POSSIBLE MEASURES TO PREVENT AND ADDRESS DIVERSION: SUPPORTING EFFECTIVE IMPLEMENTATION OF THE ARMS TRADE TREATY
The four main stages in the arms transfer chain

1. **BEFORE THE TRANSFER**
2. **DURING THE TRANSFER**
3. **AT OR AFTER IMPORTATION**
4. **POST-DELIVERY STORAGE**
Arms transfer chain milestones

**BEFORE THE TRANSFER**
- End user decides to import conventional arms
- Competent authorities issue import authorization
- Competent authorities issue brokering authorization
- Competent authorities issue export authorization
- Competent authorities issue transit/trans-shipment authorization
- Conventional arms depart from exporting state

**DURING THE TRANSFER**
- Conventional arms in transit/trans-shipment
- Transportation of conventional arms

**AT OR AFTER IMPORTATION**
- Conventional arms arrive in state of import
- Conventional arms reach authorized end user

**POST-DELIVERY STORAGE**
- Conventional arms are disposed of, preferably through destruction
- Conventional arms declared surplus and appropriately stored
- Conventional arms are used or securely stored
Selected risks in the arms transfer chain

- Corruption by government official(s)
- Negligence by government official(s)
- Inadequate security and monitoring by competent government authorities
- False information provided by entity involved in the transfer
- Government intention to divert
- ‘Honest mistake’ by government official(s)
Risks in arms transfer chain

- **Before the Transfer**
- **During the Transfer**
- **At or After Importation**
- **Post-Delivery Storage**
A false flight plan is registered with the competent authorities in state A.

Rather than deliver the conventional arms to state B, the aircraft delivers the conventional arms to state C.

An arms-trading company provides documentation (end-user certificate (EUC), import licence) that contains false information in its application for an arms export licence from state A—i.e. it indicates that conventional arms are intended for the armed forces of state B.

The contents of the documentation are not verified because of negligence by the competent authorities of the exporting state A.

The conventional arms leave the exporting state A and are delivered to 'an armed group' subject to a UN arms embargo in state C.
Risk scenarios: during the transfer

**State A** has all the correct documentation to authorize delivery of conventional arms to state B. However, due to negligence, transit state C has not received a request or notification for transit.

The ship carrying the shipment of conventional arms from state A for state B arrives in transit state C and part of the shipment is unloaded without the knowledge of the customs officials in state C due to inadequate security and monitoring.

The ship carrying part of the shipment of conventional arms continues to state B as planned, but the unloaded portion of the shipment is diverted to armed groups in state D.

**The manufacturer** mislabels a shipment of conventional arms as agricultural equipment for delivery from state A to an armed group in state C.

**Corrupt customs officers** in state A receive intelligence that a shipment is due to depart from state A to an armed group in state C. The customs officers are bribed to not check this shipment.

Conventional arms are delivered to an armed group in state C.
Risk scenarios: at or after importation

Conventional arms exported from state A arrive by ship in state B.

The government of state B unloads the conventional arms from the ship and issues a delivery verification certificate for state A.

The government of state B then intentionally diverts the conventional arms shipment to state C by plane.

Risk scenario: Diversion at or after importation

Conventional arms exported from state A arrive by ship in state B.

The government of state B unloads the conventional arms from the ship and stores them in the customs zone for collection by the consignee.

Criminals break into the customs zone and steal the conventional arms due to inadequate security and monitoring.
Almost 20 years after importing conventional arms, the armed forces of state B decide that the previously imported conventional arms are now 'surplus'. Therefore, the armed forces transfer the conventional arms to the national police force in state B. Due to the passage of time it is perhaps an honest mistake that the government of state B forgot to inform and seek authorization from the competent authority of state A to transfer ownership of the imported conventional arms, in accordance with the assurance given in the EUC issued by the government of state B to state A.

Personnel charged with guarding state B's national reserve's conventional arms stockpile do not accurately register and keep records of all imported conventional arms because of negligence. Due to corruption, the guards of the national reserve's conventional arms stockpile have arranged to steal conventional arms from the stockpile and sell to criminals in state B. Due to inadequate security and monitoring, they are able to do so.
Measures to prevent and respond to diversion

National measures to prevent diversion

- A strong national transfer control system and effective enforcement measures (Articles 5 and 14)
- Government officials able to detect fraudulent behaviour
- Sufficient resources to ensure effective control over conventional arms flows
- Information exchange mechanism on authorized transfers or deliveries of conventional arms
- Open communication and cooperation across licensing, customs, law enforcement, intelligence, and other government agencies domestically
- Effective legislation for investigating and punishing theft, corruption, and other diversion-related offences
- Industry outreach programmes that include diversion risk assessment guidance and encourage industry to play a cooperative role in risk assessment and management

International cooperation to prevent and detect diversion

- Jointly developed programmes to address diversion risks (Article 11(2))
- Close cooperation and information-sharing with other states parties involved in the arms transfer chain (Articles 8(1), 11(3), 11(4), 11(5), and 15(4))
- Information-sharing with other states on measures taken that have been proven effective in addressing the diversion (Article 13(2))
- Cooperation through regional and sub-regional groups as well as the private sector (armament industry, transport)
- Cooperation to enable the detection and interception of illicit arms flows

Responses to diversion

- When diversion is detected, appropriate legal and administrative measures are taken to address the diversion and seize the illicit conventional arms (Article 5), including:
  - Alerting potentially affected states parties
  - Examining diverted shipments of conventional arms
  - Investigating the diversion, and sanction those responsible (Article 11(4)); available sanctions should be both administrative (including confiscation of conventional arms) and criminal (sufficiently high to serve as deterrents)

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States in the arms transfer chain

- Exporting state: state from which the conventional arms are exported
- Importing state: state into which the conventional arms are imported
- Trans-shipment state: state through which conventional arms pass between leaving the exporting state and entering the importing state
- Brokering: state in which (a) brokering activities take place or (b) broker is registered or licensed
Actor-specific mitigation measures: exporting state

- **Before the Transfer**
- **During the Transfer**
- **At or after importation**
- **Post-delivery storage**
Actor-specific mitigation measures: exporting state

**BEFORE THE TRANSFER**

Registered exporting entity provides written authorization to import (import licence, EUC) as part of export authorization application to competent authorities in state of export (i.e. export control agency or department within a ministry).

Competent authorities in the state of export conduct a risk assessment using:
- Database of entities previously sanctioned and/or involved in illicit trafficking
- Inter-agency cooperation using written authorization to import and other documentation and information provided by the registered entity seeking authorization to export

Authenticated documentation (Articles 8(1) and 11(2))

If a significant risk of diversion is detected, deny and inform importing (and other) state(s) (Articles 11(2), 11(2), 7(6), 11(3), 11(4), 11(2), 11(3), 7(6), 11(2), 11(1), 5(2), 5(5), 11(2), 7(1), 11(2), 8(1)).

If transportation and route not known at the time of application, issue authorization with condition to provide such information when known prior to export.

If necessary, conclude agreement with importing state on conditions to mitigate risk of diversion.

Conduct check via embassy in importing state.

Conduct direct communication with competent authorities in importing state.

Check the legitimacy and credibility of all known entities involved in transfer.

Check the shipment arrangements, transfer route, transit state(s) (if known).

Check the transfer control system, political stability, and risk of diversion of existing holdings of the importing state.

Verify contents of documentation.

Conventional arms clear customs in the state of export.

Issue written authorization to export, containing concrete unambiguous suspension or cancellation clauses.

Transit/trans-shipment state(s) informed of departure.

Importing state informed of departure.

Conduct check via embassy in importing state.

Conduct direct communication with competent authorities in importing state.
Actor-specific mitigation measures: exporting state

DURING THE TRANSFER

Cooperate and share information with transit state(s)

Request delivery notification from transit state(s)

Monitor and protect shipment, in cooperation with industry
- Physical escort or satellite monitor
- Alarm systems
- Container seals
- Customs agents in exporting state check documentation and shipment
At or after importation

Actor-specific mitigation measures: exporting state

Cooperate with importing state to conduct at-delivery checks:

- Check signatures on documentation
  - On-site visit
- Conduct physical inventory
- Investigate suspected violations of conditions

Art. 11(2)

Request delivery notification from importing state
Actor-specific mitigation measures: exporting state

Cooperate with importing state to conduct post-delivery checks:

- Check signatures on documentation
  - On-site visit
- Conduct physical inventory
- Investigate suspected violations of conditions

Cooperate with importing state or third states in response to tracing requests

Art. 11(4)
Actor-specific mitigation measures: importing state

- **BEFORE THE TRANSFER**
- **DURING THE TRANSFER**
- **AT OR AFTER IMPORTATION**
- **POST-DELIVERY STORAGE**
Actor-specific mitigation measures: importing state

**BEFORE THE TRANSFER**

- **Art. 8(2)**
  - Registered commercial end user applies for written authorization to import conventional arms

- **Art. 8(2)**
  - Registered government end user applies for or issues written authorization to import conventional arms (e.g., import licence, EUC)

- **Competent authorities in the state of import conduct risk assessment using:**
  - Database of entities previously sanctioned and/or involved in illicit trafficking
  - Inter-agency cooperation

- **Check**
  - The items involved in transfer
  - Bona fide of exporting entity (if known)
  - The shipment arrangements, route, transit state(s) (if known)
  - The legitimacy and credibility of all known entities involved in transfer

- **Issue written authorization to import**
  - Provide written authorization to import (licence, EUC, etc.) to exporting state (direct or via trading entity)

- **If necessary, conclude agreement with exporting state on conditions to mitigate the risk of diversion**

- **If a significant risk of diversion is detected, deny and inform exporting (and other) state(s)**
Actor-specific mitigation measures: importing state

DURING THE TRANSFER

Cooperate and share information with transit state(s)

Monitor and protect shipment, in cooperation with industry:
- Physical escort or satellite monitor
- Alarm systems
- Container seals
- Physical inspection at point of delivery
- Customs agents check documentation and shipment

Art. 11(3)
Actor-specific mitigation measures: importing state

AT OR AFTER IMPORTATION

- Provide delivery notification to exporting state, if requested
  - Art. 8(1) / Art. 11(2)

- Register and maintain records of conventional arms
  - Art. 12(2)

- Ensure secure delivery of conventional arms to the authorized end user
POST-DELIVERY STORAGE

Actor-specific mitigation measures: importing state

Cooperate with exporting state to conduct post-delivery checks

Cooperate with exporting state or third party states in response to tracing requests

Establish and maintain robust stockpile management procedures for safe storage, including:

- Maintain inventory management and accounting procedures
- Control access to stockpiles
- Apply physical security measures (e.g. fences and locks)
- Ensure secure transportation of conventional arms within importing state
- Destroy surplus in accordance with international norms and standards
- Ensure training
- Note useful guidance in MOSAIC module on ‘stockpile management’ and IATG
Actor-specific mitigation measures: trans-shipment state

- BEFORE THE TRANSFER
- DURING THE TRANSFER
- AT OR AFTER IMPORTATION
- POST-DELIVERY STORAGE
Actor-specific mitigation measures: trans-shipment state

BEFORE THE TRANSFER

Registered entity provides written authorization to import and export conventional arms to the competent authority in the transit or trans-shipment state, as part of the application for an authorization to transit or trans-ship conventional arms, or for notification.

Competent authorities in the state of transit/trans-shipment conduct a risk assessment using:
- Database of entities previously sanctioned and/or involved in illicit trafficking
- Inter-agency cooperation

Verify contents of documentation as part of diversion risk assessment:
- Check the items involved in transfer
- Check the transfer control system of the exporting state
- Check the legitimacy and credibility of all known entities involved in transfer
- Check the transfer control system of the exporting state
- Check the shipment arrangements, route, other transit state(s) (if known)
- Check the transfer control system, political stability, and risk of diversion of existing holdings of the importing state

Authenticate documentation as part of diversion risk assessment (in addition to the steps below, may require cooperation with importing state):

If a significant risk of diversion is detected, deny and inform importing (and other) state(s).

Authorize transit/trans-shipment.

Art. 5(2)  Art. 9
Art. 11(3)  Art. 7(1)  Art. 11(3)  Art. 11(2)  Art. 5(5)

Art. 7(3)  Art. 11(2)  Art. 5(2)  Art. 5(5)  Art. 9

Art. 11(4)  Art. 11(3)  Art. 9  Art. 5(2)  Art. 11(3)

Art. 8(1)  Art. 11(2)  Art. 11(3)  Art. 11(6)
Actor-specific mitigation measures: trans-shipment state

DURING THE TRANSFER

Cooperate and share information with exporting and importing states and other transit state(s)

Monitor and protect shipment, in cooperation with industry

- Physical escort or satellite monitor
- Alarm systems
- Container seals
- Physical inspection during transit
- Customs agents check documentation and shipment
Actor-specific mitigation measures: trans-shipment state
Actor-specific mitigation measures: trans-shipment state
Actor-specific mitigation measures: broker/brokering

- BEFORE THE TRANSFER
- DURING THE TRANSFER
- AT OR AFTER IMPORTATION
- POST-DELIVERY STORAGE
Actor-specific mitigation measures: broker/brokering

BEFORE THE TRANSFER

Registered entity provides written authorization to import or export conventional arms to the competent authority, as part of the application for brokering authorization

Registered entity has an internal control compliance programme, and has already conducted a risk assessment using its own database and records

Competent authorities in the state in which the brokering application is being made conduct a risk assessment using:
- Database of entities previously sanctioned and/or involved in illicit trafficking
- Inter-agency cooperation using written authorization to import and other documentation and information provided by the registered entity seeking authorization to export

Verify contents of documentation as part of diversion risk assessment

Authenticate documentation as part of diversion risk assessment (in addition to the steps below, may require cooperation with importing state)

If a significant risk of diversion is detected, deny and inform states parties

If transportation and route not known at the time of application, issue authorization with condition to provide such information when known prior to export

Check the legitimacy and credibility of all known entities involved in transfer

Check the items involved in transfer

Check the shipment arrangements, route, transit state(s) (if known)

Check the transfer control system of the state of export

Check the transfer control system, enforcement, and political stability of the state of import and risk of diversion of existing holdings of the end user
Actor-specific mitigation measures: broker/brokering
AT OR AFTER IMPORTATION

Actor-specific mitigation measures: broker/brokering
Actor-specific mitigation measures: broker/brokering
<table>
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<tr>
<th>Element</th>
<th>Essential</th>
<th>Optional</th>
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<tbody>
<tr>
<td>Parties involved in the transfer</td>
<td>• details of the exporter and end user, such as name, business name, address, phone, etc.</td>
<td>• details of the intermediate consignee and final consignee.</td>
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<td>Goods to be transferred</td>
<td>• description;</td>
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<td>• reference to contract, purchase order, invoice or order number, quantity and/or value.</td>
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<td>End use</td>
<td>• indication of end user;</td>
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<td>• an undertaking, where appropriate, that the goods will not be used for purposes other than the declared end use or used for Chemical Biological Radiological and Nuclear (CBRN) purposes etc.</td>
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<td>Location</td>
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<td>• certification that goods are to be installed at/used at premises of end-user;</td>
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<td>• agreement to on-site inspections.</td>
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<td>Document</td>
<td>• signature, name, and title of consignee/end-user representative;</td>
<td>• signature and certification by government of final consignee/end user and only by specific representatives of that government;</td>
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<td>• original or legally certified copy.</td>
<td>• unique identifier/number provided by the government authority;</td>
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<td>• validity terms and date of issue;</td>
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<td>• kept with conventional arms all along the transfer.</td>
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<td>Re-export or diversion</td>
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<td>• an undertaking not to re-export/trans-ship at all, or at least not without notification or express permission from original exporting state’s competent authorities.</td>
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<td>Delivery verification</td>
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<td>• provide a Delivery Verification Certificate / proof of arrival.</td>
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END-USER CERTIFICATE

This End-User Certificate certifies that the following conventional arms for the national defence and security needs of the Air Force of Alpha will be purchased under the attached contract from the supplier:

Mr Wile E. Coyote
ACME Arms Trading, 4 Tank Way, Capital City, CC1234 Beta
Telephone: +1234 (0) 9876 5432
Email: ACME@ARMSTRADE.COM

Mr Coyote is arranging the transportation of the conventional arms listed in this End-User Certificate via:

Ms Pippi Longstocking
Adventure Travel Inc, Villa Villekulla, Nilsson Road, Deltaville, DV5678, Delta
Telephone: +2468 3690 1593
Email: Pippi@Adventure.com

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<tr>
<th>No.</th>
<th>Description</th>
<th>Quantity/weight</th>
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The Ministry of Defence of Alpha hereby certifies that the conventional arms listed in this End-User Certificate are for the exclusive use of the Security Forces of Alpha for operations of keeping the peace and security of Alpha.

The conventional arms listed in this End-User Certificate will not be lent, leased, re-sold, re-exported, or transferred to any third party without the written consent of the Competent Authorities of the Republic of Beta and will not be used for any other purpose except the one mentioned in this End-User Certificate.

The Ministry of Defence of Alpha undertakes responsibility to submit a Delivery Verification Certificate upon receipt of the conventional arms listed in this End-User Certificate.

The Ministry of Defence of Alpha undertakes that the conventional arms listed in this End-User Certificate will be stationed at Alpha City Air Base. Permission will be granted to the Competent Authorities of the Republic of Beta to conduct a post-shipment inspection.