UN Security Council (UNSC) strategy towards North Korea's nuclear issue.
- A presentation on North Korea's use of evasion techniques, with a focus on the use of front entities, and including an examination of risk typologies along the transfer chain and advice on possible counter-strategies.
- Country presentations on national mechanisms to implement and enforce UNSC resolutions as well as weapons import-export control regimes. Of particular note was the United Arab Emirates' (UAE) presentation, which showed, inter alia, how the Executive Office of the Committee for Goods and Materials Subject to Import and Export Control coordinates all UN Panel of Experts' requests with government entities, and how it takes the lead in the seizure and confiscation of banned shipment.

Draft materials from the SAENK project's 'how-to' guides on the implementation and enforcement of the UN arms embargo on North Korea, produced in the framework of the SAENK project, were presented and circulated at the workshop. Participating country representatives enriched the exchanges by sharing their perspectives on North Korean attempts to violate UN sanctions, highlighting that there are further complexities, which lie at the intersection between arms transfers and trade and other illicit activity, that need to be considered, including money laundering techniques.

Meeting participants shared national perspectives on:

- National legislation to implement the full range of arms embargo measures required by UNSC resolutions.
- Government branches that are represented in the arms embargo implementation and enforcement activities of the respective countries.
- Procedures for licensing and certifying end users of weapons imports, transit, trans-shipment.
- Measures in place to prevent, detect, and respond to arms embargo violation.

National experts from a number of countries highlighted the importance of three key issues:

- (1) The need to adopt standardized instructions for the private and public sectors to explain all implementation obligations.
- (2) The importance of establishing clear-cut mechanisms for the issuing of end-user certificates, including at the sub-state level.
- (3) The importance of adopting an inter-agency way of working when giving effect to UNSC resolutions at the national level.

The workshop sessions generated a very interactive discussion that opened up considerations for linkages with two international instruments:

- The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Firearms Protocol) in relation to the mechanics of the relationship between terrorism and the acquisition and use of weapons. In this regard, the pressing need for including language on weapons in UNSC resolutions on terrorism was emphasized.

- The Arms Trade Treaty, which prohibits the authorization of the transfer of conventional arms covered by the Treaty, “if the transfer would violate its obligations under measures adopted by the United National Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes” (Article 6).

Implementation and enforcement of UN arms embargoes remains a priority at the regional level. As some of the participating states are also members of the African Union (AU), the meeting provided an important opportunity to link the SAENK agenda to the discussions on the 2016 AU Master Roadmap of Practical Steps to Silence the Guns in Africa by 2020. This roadmap depicts enhancing collaboration with the UNSC and its sanctions committees to ensure the effective monitoring of arms embargoes as one of the main modalities for mobilizing action towards the reduction of illicit proliferation and circulation of weapons inside the continent. Likewise, full implementation of UN sanctions is supported and discussed in the framework of broader consultations by the League of Arab States, in respect of countries’ legal architecture and national priorities.

For the purpose of the capacity-building elements of the workshop, two activities were created in which representatives of different orientations and current politics from the broad Middle East region were asked to meet in groups and share perspectives on challenges they saw with regards arms embargoes. The first activity asked the groups to discuss national processes for dealing with UN sanctions.

The second capacity-building exercise (which was based on the hypothetical case study focusing on procurement) enabled participants to reflect on:

- Information needed in order to authorize transfers.
- Requirements of reporting, coordination, and consultation with other government authorities at the national level.
- Reporting and notification obligations towards the UNSC bodies involved in sanctions implementation, and information exchange with neighbouring countries and regional bodies.

Participants generally concurred with the following main aspects of an effective implementation mechanism for compliance with UN arms embargoes:

- (1) *The general legal framework*: the need to give effect to UNSC resolutions imposing sanctions on North Korea through regulatory or administrative action, for example by developing procedures for the registration, licensing, and monitoring of arms brokers and the criminal prosecution of those who breach the arms embargo.
- (2) *Information dissemination*: the need to share information among government departments and governments to identify suspect shipments, items, routes, and brokers.
- (3) *Monitoring compliance*: the need to adopt procedures for licensing and certification of end users.

Several participants stressed national reporting as a key area in sanctions implementation. Currently, reports submitted by member states are the only measurable indicator of their compliance with the resolutions. In this regard, while national reporting is an area where UN member states are experiencing difficulties, 11 of the 12 participating countries have submitted at least one of the national implementation reports due under the current sanctions regime on North Korea, and more than half of them have submitted reports for at least one of the three substantive resolutions on North Korea adopted by the UNSC in 2017.

It was noted by the government representatives that they shared common commitment and engagement to implement UNSC resolutions. While no major controversies in relation to such

commitments have emerged from the discussions, the Middle East features as a multi-speed region in terms of UN sanctions implementation mechanisms:

- Some of the Gulf and Mashreq countries have extremely developed and sophisticated systems which entail the establishment of several specialized committees.
- Other countries in the Arabian Peninsula and Iraq subregion, while being aware of their international obligations, have less strict mechanisms in place: a whole-of-government sanctions implementation mechanism is lacking, but liaison officers ensure coordination among government branches that are in charge of UN sanctions implementation.
- Some of the Mashreq countries, as well as the Maghreb and north east Africa, where central power is weak and where militias from past or recent conflicts are present, face serious gaps in terms of legislation, including legislation on the acquisition of firearms. This is likely to interfere with the state's ability to investigate arrivals of illicit goods and weapons and to put in place effective customs and border control systems.

In addition to the legal requirements of sanctions compliance which states can have in shaping their national steps in response to sanctions, participants at the workshop commented on the special demands put on UN member states with regards sanctions compliance. The workshop also prompted the commonly expressed critique of sanctions regimes that are shaped by the Security Council, particularly by the P-5. Also, there was general agreement among national representatives that, despite the recognized need to comply with UN arms embargo requirements, sanctions should not be seen as 'an end in themselves' and that the choices states must make also involve other dimensions of national interest considerations.

From an international law standpoint, the following points emerged as controversial or under-explored:

- The implementation of UN arms embargoes on the part of UN member states that are themselves under sanctions, in particular when sanctions are only applicable in a particular geographical area of that country or to listed individuals within that country.
- The implementation of UN arms embargoes by UN member states when they perceive UN sanctions as affecting other UNSC obligations, for example the protection of civilians (especially when conflicting UNSC resolutions are in place) or their national interest.
- The application of the two basic models of national law to implement arms embargoes (special UN law on the one hand and national arms export law on the other hand) in national settings where there is ongoing conflict among rival factions seeking control of the territory.
- The threshold between violation of and non-compliance with a UN arms embargo and whether or how the likelihood of diversion can be used as an indicator.
- In relation to the UNSC resolutions that oblige UN member states to undertake mandatory inspections of cargo destined for or originating from North Korea, the possibility for UN member states to limit shipment through international waters and how this links with recent jurisprudence on the Law of Sea.
- The interpretation of UNSC resolutions, which are not international treaties *stricto sensu* but edicts issued by a collective body.
- The lengthy processes of the Security Council which can result in clear punitive costs for law abiding states, for example when, pending a decision on the part of the UNSC on the compliance of such shipments with UNSC resolutions, states are unjustifiably asked to hold shipments without being given the opportunity of receiving reparation for the costs incurred.

- The use of parts or items that are used to form weapons which are not, on their own, weapons, dual-use items, or otherwise prohibited (in this regard, at least one of the participating countries noted that it has strict legislation in place to regulate certain commercial items that can be weaponized).
- The issue of the exclusion of UN peacekeeping missions from compliance requirements.
- The present processes of arms embargoes, which inadequately facilitate national implementation. This includes, inter alia, the question of the lack of clarity at times of the sanctions provisions themselves. There was convergence on the fact that further attempts at sanctions reform are still greatly needed.

As a result of the discussions, several participants advocated the adoption of a set of recommendations from the group in relation to the themes covered by the workshop as well as broader security and policy challenges, including a recommendation that would call upon states in the region to develop democratic regimes.

#### **[4] Workshop facilitators**

**Sigrid Lipott**, Small Arms Survey, Geneva, Switzerland

**David Atwood**, Small Arms Survey, Geneva, Switzerland

19 November 2019

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Kingdom of the Netherlands



Kingdom of the Netherlands



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## Strengthening National Implementation of UN Sanctions:

An information-sharing and capacity-development workshop  
for national experts in the Middle East

Four Seasons Hotel  
Amman, Jordan  
6-7 November 2019

### PROGRAMME

6 NOVEMBER 2019		Day 1
TIME	SUBJECT	RESPONSIBLE ORGANIZATION
am	'Amman Security Colloquium (University of 'Amman)	
14h15-14h45 LUNCH AT THE UNIVERSITY OF AMMAN		
16:15-16:30	<b>Registration</b>	
16:30-17:15	<b>Session 1</b> Official opening <ul style="list-style-type: none"> <li>• Official welcomes</li> <li>• Introduction to the event and outline of the programme</li> <li>• About the Small Arms Survey</li> <li>• Introduction of Participants</li> </ul>	Government of Jordan Arab Institute for Security Studies  Small Arms Survey
17:15-18:45	<b>Session 2</b> UN sanctions and arms embargoes <ul style="list-style-type: none"> <li>• Key dimensions</li> <li>• International legal requirements and national implementation challenges</li> </ul> Questions/Discussion	Dr Sigrid Lipott  Ms Dakshinie Gunaratne
7 NOVEMBER 2019		Day 2
TIME	SUBJECT	ROLE PLAYER/RESPONSIBLE PERSON
09:15-10:00	<b>Session 3</b>	

	<p>UN arms embargoes in practice: the case of North Korea</p> <ul style="list-style-type: none"> <li>North Korea nuclear weapons: the UN arms embargo as counter-strategy</li> </ul> <p>Questions/Discussion</p>	Prof Amel Bensouilah
10:00-10:30	<p><b>Session 4.1</b> Towards effective national responses on UN arms embargoes: what's required?</p> <p>Questions/Discussion</p>	Dr David Atwood
<b>10:30-11:00</b>	<b>COFFEE/TEA BREAK</b>	
11:00 -11:45	<p><b>Session 4.2</b> Towards an effective sanctions on UN arms embargoes: some tools</p> <p>Questions/Discussion</p>	Dr David Atwood Dr Sigrid Lipott
11:45 -13:00	<p><b>Session 5.1</b> Sharing national experiences on UN arms embargo implementation: Group exercise</p> <p>Questions/Discussion</p>	Facilitated by the Small Arms Survey
<b>13:00-14:00</b>	<b>LUNCH</b>	
14:00-15:00	<p><b>Session 5.2</b> Sharing national experiences on UN arms embargo implementation: country presentations</p> <p>Questions/Discussion</p>	Several workshop participants
15:00-16:00	<p><b>Session 6.1</b> Practical capacity-building exercise</p>	Group exercise led by the Small Arms Survey
<b>16:00-16:30</b>	<b>COFFEE/TEA BREAK</b>	
16:30-17:00	<p><b>Session 6.2</b> Reporting on the practical capacity-building exercise</p>	
17:00-17:30	<p><b>Session 7</b> Assessing national needs for more effective national compliance</p>	Participant reflections Moderated by the Small Arms Survey
17:30-18:00	<p><b>Session 8</b> Wrap up and closure</p> <ul style="list-style-type: none"> <li>Workshop evaluation</li> </ul>	Small Arms Survey

	questionnaire	
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**8 NOVEMBER 2019**

**DEPARTURES**

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