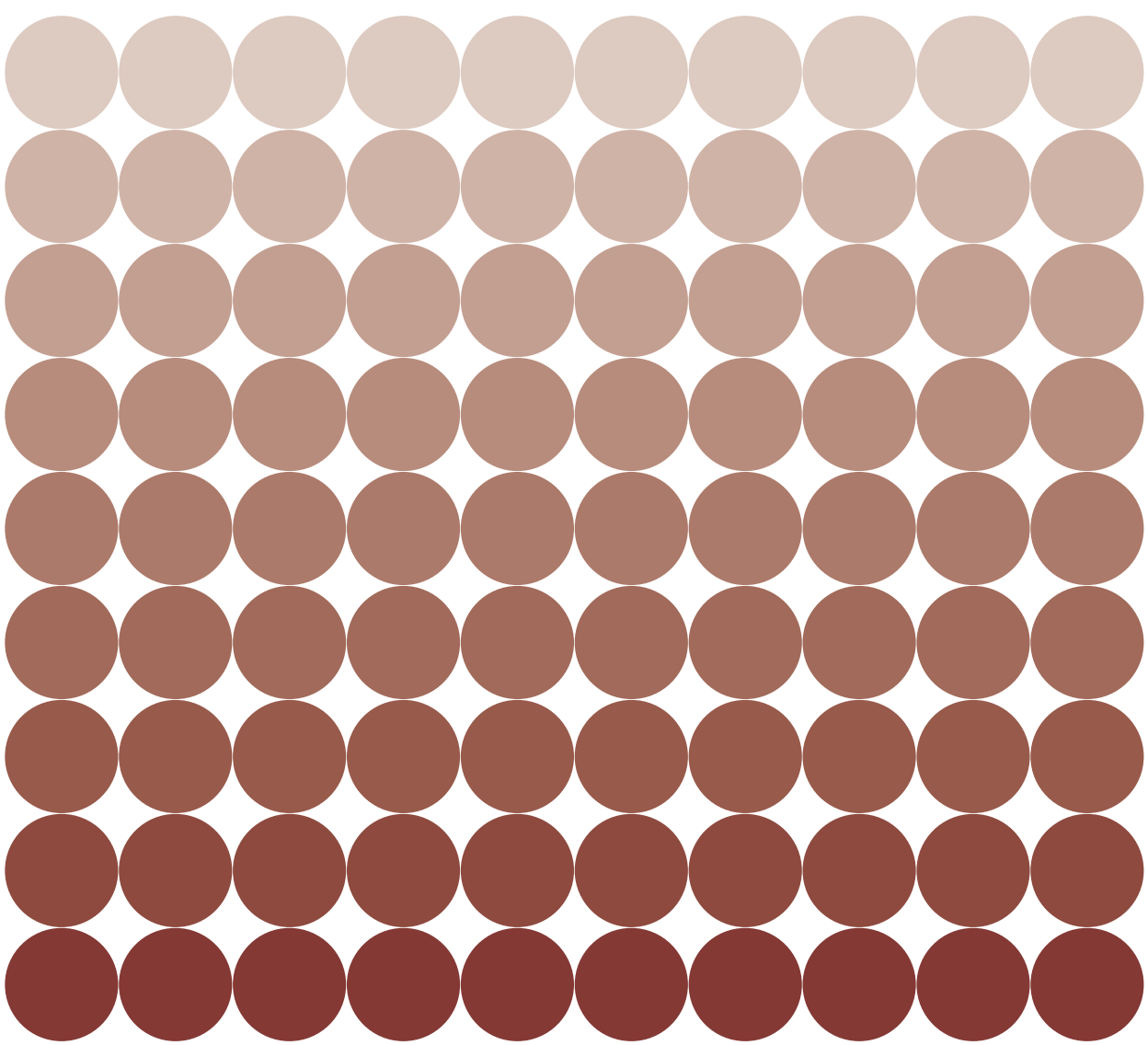


POST-SHIPMENT ON-SITE INSPECTIONS

Multilateral Steps for Debating and
Enabling Their Adoption and Use

**MARK BROMLEY, LAURIANE HÉAU AND
GIOVANNA MALETTA**



STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

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Enabling Their Adoption and Use

SIPRI Policy Paper no. 63

MARK BROMLEY, LAURIANE HÉAU AND
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**STOCKHOLM INTERNATIONAL
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Preface

Post-shipment diversion of military materiel represents one of the key means through which arms and related equipment reach the hands of non-state armed groups, terrorists and military forces engaged in violations of international humanitarian law and international human rights law. To help to prevent and mitigate diversion, states that export arms and military equipment can adopt post-shipment on-site inspections. This involves requiring and conducting physical checks on previously authorized and transferred military materiel on the territory of the importing state. Such inspections could help to ensure that an importing state is adhering to end-user assurances and could enable a broader dialogue between states about the wider set of measures that exporting and importing states should adopt—at all stages of the supply chain—to prevent diversion. Previously associated only with the United States, post-shipment on-site inspections have begun to be adopted as a policy tool by a larger pool of states in recent years, but many governments still have concerns that continue to prevent the wider implementation of the tool.

With generous support from the German Federal Foreign Office (GFFO), SIPRI has been tracking and informing debates about post-shipment on-site inspections since 2020. SIPRI has analysed the policies of states that have adopted post-shipment on-site inspections, and examined the main challenges that their adoption generates as well as how they can be overcome. It has also produced a detailed good practice guide to assist states in adopting this policy tool, and explored the ways in which connections could be developed between post-shipment on-site inspections and physical security and stockpile management (PSSM) assistance efforts. This paper is SIPRI's latest contribution to this policy debate and the final output of the current project that the GFFO is supporting. Building on SIPRI's past research—and the outcome of a tabletop simulation exercise and workshop conducted in June 2022—the policy paper looks at what can be done at the multilateral level to debate and enable the wider adoption of post-shipment on-site inspections. In doing so, it presents a series of practical steps that can be taken by states, relevant multilateral bodies and research institutes.

SIPRI has been working to encourage and enable improvements in controls on arms transfers and small arms and light weapons (SALW) at the national and multilateral levels since it was founded in the 1960s. The work on post-shipment on-site inspections continues this long tradition and demonstrates SIPRI's ability to play a crucial role in researching key policy developments in arms transfer controls, in assisting states that wish to improve their national standards in this area, and in convening dialogues on complex arms control issues. SIPRI remains committed to continuing this work in the future.

Dan Smith
Director, SIPRI
Stockholm, October 2022

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The authors would like to thank the German Federal Foreign Office, which generously provided funding for this project. They are grateful to the numerous officials who participated in interviews, supplied answers to a SIPRI survey of states' practices or took part in a tabletop simulation exercise on post-shipment on-site inspections in Berlin in June 2022. In addition, they would like to thank the officials and non-governmental experts who took part in a workshop on post-shipment diversion held in Berlin in June 2022. The authors also drew upon prior research on post-shipment on-site inspections conducted by and with Kolja Brockmann and Andrea Varisco and benefited greatly from their input on the outline and draft versions of the paper, particularly the series of policy options outlined in chapter 4. Lastly, the authors would like to thank other SIPRI colleagues and the external reviewers for their valuable comments as well as the SIPRI editorial department for its outstanding work. Any errors are the responsibility of the authors.

Mark Bromley, Lauriane Héau and
Giovanna Maletta
October 2022

Summary

Post-shipment on-site inspections are physical checks on previously authorized and transferred military materiel conducted by the exporting state on the territory of the importing state. They are one of a range of steps that exporting states can employ after a transfer has taken place to help to prevent the diversion of exported military materiel. In the past decade a growing number of states have decided to establish provisions for post-shipment on-site inspections. In doing so, states have taken a variety of approaches. The United States—the first country to introduce post-shipment on-site inspections—has taken a ‘comprehensive’ approach that essentially encompasses controls on all exports of military materiel. A number of states have taken a ‘targeted’ approach that focuses post-shipment on-site inspections on (a) exports of certain types of small arms and light weapons (SALW) and complete weapon systems where diversion is more readily apparent and detectable, and (b) destinations or end users where the risks of diversion are higher. Some other states have taken an ‘ad hoc’ approach in which they have put in place provisions for requesting and conducting on-site inspections, but have used them only a handful of times. The European Union (EU) has indicated that exports of military materiel funded by the European Peace Facility (EPF) may also be the subject of post-shipment on-site inspections, although the modalities of how this will occur or who will conduct them have yet to be determined.

The broader adoption of post-shipment on-site inspections could play a crucial role in helping to prevent cases of diversion of military materiel and reducing the human suffering that this generates. However, several challenges and barriers appear to be preventing their wider use. While the national practices of states that have adopted post-shipment on-site inspections demonstrate how these challenges and barriers can be overcome, processes of building understanding about the value of post-shipment on-site inspections and enabling more states to adopt them as a policy tool would also benefit from concerted action at the multilateral level. Attempts have been made to use multilateral forums and instruments for this purpose, but these have often been disjointed and limited. Initiatives taken in different forums and instruments have not been connected, the language used to describe post-shipment on-site inspections is inconsistent, and the potential to take action in certain forums and instruments has not always been fully utilized. This policy paper seeks to help to address these gaps. Building on past research and the outcomes of a tabletop simulation exercise and workshop in June 2022, it outlines the steps that could be taken at the multilateral level to promote further discussion about post-shipment on-site inspections and help to support those states that are considering adopting this policy tool.

The first chapter introduces the topic and sets out the structure of the paper. Chapter 2 outlines the key benefits that post-shipment on-site inspections can generate as well as the concerns and obstacles currently preventing their wider use. The concerns and obstacles discussed are (a) gaining the consent of the importing state, (b) allocating the required human and financial resources, and

(c) demonstrating that the benefits outweigh the costs. In each case, the paper outlines steps that have been taken by states that have adopted post-shipment on-site inspections to address these concerns and obstacles. The chapter also emphasizes that post-shipment on-site inspections are one of a range of post-shipment measures that states can adopt to address and prevent diversion. Of crucial importance in this regard is encouraging states to adopt and implement high standards in physical security and stockpile management (PSSM) to prevent loss of military materiel due to theft and corruption. There are many ways in which post-shipment on-site inspections can connect with and support this wider range of post-shipment measures. Some of these are already happening—such as the creation of informal linkages between post-shipment on-site inspections and the processes associated with promoting and enabling strengthened PSSM standards—but additional steps could be taken.

Chapter 3 provides an overview of how the adoption and use of post-shipment on-site inspections has been debated and enabled both at and by different multilateral bodies and instruments. The chapter focuses on the United Nations, the 2013 Arms Trade Treaty (ATT), the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Organization for Co-operation and Security in Europe (OSCE), and the EU. It highlights cases in which these bodies and instruments (a) have adopted language emphasizing the value of post-shipment on-site inspections, (b) have been used to exchange information on national approaches to post-shipment on-site inspections, (c) have adopted guidance materials that include a focus on post-shipment on-site inspections, and (d) have been used to exchange information on the outcome of post-shipment on-site inspections. The ATT has become an important instrument for debates and standard-setting procedures on post-shipment on-site inspections—aided by the fact that the policy tool was a key thematic focus for the Eighth Conference of States Parties in 2022—and will be a crucial forum for future work on this topic. However, significant steps have also been taken in the other forums and instruments assessed in this policy paper, which could be built upon in future.

Chapter 4 outlines a set of six steps that could be taken at the multilateral level both to debate and to enable the adoption and use of post-shipment on-site inspections. The steps are aimed at achieving three overarching goals: (a) to continue to explore the costs and benefits of post-shipment on-site inspections; (b) to provide support to states that are considering adopting and using post-shipment on-site inspections; and (c) to ensure that states that use this policy tool do so in a way that builds trust and confidence and helps to prevent diversion. The six steps are as follows:

- A. Adopt common language endorsing post-shipment on-site inspections.
- B. Hold exchanges of views on the use and value of post-shipment on-site inspections and other post-shipment measures.
- C. Revise and develop good practice guidance materials for post-shipment on-site inspections.

D. Explore ways in which the EU could support or conduct post-shipment on-site inspections.

E. Build links between communities and processes associated with PSSM assistance and post-shipment on-site inspections.

F. Share information between states about the adoption and use of post-shipment on-site inspections and the outcomes of inspection visits.

For each step, the policy paper presents a series of recommendations that could be taken forward by states, research institutes, or the secretariats or executives of relevant multilateral bodies or instruments. The paper does not suggest a particular sequence for these steps or a time frame within which they should occur, but to help to guide future work it includes a timeline outlining the dates of some of the main meetings and events that are mentioned in the paper (see appendix A).

Abbreviations

ATT	Arms Trade Treaty
BMS	Biennial Meeting of States (United Nations Programme of Action on SALW)
CAR	Conflict Armament Research
CIFTA	Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials
COARM	Conventional Arms Exports subgroup (of the Council of the European Union's Working Party on Non-Proliferation and Arms Exports)
CSP	Conference of States Parties (Arms Trade Treaty)
DIEF	Diversion Information Exchange Forum (Arms Trade Treaty)
DVC	Delivery verification certificate
ECOWAS	Economic Community of West African States
EEAS	European External Action Service
EPF	European Peace Facility
EU	European Union
EUC	End-user certificate
FSC	Forum for Security Cooperation (Organization for Co-operation and Security in Europe)
GGE	Group of Governmental Experts
LEOM	Licensing and Enforcement Officers Meeting (Wassenaar Arrangement)
MOSAIC	Modular Small-arms-control Implementation Compendium
OEWG	Open-ended Working Group
OSCE	Organization for Co-operation and Security in Europe
PSSM	Physical security and stockpile management
SALW	Small arms and light weapons
UN	United Nations
UNIDIR	United Nations Institute for Disarmament Research
UNODC	United Nations Office on Drugs and Crime
UNPOA	United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
WA	Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies
WGETI	Working Group on Effective Treaty Implementation (Arms Trade Treaty)

1. Introduction

Post-shipment on-site inspections are physical checks on previously authorized and transferred military materiel conducted by the exporting state on the territory of the importing state. Their primary focus has been on ensuring that assurances provided by an importing state regarding the authorized end user of the military materiel are being upheld. They are one of a range of post-shipment measures that exporting states can employ after a transfer has taken place to help to prevent the diversion of exported military materiel. Post-shipment diversion is widely recognized as being one of the main channels through which military materiel enters the illicit market or reaches the hands of unauthorized end users.¹ Other measures for tackling post-shipment diversion include requesting and receiving delivery verification certificates (DVCs), monitoring open-source media reports, having the national embassy in the importing state collect information, and requiring the exporting company to pass on information about actual or suspected cases of diversion.

Post-shipment on-site inspections were first adopted by the United States, which established its 'Blue Lantern' programme in 1990.² In the past decade a growing number of states have decided to establish provisions for post-shipment on-site inspections, often after identifying cases of diversion but also in a bid to reduce the risk of such incidents from taking place.³ The European Union (EU) has also indicated that exports of military materiel funded by the European Peace Facility (EPF) may be the subject of post-shipment on-site inspections.⁴ Despite the expansion in the use of post-shipment on-site inspections, there remain differences in the language used by states to describe them. For instance, in the USA they are referred to as 'post-shipment checks', in Switzerland as 'post-shipment verifications' and in Germany as 'post-shipment controls'.⁵ In addition, some of these terms are used in different contexts to refer to different sets of measures. For example, the term 'post-shipment controls' is used by Germany specifically to describe post-shipment on-site inspections but the EU uses the term more broadly

¹ An analysis by Conflict Armament Research in 2019 of the cases of diversion of military materiel that it had been able to fully document indicated that a majority occurred at the post-shipment stage. Conflict Armament Research (CAR), *Diversion Digest: Typology of Diversion: A Statistical Analysis of Weapon Diversion Documented by Conflict Armament Research* (CAR: London, Aug. 2018).

² US Department of State, 'United States support for the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects', 17 July 2007.

³ See e.g. Varisco, A. E., Brockmann, K. and Robin, L., 'Post-shipment control measures: European approaches to on-site inspections of exported military materiel', SIPRI Background Paper, Dec. 2020.

⁴ Maletta, G. and Héau, L., *Funding Arms Transfers through the European Peace Facility: Preventing Risks of Diversion and Misuse*, SIPRI Report (SIPRI: Stockholm, June 2022).

⁵ See e.g. US Department of State, Directorate of Defense Trade Controls, 'Report to Congress on end-use monitoring of defense articles and defense services 22 USC 2785(c): End-use monitoring of defense articles and defense services', 2022; Swiss Federal Department of Economic Affairs, Education and Research, State Secretariat for Economic Affairs, 'Overview of the basic principles of export controls', Fact sheet, [n.d.], p. 6; and German Federal Ministry for Economic Affairs and Climate Action, 'Introduction of post-shipment controls into German arms export control policy', Presentation at the workshop for states parties' representatives on the occasion of the First Informal Preparatory Meetings for the Eighth Conference of States Parties to the Arms Trade Treaty, 15 Feb. 2022.

to describe all steps an exporting state can take to help to prevent post-shipment diversion.⁶ In line with other recent SIPRI publications on this topic, this policy paper uses the term ‘post-shipment on-site inspections’ throughout.⁷ However, as the paper notes, adopting alternative formulations in the future could help to promote a better understanding and a wider adoption of this policy tool.

States that have adopted and conducted post-shipment on-site inspections have noted a range of benefits that they can generate, including identifying actual or potential cases of post-shipment diversion, creating an avenue for a dialogue with the importing state about how to improve standards in physical security and stockpile management (PSSM) of military materiel, and strengthening bilateral relations with the authorities of the importing state.⁸ These benefits indicate that the wider adoption of post-shipment on-site inspections could have a significant impact in terms of preventing post-shipment diversion and enabling a broader dialogue between states regarding other steps that can be taken in this area. However, states that have adopted and conducted post-shipment on-site inspections or who have considered their use have also indicated associated challenges and concerns relating, primarily, to the political sensitivities and economic costs involved.⁹

National practices and experiences point to steps that states can take at the national level to address these challenges and concerns. However, they could also be addressed at the multilateral level alongside efforts to build a better understanding of post-shipment on-site inspections and help to enable their wider adoption as a policy tool. With this in mind, this policy paper identifies and outlines a range of possible steps that could be taken at the multilateral level to (a) promote further discussion about post-shipment on-site inspections as a tool for preventing diversion and (b) provide support to states that are considering adopting this policy tool. The steps are also aimed at helping to ensure that states that adopt post-shipment on-site inspections do so in a way that both builds trust and confidence among states and connects discussions about post-shipment on-site inspections with the broader set of post-shipment measures that states can adopt to prevent diversion.

Chapter 2 of the paper draws from the experiences of states that have adopted and conducted post-shipment on-site inspections and the views of states that have considered their introduction to outline the benefits that the policy tool can generate as well as the concerns and obstacles currently preventing wider use of the

⁶ See e.g. German Federal Ministry for Economic Affairs and Climate Action (note 5); and Council of the European Union, ‘User’s Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment’, 12189/19, 16 Sep. 2019, p. 9.

⁷ See e.g. Varisco, Brockmann and Robin (note 3); Bromley, M., Brockmann, K. and Varisco, A. E., ‘Post-shipment on-site inspections of military materiel: Challenges and responses’, SIPRI Policy Brief, Dec. 2021; Varisco, A. E. and Bromley, M., ‘Good practice guide on post-shipment on-site inspections of military materiel’, SIPRI Good Practice Guide, Aug. 2022; and Lewis, M. and Maletta, G., ‘Post-shipment on-site inspections and stockpile management assistance: Bridging gaps’, SIPRI Policy Brief, Aug. 2022.

⁸ See e.g. Bromley, Brockmann and Varisco (note 7).

⁹ Bromley, Brockmann and Varisco (note 7).

tool.¹⁰ The chapter also outlines some of the steps that have been taken and could be taken at the national level to overcome these concerns. Chapter 3 examines discussions and work conducted in relevant multilateral bodies and instruments in relation to the adoption and use of post-shipment on-site inspections. The chapter focuses on the United Nations, the 2013 Arms Trade Treaty (ATT), the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement or WA), the Organization for Co-operation and Security in Europe (OSCE), and the EU, and provides an assessment of the potential for additional action to be carried out at or by each of these bodies and instruments. Chapter 4 sets out a series of steps that could be taken in the coming months and years at the multilateral level to help to enable the broader adoption and use of post-shipment on-site inspections as a means of preventing the diversion of exported military materiel. Building on the findings of chapters 2 and 3, the options outlined emphasize the value of forming links with the range of other measures that can be adopted at all stages of the supply chain to help to prevent the diversion of exported military materiel.

¹⁰ Chapter 2 and the policy paper as a whole draw on work conducted by SIPRI on post-shipment on-site inspections since 2020, which included an extensive desk research, interviews with state officials, a survey of 39 states (comprising the 27 European Union member states and 12 other selected states) that generated 21 responses, a tabletop exercise simulation of two on-site inspections involving 13 officials from 8 European states and the European External Action Service (EEAS), and a workshop with a total of 26 experts on diversion that included officials from the EEAS and European states, industry representatives, practitioners and researchers.

2. Adopting post-shipment on-site inspections: Challenges, concerns and responses

To date, at least 13 states have either carried out a post-shipment on-site inspection or established the legal and practical provisions enabling them to do so.¹¹ These states have adopted differing approaches to post-shipment on-site inspections. The USA has taken a ‘comprehensive’ approach that essentially encompasses controls on any exports of military materiel to all destinations and end users. A number of states—including Czechia, Germany, South Africa, Spain, Sweden and Switzerland—have taken a ‘targeted’ approach that focuses post-shipment on-site inspections on (a) exports of certain types of small arms and light weapons (SALW) and complete weapon systems where diversion is more readily apparent and detectable, and (b) destinations or end users where the risks of diversion are higher. For example, Sweden has directed the attention of its post-shipment on-site inspections on five categories of light weapons and excluded 39 ‘partner states’ from their coverage.¹² Some other states—including Austria, Bulgaria, Latvia, Poland, Romania and Slovakia—have taken an ‘ad hoc’ approach in which they have put in place provisions for requesting and conducting post-shipment on-site inspections, but have used them only a handful of times. In addition, several states have conducted formal or informal processes aimed at determining whether the adoption of post-shipment on-site inspections would help to prevent cases of diversion or otherwise support the goals outlined in their export control policies.¹³

The experiences of these states provide an indication of the main barriers and concerns that are preventing the broader adoption and use of post-shipment on-site inspections by exporting states. These barriers and concerns relate to (a) gaining the consent of importing states, (b) the human and financial resources required to adopt the policy tool, and (c) whether the benefits that the tool generates in terms of preventing cases of diversion outweigh the costs.¹⁴ This chapter summarizes

¹¹ These states are Austria, Bulgaria, Czechia, Germany, Latvia, Poland, Romania, Slovakia, South Africa, Spain, Sweden, Switzerland and the USA. Bromley, Brockmann and Varisco (note 7), p. 1. See also Conflict Armament Research (CAR), ‘Weapons of the war in Ukraine: CAR case studies: Mapping weapon supply sources to DPR/LPR armed formations in Ukraine’, accessed 1 Aug. 2022; and Control Arms, ‘8th Conference of States Parties to the Arms Trade Treaty: Daily summary analysis report’, 22 Aug. 2022.

¹² Swedish Ministry for Foreign Affairs, ‘Efterkontroller i utlandet: ett komplement till exportkontrollen på krigsmaterielområdet’ [Follow-up inspections abroad: A complement to export controls in the field of munitions], Fact sheet, Nov. 2021.

¹³ E.g. in the United Kingdom the parliamentary committee with oversight of export control policies and practices has highlighted the potential value of adopting post-shipment on-site inspections and questioned UK government officials on the topic. See e.g. British Parliament, House of Commons, Committees on Arms Export Controls, ‘UK arms exports during 2016’, First Joint Report of Session 2017–19, Tenth Report of the Defence Committee, Eleventh Report of the Foreign Affairs Committee, Seventh Report of the International Development Committee and Fourth Report of the International Trade Committee, HC 666, 18 July 2018, p. 61.

¹⁴ There are also a wide range of more specific practical challenges associated with adopting, requesting, and conducting post-shipment on-site inspections. More details on these and the ways in which states have responded are discussed in Bromley, Brockmann and Varisco (note 7); and Varisco and Bromley (note 7).

these barriers and concerns and outlines some of the approaches and policies that have been adopted or could be adopted in response.

Gaining the consent of the importing state

States that adopt and conduct post-shipment on-site inspections must obtain the consent of the importing state before an inspection can take place. This is typically a two-step process. First, the importing state must agree to the attachment of a clause stating that the military materiel being imported can be inspected later. This is usually done by inserting language into the end-user certificate (EUC) connected to the transfer, but it can also be done through a separate government-to-government agreement.¹⁵ Second, the importing state must agree to the clause being implemented and allow inspectors to enter the country and conduct an inspection of the imported military materiel. Both steps can be a source of sensitivity for the importing state. This can be due to general concerns regarding the implications for national sovereignty and trust and confidence between states. It can also be due to legal issues connected to who can access military materiel or the sites where they are stored, or to logistical issues relating to the challenges generated by inspecting weapons that are in service and may be widely distributed.¹⁶ Internal assessments by the USA of its system of post-shipment on-site inspections highlight cases in which importing states refused requests either to attach inspection clauses to exports or to conduct inspections.¹⁷

States that have implemented on-site inspection provisions have sought to overcome these concerns and sensitivities by framing the tool as a cooperative process. In some cases, states have refrained from using the terms ‘inspection’ or ‘verification’ in favour of terms that highlight the tool’s role in building trust and confidence between the exporting and importing states. Germany, for example, has noted the growing use of the term ‘post-delivery coordination’ to describe post-shipment on-site inspections and argued that it ‘demonstrates the growing interest in and understanding of this approach’.¹⁸ Other ways in which the tool can be presented as a more cooperative activity include the wording states use in the clauses that are inserted into EUCs. For example, the clause on post-shipment on-site inspections that Spain inserts into its EUCs puts cooperation at the centre of the tool, by requesting that ‘The Government of (final destination country of

¹⁵ An end-user certificate is ‘an official document, issued by a competent national authority of the importing State, that identifies a government agency of the importing State as the ultimate recipient of an international transfer of small arms or light weapons’. United Nations, Modular Small-arms-control Implementation Compendium (MOSAIC), 01.20, 2022, Glossary, p. 11.

¹⁶ ‘South Africa amends arms export document after inspection row’, Reuters, 13 May 2020; and Joshi, S., ‘Indian irritation with end use monitoring’, StratPost, 22 July 2009.

¹⁷ See e.g. US Department of State, Directorate of Defense Trade Controls, ‘End-use monitoring of defense articles and defense services: Commercial exports FY 2020’, 2021, pp. 4–5.

¹⁸ Arms Trade Treaty, ‘Working paper presented by the President of the Eighth Conference of States Parties to the Arms Trade Treaty (ATT): Post-shipment controls and coordination: Effective export verification and good-faith cooperation between exporters and importers: Status quo and guidance (“Toolbox”)’, ATT/CSP8/2022/PRES/732/Conf.PostShip, 22 July 2022, p. 4.

the goods) commits itself to cooperate jointly with the export control authorities of the Kingdom of Spain'.¹⁹

National experiences with planning and conducting post-shipment on-site inspections also indicate significant variety in the ways in which these activities can take place and point to models that can help to overcome particular legal or logistical challenges. For example, Switzerland has noted that when conducting some inspections it can request that the military materiel be gathered in selected inspection locations and, in exceptional cases, it can carry out spot checks on a selection of the materiel.²⁰ In other cases, exporting and importing states have conducted joint exercises that address the key objectives that post-shipment on-site inspections are seeking to achieve but do not necessarily involve direct visual checks on the exported items. For example, without an 'on-site inspection', Mexico has been working together with an exporter partner on assessing PSSM procedures.²¹ The exercise helped officials from Mexico to determine how their system functions and identify steps that could be taken domestically to strengthen practices and procedures.²²

Allocating the required human and financial resources

The process of adopting and conducting on-site inspections requires an investment of financial and human resources. For some states, the human resource demands associated with setting up post-shipment on-site inspections—and particularly finding, training and retaining the personnel that will carry out the inspections—have been prohibitive. For example, one European state that responded to SIPRI's survey of states' practices noted that it carried out a pilot project but concluded that it did not possess the required financial and human resources to continue with the policy.²³ Officials from other states have also argued that adopting and implementing post-shipment on-site inspections would be challenging for smaller states that do not have significant financial and diplomatic resources available.²⁴

The USA dedicates significant resources to implement three comprehensive post-shipment control programmes that include post-shipment on-site inspections (Blue Lantern, Golden Sentry and Sentinel).²⁵ The Blue Lantern programme alone, whose focus is on items from the US munitions list, conducted 219 post-shipment

¹⁹ Real Decreto 494/2020, de 28 de abril, por el que se modifica el Real Decreto 679/2014, de 1 de agosto, por el que se aprueba el Reglamento de control del comercio exterior de material de defensa, de otro material y de productos y tecnologías de doble uso [Royal Decree 494/2020 of 28 Apr., amending Royal Decree 679/2014 of 1 Aug., approving the Regulation for the control of foreign trade in defence materials, other materials and dual-use items and technologies], 29 Apr. 2020, Anexo VI.23, End-Use certificate Template.

²⁰ United Nations Institute for Disarmament Research (UNIDIR), Conflict Armament Research, and Stimson Center, 'Responding to diversion: Issue 1. Post-shipment verification and cooperation measures', [Apr. 2022].

²¹ Mexican Ministry of Foreign Affairs representative, Interview with authors, 23 Aug. 2022.

²² Mexican Ministry of Foreign Affairs representative (note 21).

²³ SIPRI survey of export licensing officials on on-site inspections, anonymous response, 2021.

²⁴ Bromley, Brockmann and Varisco (note 7), p. 7.

²⁵ US Department of State, Bureau of Political-Military Affairs, Office of Defense Trade Controls Policy, 'US defense trade controls and the Blue Lantern End-use Monitoring Program', Presentation, 2015.

checks in more than 70 countries in 2021.²⁶ The programme employs 10 staff and has an annual budget of nearly US\$2 million. However, states that have adopted a targeted approach are able to manage the process with far fewer resources. Germany and Switzerland typically conduct around 5–10 inspections per year, respectively, and have assigned between one and two officials to organize and conduct the inspections, each of whom spends the majority of their time on the task.²⁷ States that have taken an ad hoc approach are able to conduct inspections without allocating a dedicated official to work full time on the task.

Switzerland uses local embassies and diplomats to facilitate the process of organizing and conducting inspections, taking advantage of on-the-ground knowledge and established contacts.²⁸ In the case of Czechia, embassy personnel are tasked with conducting the actual inspections.²⁹ However, experience indicates that officials with a good knowledge of export controls need to have a central role in the process. Ultimately, states will have to make a national decision about allocating the resources required to adopt and conduct post-shipment on-site inspections. The experience of those states that employ this tool indicates that there are a variety of models that can be adopted depending on the type of approach, the size of the state and the number of officials that the state can assign to the task.

Demonstrating that the benefits outweigh the costs

Post-shipment on-site inspections are an effective way of enabling an exporting state to verify that exported military materiel is still in the possession of the authorized end user.³⁰ However, some states have noted that this information is valid only at the point at which the inspection takes place and does not provide a guarantee that items will not be transferred to an unauthorized end user at a later date. In their view, this suggests that the benefits of the policy tool do not justify the required outlay of financial and political resources.³¹ Research institutes analysing states' use of post-shipment on-site inspections have argued that one way to address this gap between the costs and benefits associated with post-shipment on-site inspections would be to expand the set of objectives they are seeking to achieve to include a focus on ensuring the adoption of improved standards in PSSM.³² Including an explicit focus on PSSM in post-shipment on-site inspections

²⁶ These figures are in line with those reported for the previous year. Due to restrictions related to the Covid-19 pandemic, many of these post-shipment checks—which would ordinarily involve in-person on-site visits—were conducted virtually. US Department of State, Directorate of Defense Trade Controls, 'End-use monitoring of defense articles and defense services: Commercial exports FY 2021', [2022].

²⁷ Arms Trade Treaty, ATT/CSP8/2022/PRES/732/Conf.PostShip (note 18), p. 6; and Plüss, S., Deputy Head, Bilateral Economic Relations and Head of Arms Control and Arms Control Policy Sector at the Swiss State Secretariat for Economic Affairs (SECO), Statement during thematic discussion on post-shipment controls, Arms Trade Treaty, Eighth Conference of States Parties, 22 Aug. 2022.

²⁸ Bromley, Brockmann and Varisco (note 7), p. 7.

²⁹ Varisco, Brockmann and Robin (note 3), p. 13.

³⁰ Arms Trade Treaty, ATT/CSP8/2022/PRES/732/Conf.PostShip (note 18), p. 4.

³¹ Bromley, Brockmann and Varisco (note 7), p. 3.

³² See e.g. Center for Civilians in Conflict, CIP Security Assistance Monitor, and Stimson Center, 'Demystifying end-use monitoring in US arms exports', Issue Brief, [Sep. 2021]; and Lewis and Maletta (note 7).

would mean adding language to the end-user assurances and inspection clause providing commitments concerning PSSM standards in the importing state and permission to verify compliance during a post-shipment on-site inspection. While this might be possible and expand the benefits generated by this policy tool, importing states could potentially view such conditions as an unwarranted intrusion on their domestic security arrangements.³³

Although formally including a focus on PSSM standards in post-shipment on-site inspections could prove challenging, the process of planning and conducting such inspections and any follow-on steps may provide opportunities for dialogue about PSSM-related issues. Switzerland, for example, has noted that, instead of systematically denying future licences when problems are identified, in specific cases there can be opportunities to work together with the importing state to improve PSSM standards.³⁴ Germany has also indicated that a potential follow-on step after an inspection has occurred could be to ‘offer support in helping to prevent future incidents’, which could include training on safe storage of military materiel.³⁵ Another way to integrate a focus on PSSM standards into post-shipment on-site inspections is to draw from lessons learned from the field of PSSM assistance when planning and conducting visits. Notably, the Spanish system of post-shipment on-site inspections foresees the possibility of involving officials that have helped to implement PSSM assistance to advise in the process of planning and conducting on-site inspections.³⁶

Another argument against the adoption and use of post-shipment inspections raised by some states is that they are appropriate and viable to identify and mitigate diversion only for certain kinds of military materiel, such as SALW and specific types of complete weapon systems. For example, applying on-site inspections to exports of parts and components that are going to be integrated into a complete weapon system, which is then re-exported, would be highly challenging given the complexities associated with gaining consent for the relevant inspection visits and then carrying them out. As a result, except for the USA, states that have adopted post-shipment on-site inspections have chosen to use them in connection with certain exports of specific types of military materiel that they deem to be at higher risk of diversion.³⁷

³³ Lewis and Maletta (note 7).

³⁴ UNIDIR, Conflict Armament Research, and Stimson Center (note 20).

³⁵ Arms Trade Treaty, ATT/CSP8/2022/PRES/732/Conf.PostShip (note 18), p. 9.

³⁶ Lewis and Maletta (note 7), p. 7.

³⁷ Bromley, Brockmann and Varisco (note 7).

3. Multilateral bodies and instruments: Past engagement and future options

This chapter provides an overview of how the adoption and use of post-shipment on-site inspections has been debated and enabled both at and by different multilateral bodies and instruments. The chapter focuses on the UN, the ATT, the WA, the OSCE and the EU. It highlights cases in which these bodies and instruments (a) have adopted language emphasizing the value of post-shipment on-site inspections, (b) have been used to exchange information on national approaches to post-shipment on-site inspections, (c) have adopted guidance materials that include a focus on post-shipment on-site inspections, and (d) have been used to exchange information on the outcome of post-shipment on-site inspections. The chapter also offers some preliminary thoughts on the potential scope for further action at and by each of these bodies and instruments, and therefore lays the groundwork for the proposed steps and recommendations outlined in chapter 4.

The United Nations

The UN is the convenor and organizer of a wide range of forums and processes that are focused on arms transfer controls, SALW controls or PSSM standards and practices. Some of the outcome documents of these UN forums and processes have included references to the value and use of post-shipment on-site inspections and post-shipment measures more broadly. These UN forums and processes also potentially provide opportunities to debate and discuss post-shipment on-site inspections. In addition, UN bodies have produced several good practice guidelines on SALW controls and arms transfer controls that refer to the value and use of post-shipment on-site inspections.

The UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in SALW in All Its Aspects (UNPOA) aims to establish and strengthen global norms on SALW controls and has the potential to support the wider adoption and use of post-shipment on-site inspections. The outcome document of the Eighth Biennial Meeting of States (BMS8) on the UNPOA in July 2022, for example, listed a range of measures that states can take to prevent diversion, including ‘where appropriate, and in accordance with applicable bilateral agreements, post-shipment verifications’.³⁸ Similar language has also been included in the UN secretary-general’s report on SALW to the UN Security Council, with the 2021 edition highlighting the need for ‘effective post-delivery measures’.³⁹

More specific language on the use of post-shipment on-site inspections and other post-shipment measures was included in the outcome documents associated with

³⁸ United Nations, General Assembly, Report of the Eighth Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, A/CONF.192/BMS/2022/1, 12 July 2022.

³⁹ United Nations, Security Council, ‘Small arms and light weapons’, Report of the Secretary-General, S/2021/839, 30 Sep. 2021, para. 21.

the ongoing UN process focused on promoting the safety and security of ammunition that was initiated by the UN General Assembly in 2017.⁴⁰ The 2021 outcome document of the Group of Governmental Experts (GGE) on ‘problems arising from the accumulation of conventional ammunition stockpiles in surplus’—established under this process—outlined a number of potential ‘post-delivery measures’.⁴¹ These included ‘physical inspection, proof of delivery (including photographic confirmation), delivery certification, ammunition registry extracts or third-party verification’.⁴² The work of the GGE led to the creation of the Open-ended Working Group (OEWG) on conventional ammunition in December 2021, which has been tasked with establishing ‘a new global framework that will address existing gaps in through-life ammunition management’ and is due to conclude in 2023.⁴³

The meetings associated with these UN forums and processes give states the chance to share views about the value and use of post-shipment on-site inspections and other post-shipment measures. They also allow for the development of connections between the officials responsible for planning and conducting post-shipment on-site inspections and the officials and non-governmental experts engaged in PSSM standard setting and PSSM assistance activities. To date, these opportunities have not been fully utilized. For example, the agendas of BMS8 on the UNPOA in July 2022 and the second substantive session of the OEWG on conventional ammunition in August 2022—as well as the statements made and side events held—indicate that little was presented or discussed with regard to post-shipment on-site inspections.⁴⁴

Since at least 2008, several UN bodies—including the UN Development Programme (UNDP) and the UN Office on Drugs and Crime (UNODC)—have produced good practice documents on arms transfer and SALW controls that include references to the value and use of post-shipment on-site inspections.⁴⁵ The most detailed references to post-shipment on-site inspections appear in the 2014 Modular Small-arms-control Implementation Compendium (MOSAIC) module on national controls over the end use of SALW. The module notes that exporting states ‘may conduct inspections in order to verify that the end-user is abiding by undertakings it made in the end-user certificate or end-user statement’. It then outlines the steps involved in attaching an on-site inspection clause to an export and notes that the inspections can be conducted by ‘officials of the exporting

⁴⁰ United Nations, General Assembly, ‘Problems arising from the accumulation of conventional ammunition stockpiles in surplus’, A/RES/72/55, 12 Dec. 2017. For further detail see United Nations Office of Disarmament Affairs (UNODA), ‘Open-ended Working Group on Conventional Ammunition’, [n.d.].

⁴¹ United Nations, General Assembly, Report of the Group of Governmental Experts established pursuant to General Assembly resolution 72/55 on problems arising from the accumulation of conventional ammunition stockpiles in surplus, A/76/324, 14 Sep. 2021, p. 20.

⁴² United Nations, A/76/324 (note 41), p. 20.

⁴³ UN General Assembly Resolution 76/23, 30 Dec. 2021.

⁴⁴ See e.g. United Nations Office of Disarmament Affairs (UNODA), ‘Programme of Action on Small Arms and Light Weapons: Eighth Biennial Meeting of States’, [n.d.]; and UNODA (note 40).

⁴⁵ See e.g. United Nations Development Programme (UNDP), Bureau for Crisis Prevention and Recovery, *How to Guide: Small Arms and Light Weapons Legislation* (UNDP: Geneva, July 2008), p. 75; and United Nations Office on Drugs and Crime (UNODC), *Technical Guide to the Implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms* (UNODC: Vienna, 2011), p. 73.

State ... contractors hired by the exporting State [or] an independent party, governmental or non-governmental, mutually agreed upon by the exporting and importing States'.⁴⁶ However, most of these documents were released before the expansion in the adoption and use of post-shipment on-site inspections that has taken place over the past few years and would therefore benefit from an update. The 2022 edition of the UN secretary-general's report on SALW to the UN General Assembly recommended that states consider initiating a review of the MOSAIC modules, which would potentially provide an opportunity to update and expand the language on post-shipment on-site inspections.⁴⁷

The Arms Trade Treaty

The ATT is the first legally binding international agreement to establish standards for regulating the international trade in conventional arms and preventing their illicit transfer. As of September 2022, 112 states were party to the ATT and 29 had signed but not yet ratified it. One of the overarching goals of the ATT is to prevent the diversion of arms 'to the illicit market, or for unauthorized end use and end users'.⁴⁸ Most of the steps that the ATT requires or recommends for exporting states to help to prevent diversion are taken during the pre-export phase of a transfer. However, Article 11 on 'diversion' refers to the possibility of exporting and importing states establishing 'mitigation measures such as confidence-building measures or jointly developed and agreed programmes'.⁴⁹ The focus and format of the ATT give it a unique ability to act as a space for exchanging views about the adoption and use of post-shipment on-site inspections and other post-shipment measures.⁵⁰ Documents produced by the Working Group on Effective Treaty Implementation (WGETI) have included references to the value and use of post-shipment on-site inspections, and substantive exchanges of views on the topic were held in connection with the Eighth Conference of States Parties (CSP8) to the ATT in 2022. In addition, new forums and the outcome of CSP8 open the door to further work on both standard setting and information sharing.

States have regularly used ATT CSPs to share information about national practices in the field of post-shipment on-site inspections. At CSP4 in 2018 Germany organized a side event in which it presented the systems it had introduced and relevant lessons learned.⁵¹ A similar side event was jointly organized by Germany

⁴⁶ United Nations, Modular Small-arms-control Implementation Compendium (MOSAIC), 'National controls over the end-user and end-use of internationally transferred small arms and light weapons', MOSAIC 03.21, 2014, pp. 13–14.

⁴⁷ United Nations, General Assembly, 'Assistance to states for curbing the illicit traffic in small arms and light weapons and collecting them and the illicit trade in small arms and light weapons in all its aspects', Report of the Secretary-General, A/77/77, 9 May 2022, para. 53.

⁴⁸ Arms Trade Treaty, opened for signature 3 June 2013, entered into force 24 Dec. 2014, Preamble.

⁴⁹ Arms Trade Treaty (note 48), Article 11.

⁵⁰ The potential for the ATT to act as a forum for developing agreed language and standard setting on post-shipment measures has been widely noted. See e.g. United Nations Institute for Disarmament Research (UNIDIR), *Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion* (UNIDIR: Geneva, 2015), pp. 106–107.

⁵¹ Arms Trade Treaty, 'CSP4 schedule of side events', [n.d.].

and Switzerland at CSP5 in 2019.⁵² In 2021 Canada circulated a questionnaire to ATT states parties and other stakeholders to gather their views on ‘post-delivery verification measures’.⁵³ That same year, the WGETI sub-working group on Article 11 (diversion) included a commitment to discuss ‘post-delivery checks’ in its multi-year work plan, along with the ‘challenges/concerns’ that can arise, and ‘options for strengthening cooperation between exporters and importers’.⁵⁴ These exchanges expanded in 2022 when the German presidency of CSP8 included ‘post-shipment controls’ and ‘on-site verifications’ among the main thematic focuses of the CSP8 cycle.⁵⁵ The German presidency organized side events on ‘post-shipment controls’ at each of the two preparatory meetings held in advance of CSP8 and put a plenary session on ‘post-shipment controls’ on the conference agenda.⁵⁶ The events included presentations on post-shipment controls from both an exporting state perspective (by Canada, Germany and Switzerland) and an importing state perspective (by Mexico), as well as from civil society (by SIPRI and the UN Institute for Disarmament Research, UNIDIR) and industry (by Dynamit Nobel Defence), and enabled a more detailed exchange of information on states’ views and practices.

States parties have included specific references to post-shipment on-site inspections in the different implementation guidelines produced since the ATT entered into force. At CSP4 in 2018 the draft report by the chair of the WGETI included a paper on ‘Possible measures to prevent and address diversion’.⁵⁷ The document outlined steps that could be taken at all stages of the supply chain to prevent diversion. The document listed ‘agreement to on-site inspections’ as one of the optional elements that could be included in the EUC attached to an export.⁵⁸ It also noted that exporting states can conduct ‘post-delivery checks in cooperation with competent authorities in the importing State to verify compliance with end-use conditions’ and that these may include ‘regular on-site visits to verify the ongoing use(r) of the arms’.⁵⁹ In the run-up to CSP8, Germany also presented a ‘Toolbox’ for ‘Post shipment controls and coordination’ in the form of a working paper submitted to states parties.⁶⁰

⁵² German Federal Ministry for Economic Affairs, German Federal Foreign Office and Swiss Federal Department of Economic Affairs, Education and Research, ‘Post-Shipment Verifications: A new instrument of arms export controls’, Invitation to side-event hosted by the governments of Germany and Switzerland, [n.d.].

⁵³ Gallagher, K., ‘The ATT in 2022: Focus on post-shipment controls’, *Ploughshares Monitor*, vol. 43, no. 2 (6 June 2022).

⁵⁴ Arms Trade Treaty, Eighth Conference of States Parties, ‘ATT Working Group on Effective Treaty Implementation: Chair’s draft report to CSP8’, ATT/CSP8.WGETI/2022/CHAIR/733/Conf.Rep, 22 July 2022, para. 34.

⁵⁵ Arms Trade Treaty, ‘President’, [n.d.].

⁵⁶ Arms Trade Treaty, ATT/CSP8/2022/PRES/732/Conf.PostShip (note 18).

⁵⁷ Arms Trade Treaty, Fourth Conference of States Parties, ‘ATT Working Group on Effective Treaty Implementation: Chair’s draft report to CSP4’, ATT/CSP4.WGETI/2018/CHAIR/355/Conf.Rep, 20 July 2018, Annex D.

⁵⁸ Arms Trade Treaty, ATT/CSP4.WGETI/2018/CHAIR/355/Conf.Rep (note 57).

⁵⁹ Arms Trade Treaty, ATT/CSP4.WGETI/2018/CHAIR/355/Conf.Rep (note 57).

⁶⁰ Arms Trade Treaty, ATT/CSP8/2022/PRES/732/Conf.PostShip (note 18).

To date, the ATT has not been used to share information about the outcomes of post-shipment on-site inspections. However, at CSP6 in 2020, states parties established the Diversion Information Exchange Forum (DIEF), ‘a sui generis body for informal voluntary exchanges between States Parties to the Arms Trade Treaty (ATT) and signatory States concerning concrete cases of detected or suspected diversion’.⁶¹ The DIEF, which held its first meeting at CSP8, represents a forum where states parties can discuss national practices and experiences in relation to post-shipment on-site inspections on a confidential basis.

The final report of CSP8 encourages states parties ‘to continue discussing approaches and understandings of “post-shipment controls” or “post-delivery coordination” in the context of diversion control’ and to share ‘experiences regarding the implementation of post-shipment controls/post-delivery coordination measures’ using their reports on treaty implementation, the DIEF, the WGETI (and its sub-working group on Article 11) and future CSPs. Moreover, the mandate of the WGETI sub-working group on Article 11 was extended for another year ‘to enable it to focus on the topic of post-delivery cooperation’.⁶² An earlier draft of the final report encouraged states parties ‘to define a common approach and understanding of the term “post-shipment controls” or “post-delivery coordination”’ and to develop ‘common standards for post-shipment controls’.⁶³ This more ambitious language was removed after states raised concerns that it risked creating obligations that went beyond those explicitly outlined in the text of the ATT. Even so, the ATT remains the most appropriate forum for states to discuss post-shipment on-site inspections, and the language in the final report should ensure that they continue to be a focus of attention. South Korea—which will hold the presidency of CSP9 in 2023—has also indicated that post-delivery cooperation as a tool to prevent diversion and a follow-up to Germany’s suggested toolbox for post shipment controls and coordination would be among the main thematic focuses of CSP9.⁶⁴

The Wassenaar Arrangement

The Wassenaar Arrangement was created in 1996 and seeks to prevent ‘destabilising accumulations’ of conventional weapons and dual-use goods and technologies (i.e. items or technologies that can be used for both civilian and military applications) that could threaten international and regional security and stability.⁶⁵ It also aims to prevent the transfer of such weapons, goods and technologies to terrorists. The WA has 42 participating states—including the 13 that are known to have adopted post-shipment on-site inspections (see chapter 2)—that engage in

⁶¹ Arms Trade Treaty, ‘Diversion Information Exchange Forum (DIEF)’, [n.d.].

⁶² Arms Trade Treaty, Eighth Conference of States Parties, ‘Final report’, ATT/CSP8/2022/SEC/739/Conf.FinRep.Rev2, 26 Aug. 2022, para. 21.

⁶³ Arms Trade Treaty, Eighth Conference of States Parties, ‘Draft final report’, ATT/CSP8/2022/SEC/739/Conf.FinRep, 26 Aug. 2022, para. 21.

⁶⁴ Control Arms, ‘8th Conference of States Parties to the Arms Trade Treaty: Daily summary analysis report’, 26 Aug. 2022.

⁶⁵ Wassenaar Arrangement, ‘About us’, [n.d.].

consensus-based processes of information sharing and standard setting in the field of arms and dual-use trade controls. This includes maintaining the WA's control lists of dual-use goods and technologies and munitions, and drafting and adopting good practice guidelines covering all aspects of arms and dual-use export controls.⁶⁶ These documents inform the export controls of both WA participating states and non-WA participating states and have formed the basis for guidelines adopted by other multilateral forums such as the EU and the OSCE. In addition, the WA has mechanisms of outreach that could be used to share information about states' policies and practices in the field of post-shipment on-site inspections, and mechanisms of information sharing that could be used to exchange information on national experiences of planning and conducting inspections.

Four of the good practice documents that WA participating states have adopted refer to post-shipment on-site inspections.⁶⁷ However, the language used is inconsistent, with different terms (i.e. 'post-shipment controls', 'on-site inspections', 'on-site verification' and 'post-shipment inspection') used in each document to refer to post-shipment on-site inspections. Moreover, the language is limited to indicating that post-shipment on-site inspections are a tool that states can choose to adopt without giving details of how this can be done, the challenges that can arise, and how these challenges can be overcome. In 2016 the WA adopted 'a regular procedure to review and update existing guidance documents' meaning that some or all of these documents should be the subject of consideration for updating and revising in the near future.⁶⁸

Outreach activities by the WA are aimed at raising awareness among non-WA participating states and sharing information on the export controls that WA participating states have put in place with a view to promoting their wider adoption. These activities include 'enhanced technical briefings' for the 45 interested outreach partners, which include significant exporters and importers of controlled items as well as key transit and trans-shipment countries.⁶⁹ WA enhanced technical briefings typically involve 'technical experts and licensing and enforcement officers' from WA participating states.⁷⁰ To date, these events have not been used to share information about states' national policies on post-shipment on-site inspections.

WA participating states have established mechanisms for sharing information on export licence approvals and denials. They also meet regularly in the format of the Licensing and Enforcement Officers Meeting (LEOM) to discuss aspects

⁶⁶ See e.g. Wassenaar Arrangement, List of Dual-Use Goods and Technologies and Munitions List, vol. II, Dec. 2021.

⁶⁷ Wassenaar Arrangement, 'Statement of understanding on implementation of end-use controls for dual-use items', 2007; Wassenaar Arrangement, 'Elements for export controls of man-portable air defence systems (MANPADS)', 2003 (amended in 2007); Wassenaar Arrangement, 'End-user assurances commonly used consolidated indicative list', 1999 (amended in 2005); and Wassenaar Arrangement, 'Introduction to end user/end use controls for exports of military-list equipment', 2014.

⁶⁸ Wassenaar Arrangement, 'Statement issued by the plenary chair on 2016 outcomes of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies', 8 Dec. 2016.

⁶⁹ Wassenaar Arrangement, 'Outreach', [n.d.].

⁷⁰ Wassenaar Arrangement (note 69).

of export control enforcement. States have used the LEOM to share some information about national practices and experiences in the field of post-shipment on-site inspections and have ‘identified a number of valuable lessons learned’.⁷¹ It is unclear whether the WA’s information exchange mechanisms have been used to share information on the outcomes of post-shipment on-site inspections but this remains an option that could be pursued. The confidentiality that applies to information exchange among WA participating states may enhance their willingness to share specific outcomes of such inspections, possibly enabling a more targeted approach to future inspections.

WA participating states include almost all EU member states as well as Russia, Ukraine and the USA. As is the case with many other multilateral forums, the work of the WA has become increasingly difficult in the wake of Russia’s invasion of Ukraine in February 2022. Nonetheless, the body continues to function and is due to hold its next annual plenary in December 2022. If the work of the WA can continue, then it can provide a unique forum in which states could explore the scope for developing good practice guidance on post-shipment on-site inspections, and make available and exchange in confidence information about their national policies and experiences in this field.

The Organization for Security and Co-operation in Europe

The OSCE was established in 1994 as a successor to the Conference on Security and Co-operation in Europe (CSCE). The OSCE has 57 participating states—including the 13 that are known to have adopted post-shipment on-site inspections (see chapter 2)—that engage in a wide range of debates, standard setting and information sharing on economic, security and environmental issues. Through the work of the Forum for Security Co-operation (FSC), the OSCE has played a lead role in establishing normative standards and good practice guidelines in the field of arms transfer and SALW controls. Since 2000, the FSC has adopted several guidelines covering all stages of the life cycle of SALW. Some of these refer to post-shipment on-site inspections as a possible measure to prevent diversion after export.⁷² In 2018 the OSCE initiated a process of revising and updating its set of SALW guidelines.

States also hold meetings in the framework of the FSC to share information about their national control systems. However, to date, it appears that this forum has not yet been used to share information on national practices in post-shipment on-site inspections.

The political tensions and divisions caused or exacerbated by Russia’s invasion of Ukraine in February 2022 have created unprecedented challenges for the work

⁷¹ Arms Trade Treaty, Eighth Conference of States Parties, ‘General debate statement: Ambassador Philip Griffiths, Head of Secretariat Wassenaar Arrangement’, [n.d.].

⁷² See e.g. Organization for Security and Co-operation in Europe (OSCE), Forum for Security Co-operation, 547th Plenary Meeting, Decision no. 5/08 updating the OSCE principles for export controls of MANPADS, FSC.DEC/5/08, 26 May 2008, para. 3.6; and OSCE, Forum for Security Co-operation, 436th Plenary Meeting, Decision no. 5/04 standard elements of end-user certificates and verification procedures for SALW Exports, FSC.DEC/5/04, 17 Nov. 2004.

of the FSC. However, if the body can begin to function effectively again, it would be a useful forum to share information about national experiences on planning and conducting post-shipment on-site inspections, and assessing and exploring how this tool can be integrated into and aligned with other measures for preventing diversion at all stages of the life cycle of SALW. Moreover, the process of updating the set of OSCE SALW guidelines—if it can be restarted—represents a key opportunity for agreeing more specific language on the ways in which post-shipment on-site inspections can be adopted and used.

The European Union

The EU maintains a common legal framework for controls on the export, brokering, transit and trans-shipment of dual-use items and, to a certain extent, military equipment. One of the key elements of this framework is the EU Council Common Position 2008/944/CFSP of 8 December 2008 on the control of arms exports (EU Common Position)—which defines common standards at the EU level with a view to promote the convergence of member states’ arms export control systems—and its accompanying User’s Guide.⁷³ EU member states exchange views about the implementation of the EU Common Position at regular meetings of the Council of the EU’s Conventional Arms Exports subgroup (COARM) of the Working Party on Non-Proliferation and Arms Exports, and share information about licence approvals and denials using a dedicated online platform. COARM has been used as a forum for EU member states to exchange views on the use of post-shipment on-site inspections.⁷⁴ In 2021 the EU initiated the third review of the EU Common Position, which is due to conclude in 2024 and involve discussions about post-shipment on-site inspections.⁷⁵

Neither the EU Common Position nor its accompanying User’s Guide require the adoption of post-shipment on-site inspections. However, both documents do include direct and indirect references to the value of this policy tool. The User’s Guide—although it stresses the importance of the assessments being made at the ‘pre-licensing phase’—mentions on-site inspections as one of the post-shipment measures that may be useful to strengthen efforts against diversion. The guide also invites EU member states to share their knowledge and experience on the implementation of these measures.⁷⁶ Finally, the same document, in the section outlining ‘best practices in end-use/r documentation’, refers to the ‘final consignee/

⁷³ Council of the European Union, ‘Consolidated text: Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment’, 02008E0944, 17 Sep. 2019.

⁷⁴ In Jan. 2022 Germany gave a presentation to COARM on its ‘post-shipment control regime for arms exports’. Council of the European Union, ‘Communication: Notice of meeting and provisional agenda: Meeting of the Conventional Arms Exports subgroup (COARM) of the Working Party on Non-Proliferation and Arms Exports’, CM 1188/22, 14 Jan. 2022.

⁷⁵ Saferworld, ‘European arms export control in a changing European defence landscape’, COARM-NGO Forum, 16 June 2022, Report of discussion, [Aug. 2022], p. 6.

⁷⁶ Council of the European Union, 12189/19 (note 6), p. 9.

end-user agreement to allow on-site verification' as one of the elements that may be required by EU member states as part of their licensing processes.⁷⁷

The end user's commitment to allow post-shipment on-site inspections by the exporting state is also explicitly indicated as an optional element for an EUC in Council Decision (CFSP) 2021/38, adopted in January 2021.⁷⁸ The decision aims to establish a common EU approach on the elements included in an EUC for the export of SALW and their ammunition.

In addition, the EU has put in place resources that EU member states could potentially draw upon for implementing post-shipment on-site inspections and is in the process of establishing the ability to conduct inspections itself. EU member states have the possibility to request the assistance of experts at the non-governmental organization Conflict Armament Research (CAR) in conducting post-shipment verification tasks.⁷⁹ Some EU member states have indicated that they are open to giving the EU a clearer role in post-shipment on-site inspections and other post-shipment measures by having EU missions assist or lead in planning and conducting inspection visits.⁸⁰

The European Peace Facility (EPF) envisages a direct role for the EU in conducting post-shipment on-site inspections of military materiel funded through this mechanism. The EPF was established in March 2021 and is the main source of funding for the EU's external actions in the field of crisis management and conflict prevention with defence and military implications.⁸¹ EPF assistance measures established so far are supporting various partners in sub-Saharan Africa, the Western Balkans and Eastern Europe through the provision of non-lethal military equipment. Since February 2022, in response to Russia's invasion of Ukraine, the EPF has also been used to fund the transfer of lethal military equipment to Ukraine. All these assistance measures foresee different forms of 'monitoring, control and evaluation' that the European External Action Service (EEAS) is tasked with implementing.⁸² Among other things, these include the possibility for the EU, through the EEAS, to conduct 'on-site controls' upon request.⁸³ The requirement 'to grant access to the EEAS for on-site verification' is one of the safeguard and mitigation measures, as well as one of the conditions agreed

⁷⁷ Council of the European Union, 12189/19 (note 6), p. 7.

⁷⁸ Council Decision (CFSP) 2021/38 of 15 Jan. 2021 establishing a common approach on the elements of end-user certificates in the context of the export of small arms and light weapons and their ammunition, *Official Journal of the European Union*, L14, 18 Jan. 2021. The decision uses the term 'post-shipment on-site verification'.

⁷⁹ See e.g. Council Decision 2019/2191 of 19 Dec. 2019 in support of a global reporting mechanism on illicit conventional arms and their ammunition to reduce the risk of their diversion and illicit transfer (iTrace IV), *Official Journal of the European Union*, L330, 20 Dec. 2019.

⁸⁰ Varisco, Brockmann and Robin (note 3).

⁸¹ Council Decision 2021/509 of 22 Mar. 2021 establishing a European Peace Facility, and repealing Decision (CFSP) 2015/528, *Official Journal of the European Union*, L102, 24 Mar. 2021.

⁸² Council of the European Union, 'Timeline: European Peace Facility', [n.d.], accessed 28 July 2022.

⁸³ See e.g. Council Decision 2021/2136 of 2 Dec. 2021 on an Assistance Measure under the European Peace Facility to support the Armed Forces of the Republic of Moldova, *Official Journal of the European Union*, L432, 3 Dec. 2021; and Council Decision 2021/2032 of 19 Nov. 2021 on an assistance measure under the European Peace Facility to support military units trained by the EU Training Mission in Mozambique, *Official Journal of the European Union*, L415, 22 Nov. 2021.

upon, as part of the EPF assistance—specifically in the form of transfers of lethal military equipment—provided to Ukraine.⁸⁴

To date, there are no reports of any post-shipment on-site inspections having taken place, and it remains unclear which EU bodies—aside from the EEAS—would plan and conduct any that do take place in the future and if and how EU member states would be involved. It is also uncertain how cooperation and coordination would be established between the EU and the EU member state from which the EPF-funded military materiel has been exported. Coordination between these two actors in defining and implementing end-user assurances with the beneficiaries of the assistance measures will prove particularly important to avoid overlaps and maximize available resources.⁸⁵ Were the EU able to manage this process in an effective way and develop the ability to conduct post-shipment on-site inspections, then there is a potential for it to play a more active role in supporting EU member states in this field, possibly beyond the implementation of assistance measures under the EPF.

⁸⁴ Council of the European Union, ‘Concept note for an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force’, 6661/22, 27 Feb. 2022.

⁸⁵ Maletta and Héau (note 4).

4. Options for debating and enabling the adoption and use of post-shipment on-site inspections

Chapter 2 highlighted some of the key barriers and concerns that are limiting the wider adoption and use of post-shipment on-site inspections as a means for helping states to prevent and mitigate the diversion of exported military materiel. It also identified some of the responses that have been adopted or could be adopted at the national level to overcome these barriers. Many of these responses are steps that states would need to take at the national level. However, in several cases action at or through relevant multilateral bodies and instruments would be needed to help to identify or promote responses and solutions. Chapter 3 provided an overview of steps that have already been taken at or through relevant multilateral bodies and instruments to exchange views and develop good practices with regard to post-shipment on-site inspections. It also made an initial assessment of some of the hurdles that would need to be overcome for action to be taken in each of these bodies and instruments.

Building on chapters 2 and 3, this chapter outlines a set of six steps (along with relevant recommendations) that could be taken at the multilateral level both to debate and to enable the adoption and use of post-shipment on-site inspections. The six steps are as follows:

- A. Adopt common language endorsing post-shipment on-site inspections.
- B. Hold exchanges of views on the use and value of post-shipment on-site inspections and other post-shipment measures.
- C. Revise and develop good practice guidance materials for post-shipment on-site inspections.
- D. Explore ways in which the EU could support or conduct post-shipment on-site inspections.
- E. Build links between communities and processes associated with PSSM assistance and post-shipment on-site inspections.
- F. Share information between states about the adoption and use of post-shipment on-site inspections and the outcomes of inspection visits.

The steps are aimed at achieving three overarching goals. These are (a) to continue to explore the costs and benefits of post-shipment on-site inspections, (b) to provide support to states that are considering adopting and using post-shipment on-site inspections, and (c) to ensure that states that use this policy tool do so in a way that builds trust and confidence and helps to prevent diversion. For each step, the chapter presents a set of recommendations that could be adopted by states, research institutes, or the secretariats or executives of relevant multilateral bodies or instruments. The chapter does not suggest a particular sequence for these steps or a time frame within which they should occur. The steps are intended to be

mutually reinforcing and it is assumed that the sequencing will be determined by the availability of the political will and the financial resources needed to take them forward. However, to help to guide future work this policy paper includes a timeline outlining the dates of some of the main meetings and events that are mentioned in the six steps (see appendix A).

A. Adopt common language endorsing post-shipment on-site inspections

An important step towards the broader awareness and understanding of the use and value of post-shipment on-site inspections is the adoption of language in the outcome documents of key forums and international instruments that endorses the use of this policy tool. Language referencing the value of post-shipment on-site inspections has been included in documents adopted in the context of the ATT, the GGE and the OEWG on conventional ammunition and the UNPOA as well as in the UN secretary-general's reports on small arms. States and research institutes could look for ways to support these efforts so that they not only continue but also expand to other relevant venues where outcome documents dealing with issues related to SALW controls and arms transfer controls are agreed.

As part of this process, states and research institutes could consider adopting and using a common set of terms to describe post-shipment on-site inspections. As previously noted, the wide variety of terms used to describe 'post-shipment on-site inspections' often creates a lack of clarity about which policy tool is being discussed. Moreover, use of terms such as 'inspection' and 'verification' may not necessarily be conducive to encouraging the type of cooperation between exporting and importing states that effective policies and practices in this field require. One possible approach could be to use the following formulation: in-country checks of some/all of the exported military materiel conducted in cooperation with the importing state.

Whatever language is used, states should also emphasize that post-shipment on-site inspections need to be framed as a collaboration between the exporting and importing states that is intended to contribute towards broader processes of preventing and responding to post-shipment diversion of military materiel.

Recommendations

1. States and research institutes could seek to promote the inclusion of clear and consistent language noting the value of post-shipment on-site inspections in the outcome documents of future meetings of the UNPOA, the final report of the OEWG on conventional ammunition and the next edition of the UN secretary-general's report on small arms.

2. Interested states and research institutes could initiate a discussion aimed at formulating a common terminology for describing 'post-shipment on-site inspections' and situating them among the wider set of post-shipment measures for preventing diversion.

3. Once such a common language is agreed, states and research institutes could seek to ensure that it is used in documents adopted by relevant bodies, such as the ATT's WGETI, the WA's Secretariat and the EU's COARM sub-working group.

B. Hold exchanges of views on the use and value of post-shipment on-site inspections and other post-shipment measures

A crucial step in terms of building awareness and understanding with regard to the use and value of post-shipment on-site inspections is the exchange of information between states about their national practices and views on this issue. Such exchanges should integrate the perspectives of exporting and importing states as well as those of industry and research institutes. They could be a useful means of (a) building understanding between exporting and importing states about the goals of post-shipment on-site inspections, and (b) contributing to the process through which exporting states can design policies that take importing states' concerns into account. Germany and Switzerland have published details of their policies and practices—providing information on the number of inspections conducted, the resources involved, and how particular challenges were addressed—and exchanges of views between a number of states have taken place in connection with the ATT.⁸⁶ These efforts should continue but could also be expanded. This could involve holding exchanges of views at or on the sidelines of other UN and non-UN processes where SALW and arms transfer controls are discussed. Examples of relevant non-UN processes beyond those already discussed in this paper include the 1997 Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA) and the 2006 Economic Community of West African States (ECOWAS) Convention on SALW, their Ammunition and Other Related Materials.⁸⁷

One way to ensure that these exchanges are as fruitful as possible would be to integrate discussions about post-shipment on-site inspections into a wider assessment of the range of post-shipment measures that can help to prevent diversion (see box 4.1 for a non-exhaustive list of measures). There is an active discussion—particularly within the ATT—about the steps that states can take at the pre- and post-shipment phases to prevent diversion from occurring.⁸⁸ However, so far, these discussions have been kept largely separate from those focused on post-shipment on-site inspections. An option to bridge this gap would be to conduct a series of tabletop exercises to explore different arms transfer scenarios and discuss how

⁸⁶ See e.g. Swiss Federal Department of Economic Affairs, Education and Research (note 5); and German Federal Ministry for Economic Affairs and Climate Action (note 5).

⁸⁷ Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA), adopted 14 Nov. 1997, entered into force 1 July 1998; and Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, their Ammunition and Other Related Materials, adopted 14 June 2006, entered into force 29 Sep. 2009.

⁸⁸ See e.g. Wood, B., *The Arms Trade Treaty: Assessing its Impact on Countering Diversion* (United Nations Institute for Disarmament Research: Geneva, 24 Aug. 2022).

Box 4.1. Selection of possible post-shipment measures

Post-shipment measures that could help to prevent diversion of authorized exported military materiel include the following:

- Requiring and receiving delivery verification certificates (DVCs).
- Monitoring open-source media for reports of diversion.
- Collecting information through national embassies abroad on reports of diversion.
- Requiring/requesting that the exporting company report suspected or confirmed cases of diversion.
- In-country checks of some/all of the exported military materiel conducted in cooperation with the importing state.
- Joint physical security and stockpile management (PSSM) exercises conducted in cooperation with the importing state.

to address diversion risks using various post-shipment measures. Such a process would enable a fuller discussion about the range of post-shipment measures that are available and the instances in which post-shipment on-site inspections are appropriate.

Recommendations

1. States that conduct post-shipment on-site inspections could publish and share detailed information about their policies, practices and experiences in this field including the number of inspection visits conducted, particular challenges encountered and how they were addressed.

2. WA participating states could make use of future ‘enhanced technical briefings’ to outline their policies and practices in the field of post-shipment on-site inspections. They could also use the opportunity to invite feedback from importing states on the challenges that importing states might face in complying with requests related to post-shipment on-site inspections and on how these could potentially be mitigated when exporting states design and implement their programmes.

3. The chair of the ATT’s WGETI could seek to facilitate a substantive exchange of views about the adoption and use of post-shipment on-site inspections and other post-shipment measures in future meetings of the sub-working group on Article 11 (diversion).

4. States and research institutes could organize side events at future meetings connected to the ATT, the UNPOA, the OEWG on conventional ammunition, CIFTA and the ECOWAS Convention to discuss the adoption and use of post-shipment on-site inspections and other post-shipment measures.

5. States and research institutes could conduct tabletop exercises involving representatives of exporting states, importing states and industry to explore different arms transfer scenarios and the potential role of post-shipment on-site inspections and other post-shipment measures in mitigating risks of diversion.

C. Revise and develop good practice guidance materials for post-shipment on-site inspections

As in other areas of export controls, an important factor for helping to ensure the wider adoption and use of post-shipment on-site inspections is the development and promotion of guidance documents. This could create a broader understanding and awareness of this policy tool as a key aspect of a state's export control system and could potentially reduce the start-up costs associated with its adoption by providing successful and affordable examples of how to implement the tool. Several guidance documents produced by or within the ATT, the EU, the OSCE, the UN and the WA refer to post-shipment on-site inspections and suggest some basic steps that states should consider with regard to their adoption and implementation. However, the references are limited and were drafted before the expansion in the use of post-shipment on-site inspections that has taken place over the past few years. Current knowledge and experience were outlined in the working paper circulated by Germany in advance of CSP8 and in a good practice guide that SIPRI published in August 2022.⁸⁹ These documents could form the basis for a process of integrating more substantive language into guidance documents on how to adopt, request and conduct post-shipment on-site inspections and to take follow-on steps after they have concluded.

The process of making these revisions could be supported by tabletop exercises of the type outlined above (step B), but which would be more narrowly focused on planning and conducting post-shipment on-site inspections. This would help to identify the key challenges that can arise and to develop language that specifies the different ways that they can be overcome. When drafting this language and revising existing good practice documents or adopting new ones, states could emphasize the variety of approaches that can be taken in the field of post-shipment on-site inspections. They could also highlight that they are one of a wider range of post-shipment measures that exporting states can take unilaterally or in partnership with the importing state to prevent diversion, and note that they may be more appropriate for specific exports of certain types of military materiel. Finally, states could seek to apply a common set of terms for describing post-shipment inspections and other post-shipment measures as described in the recommendations for step A.

Recommendations

1. EU member states and WA participating states could hold tabletop exercises (e.g. before, during or after a meeting of the EU's COARM sub-working group or WA plenary or preparatory meeting) focused on the steps involved in planning and conducting a post-shipment on-site inspection.
2. WA participating states could review and revise the four existing WA guidance materials that refer to post-shipment on-site inspections. They could

⁸⁹ Arms Trade Treaty, ATT/CSP8/2022/PRES/732/Conf.PostShip (note 18); and Varisco and Bromley (note 7).

also produce a new standalone good practice document focused on planning and conducting post-shipment on-site inspections.

3. As part of the review of the EU Common Position, the EEAS and EU member states could agree on more developed and specific language on post-shipment on-site inspections and integrate it into a revised version of the User's Guide.

4. As part of a possible review of the MOSAIC modules, the UN could revise and update the language on post-shipment on-site inspections contained in the module on 'national controls over the end use of SALW'. The OSCE's FSC, the UNODC and the UNDP could also review and revise the language on post-shipment on-site inspections in their SALW guidelines.

5. EU member states, WA participating states and/or the OSCE's FSC could consider developing a new EUC template that includes clearer language on post-shipment on-site inspections and builds on the experience of states that have adopted this tool.

D. Explore ways in which the EU could support or conduct post-shipment on-site inspections

One way to improve the ability of states with more limited resources to conduct post-shipment on-site inspections is to have external experts or multilateral bodies conduct them on their behalf. This could entail an exporting state (a) asking non-governmental experts to either assist or lead the process of planning and conducting an on-site inspection on its behalf, or (b) drawing upon the resources, diplomatic representation or expertise of another state or regional organization. Drawing upon external expertise to facilitate the implementation of a key aspect of export controls may be sensitive for the exporting and importing states involved. However, if handled correctly, it could have benefits both for exporting states and for importing states (i.e. by giving them a single interlocutor to deal with when planning and conducting inspections for exports from multiple suppliers). While the prospect of using external expertise to assist with post-shipment on-site inspections appears limited in most parts of the world, there is an increased willingness on the part of the EU institutions to take a direct role in this area and an interest—at least on the part of certain EU member states—for this to happen.

Through the creation of the EPF, the EU has expressed an ambition to plan and conduct post-shipment on-site inspections, but the modalities of how that could take place have yet to be defined. The EU and EU member states should pay careful consideration to how this type of inspection would work and ensure that such inspections are conducted in a way that adds value and helps to prevent post-shipment diversion. Tabletop exercises of the type outlined in the recommendations for step B could again play an important role here by helping the EU and EU member states to identify and address the challenges that could arise at each stage of this process. In addition, the review of the EU Common Position offers an opportunity to reflect more broadly within the EU on post-shipment on-site inspections. This could include leading or contributing towards discussions about

developing common language and good practices for describing and conducting post-shipment on-site inspections (see steps A and C). It could also include an assessment of the extent to which the EU could help EU member states with planning and conducting post-shipment on-site inspections along with a mapping of how this would work in practice and the level of interest among EU member states of having it perform this role. One option would be for EU member states to have the possibility of inserting a clause in their EUCs that would give permission to representatives of the EEAS to conduct post-shipment on-site inspections. In this way, EU member states could choose to attach an on-site inspection clause to a particular export, but the responsibility for planning and conducting any actual inspection would fall to the EU.

Recommendations

1. The EEAS could outline a set of procedures detailing how it would conduct post-shipment on-site inspections for weapons delivered under the EPF. This should include mapping the resources and expertise that the EU has at its disposal that would be of relevance for planning and conducting post-shipment on-site inspections.

2. The EEAS could hold a tabletop exercise specifically focused on how to plan and conduct a post-shipment on-site inspection for military materiel delivered under the EPF. The exercise should seek to simulate the steps that would need to take place and identify how to ensure effective coordination between the EU institutions and the authorities of the EU member state supplying the military materiel.

3. As part of the review of the EU Common Position, the EEAS could initiate a discussion about what role the EU could play in supporting the implementation of post-shipment on-site inspections.

E. Build links between communities and processes associated with PSSM assistance and post-shipment on-site inspections

More could potentially be done to expand the focus of post-shipment on-site inspections to include improving PSSM standards. Creating formal obligations and requirements on this set of issues could be sensitive. However, there might be scope for building more informal processes and connections. These efforts could be supported at the multilateral level by building links between the governmental and non-governmental experts associated with post-shipment on-site inspections and those connected with PSSM standard setting and PSSM assistance activities. Where applicable, PSSM assistance programmes could also be entry points that could be used to promote the use of on-site inspections (e.g. through the introduction of modules and presentations on the topic). In this context, PSSM assistance programmes could provide venues and opportunities for exporting and importing states to discuss jointly issues relating to the adoption and use of post-shipment on-site inspections. Conversely, post-shipment on-site inspections could provide an avenue for exporting states to make importing states aware

of the availability of PSSM assistance that could address any issues that might become apparent during an inspection.

Recommendations

1. States that are conducting post-shipment on-site inspections could seek to involve national and non-governmental experts with experience of implementing PSSM assistance activities in the processes associated with planning and conducting post-shipment on-site inspections.

2. Key funders and implementers of PSSM assistance activities could explore ways of integrating elements related to post-shipment on-site inspections into their modules and presentations in which states that have adopted the tool could present their policies and practices.

3. States and research institutes could organize side events focused on post-shipment on-site inspections at forums where PSSM standards and PSSM assistance activities are the focus of attention—such as the meetings connected to the UNPOA and the OEWG on conventional ammunition—to encourage and further explore connections between these two policy areas.

F. Share information between states about the adoption and use of post-shipment on-site inspections and the outcomes of inspection visits

Building trust and confidence between exporting and importing states should continue to be a key emphasis for national practices in the field of post-shipment on-site inspections. Nonetheless, it remains the case that a crucial benefit that this policy tool generates is helping to identify actual or potential cases of diversion. Thus an important way to demonstrate the benefits of adopting and conducting post-shipment on-site inspections is to share information about the outcomes of requests to conduct inspection visits and of the inspection visits themselves. States have indicated that such information is already being exchanged through the information-sharing channels established by the EU and the WA.⁹⁰ However, in certain cases (and with adequate preparation), it should also be possible for larger forums that include exporting and importing states—and particularly the ATT's DIEF—to be used for this purpose. This would help to share information about potential and actual risks of diversion, build awareness of the potential benefits of post-shipment on-site inspections, and build trust between exporting and importing states.

Recommendations

1. EU member states and WA participating states could continue to use meetings of the EU's COARM sub-working group and the WA's LEOM to present and discuss national experiences of the adoption and use of post-shipment on-site inspections.

2. EU member states and WA participating states could use the secure channels created for sharing information on licence approvals and denials to provide

⁹⁰ See e.g. Varisco, Brockmann and Robin (note 3), p 14.

information about cases of planned or conducted post-shipment on-site inspections that led to the identification and/or mitigation of actual or potential risks of diversion.

3. ATT states parties could use meetings of the ATT's Dief to exchange information about actual cases of planned or conducted post-shipment on-site inspections that led to the identification and/or mitigation or diversion risks.

Appendix A. Timeline of key events of relevance to post-shipment on-site inspections and possible actions, 2022–24

2022

Q4 2022. Ongoing review of the 2008 European Union (EU) Common Position on arms exports. *Action:* Organize a tabletop exercise at the EU's Conventional Arms Exports subgroup (COARM) of the Working Party on Non-Proliferation and Arms Exports on the steps involved to plan and conduct a post-shipment on-site inspection. *Action:* Review and revise the language on post-shipment on-site inspections in the User's Guide that accompanies the EU Common Position.

December 2022. Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (WA) plenary meeting. *Action:* Initiate a process of reviewing the various best practice documents that mention 'on-site verification', 'on-site controls' or 'on-site inspections'. *Action:* Hold a tabletop exercise on how to conduct post-shipment on-site inspections.

December 2022 (to be determined). United Nations secretary-general's report on small arms. *Action:* Include a more specific reference to the value of post-shipment on-site inspections and their role in promoting post-shipment cooperation and preventing diversion.

2023

2023 (to be determined). Meeting of states parties to the 1997 Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA). *Action:* Raise the topic of post-shipment on-site inspections (e.g. through side events) and encourage dialogue between states.

2023 (to be determined). Regional Coordination Meeting of the National Commissions on Small Arms of the Economic Community of West African States (ECOWAS). *Action:* Raise the topic of post-shipment on-site inspections and encourage dialogue between states.

Q1/Q2 2023. Preparatory meetings in advance of the Ninth Conference of States Parties (CSP9) to the 2013 Arms Trade Treaty (ATT). *Action:* Integrate clearer language on post-shipment on-site inspections in the various guidelines produced by the Working Group on Effective Treaty Implementation (WGETI). *Action:* Exchange information on the outcomes of post-shipment on-site inspections in meetings of the Diversion Information Exchange Forum (DIEF).

*13–17 February 2023. **Third substantive session of the Open-ended Working Group (OEWG) on conventional ammunition.** Action:* Integrate language on post-shipment on-site inspections into the outcome document. *Action:* Organize side events on post-shipment on-site inspections.

*21–25 August 2023. **CSP9 to the ATT.** Action:* Include an exchange of views on post-shipment on-site inspections in the agenda of the meeting. *Action:* Exchange information on the outcomes of post-shipment on-site inspections in meetings of the DIEF.

*December 2023. **WA plenary meeting.** Action:* Continue the process of reviewing the various best practice documents that mention ‘on-site verification’, ‘on-site controls’ or ‘on-site inspections’.

2024

*2024 (to be determined). **Review of the Council Decision establishing the European Peace Facility (EPF).** Action:* Hold a tabletop exercise on planning and conducting a post-shipment on-site inspection for military materiel delivered as part of the EPF. *Action:* Identify measures to ensure effective coordination between the EU and EU member states.

*Q2 2024 (to be determined). **Fourth Review Conference of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UNPOA).** Action:* Organize side events on the topic of post-shipment on-site inspections and explore synergies with physical security and stockpile management (PSSM). *Action:* Initiate a process of integrating clearer language on post-shipment on-site inspections in the relevant Modular Small-arms-control Implementation Compendium (MOSAIC) guidelines.

Post-shipment On-site Inspections: Multilateral Steps for Debating and Enabling Their Adoption and Use

Among the key tools that states that export arms and military equipment can adopt to help to prevent and mitigate the diversion of military materiel are post-shipment on-site inspections. These inspections involve the exporting state requiring and conducting physical checks on previously authorized and transferred military materiel on the territory of the importing state. In the past decade a growing number of states have adopted and implemented this policy tool. In addition, some multilateral bodies and instruments—including forums connected to the 2013 Arms Trade Treaty, the European Union and the United Nations—have been used to exchange views on the use of post-shipment on-site inspections and to develop related good practice guidelines.

The wider use of post-shipment on-site inspections could help to prevent diversion of military materiel and reduce the human suffering that this generates, but several barriers and challenges appear to be blocking their broader adoption. This SIPRI Policy Paper reviews these barriers and challenges, and summarizes the steps that have been taken at the national level to address them. The paper then examines the steps that have been taken and that could be taken at the multilateral level to expand discussion about post-shipment on-site inspections and help to support those states that are considering adopting this policy tool. For each step, the policy paper presents a series of recommendations that could be taken forward by states, research institutes, or the executives or secretariats of relevant multilateral instruments or bodies.

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