SIPRI Policy Brief
December 2021

POST-SHIPMENT ON-SITE INSPECTIONS OF MILITARY MATERIEL: CHALLENGES AND RESPONSES

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SUMMARY

● Post-shipment on-site inspections enable a state to perform checks on exported military materiel after they have been delivered. This SIPRI Policy Brief is intended to inform the various national processes currently underway that are connected to the adoption and implementation of on-site inspections as well as ongoing discussions within the Arms Trade Treaty about their role in helping to prevent diversion of military materiel.

The brief examines the concerns raised and challenges encountered by states in connection with adopting, requiring, and conducting on-site inspections and provides examples of practices that have been used in response. The brief also outlines how on-site inspections can be adopted and deployed in ways that help to promote cooperation between exporters and importers in preventing diversion of military materiel.

INTRODUCTION

Post-shipment on-site inspections of military materiel enable a state to perform checks on exported items after they have been delivered.[1] They are one of a range of pre- and post-shipment controls which states can use to help prevent the diversion of exported military materiel to unauthorized end-users and for unauthorised end-uses.[2] In recent years, a growing number of states have adopted or expanded their use of on-site inspections. Aside from the United States—which has long had the most wide-ranging policies and practices for on-site inspections and post-shipment controls—at least eight states have provisions that allow for their use and have carried out at least one inspection (Bulgaria, Czechia, Germany, Latvia, Slovakia, Romania, South Africa and Switzerland).[3] In addition, Spain and Sweden have recently created new provisions for on-site inspections.[4] Other states

[1] German Federal Ministry for Economic Affairs and Energy, 'Key points for the introduction of post-shipment controls for German arms exports', 8 July 2015.

[2] For information on on-site inspections and other controls see 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.

[3] SIPRI survey of export licensing officials on on-site inspections, responses of Bulgaria, 9 Aug. 2021; Czechia, 26 July 2021; Germany, 29 July 2021; Latvia, 28 June 2021; Romania, 23 July 2021; Slovakia, 23 July 2021; and Switzerland, 15 July 2021. See also South African Department of Defence, 'National Conventional Arms Control Act, 2002: National Conventional Arms Control Regulations', *Government Gazette*, 20 Apr. 2012, Annexure B; and Open Secrets, *Profiting from Misery: South Africa's Complicity in War Crimes in Yemen* (Open Secrets: Cape Town, Mar. 2021), pp. 67–70.

[4] Spanish Ministry of the Presidency, '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 April, amending Royal Decree 679/2014 of 1 August, approving the regulations for the control of foreign trade in defence materials, other materials and dual-use items and technologies], 28 Apr. 2020; and Swedish Ministry of 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]', Factsheet, Nov. 2021.

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have provisions in place but have yet to use them, while others have either not considered the possibility or have decided, at least for the time being, against the use of this type of control. The role of on-site inspections in helping to prevent diversion has also become a focus of discussion in the framework of the 2013 Arms Trade Treaty (ATT) and is one of the main focuses of the German presidency of the eighth Conference of States Parties (CSP) to the ATT which is due to take place in August 2022.[5]

This SIPRI Policy Brief is intended to inform national debates about the use of on-site inspections and discussions in different multilateral and regional frameworks, including the ATT. Its content and findings draw from a survey of states' views and practices and a series of key informant interviews.[6] The brief presents an overview of the concerns raised and challenges encountered by states in connection with on-site inspections by focusing on three key areas: (*a*) adopting on-site inspections by creating provisions at the policy level that allow states to attach inspection clauses to exports of military materiel; (*b*) requiring on-site inspections by connecting an inspection clause to a specific export of military materiel to a particular destination; and (*c*) triggering an inspection clause and conducting an on-site inspection in the importing state. In each case, the brief provides examples of practices that have been used to address these concerns and challenges. The final section presents conclusions and recommendations that focus on how on-site inspections can help to promote cooperation between exporters and importers in preventing diversion of military materiel.

ADOPTING ON-SITE INSPECTIONS

In recent years several states that do not have on-site inspection provisions have examined concerns over and obstacles to their adoption. One of the concerns raised has been whether the state's laws and regulations on export controls allow for the use of on-site inspections or would require amendments. For example, in response to the SIPRI survey, one official noted that their current national legislation 'does not grant officials the authority to undertake on-site inspections'.[7] In the United Kingdom, commentators have argued that the UK's adoption of on-site inspections would imply integrating principles of extra-territoriality into its export controls.[8] These discussions often reference the US approach to on-site inspections and post-shipment controls, which essentially encompasses controls on any exports of military materiel to all destinations and end users, albeit prioritizing certain types of materiel

[5] Arms Trade Treaty (ATT), opened for signature 3 June 2013, entered into force 24 Dec. 2014. ATT Secretariat, 'President', [n.d.].

[6] Surveys were sent in July 2021 to export licensing officials in 38 states, comprising the 27 European Union member states and a selection of 12 other states. Completed responses were provided by 21 states during July and August 2021. In certain cases states requested that their response—or a particular part of their response—be made anonymous. Responses from countries wishing to keep part or all of their response anonymous have been coded numerically. To retain anonymity, the exact date of the response is not indicated.

[7] SIPRI survey (note 3), anonymous response (1).

[8] 'A British "Blue Lantern": Would it work?', WorldECR, 6 Nov. 2018.

and destinations. This approach is grounded within a broader context in which the USA seeks to assert the extra-territorial application of aspects of its export controls and sanctions tools, by making foreign nationals and businesses subject to their provisions.[9] However, other states that have adopted on-site inspections—including Czechia, Germany and Switzerland—have done so without making major changes to their export control legislation and without embracing wider principles of extra-territoriality. This has been achieved by requiring that an importing state provides a written commitment that inspections can take place when an export licence for the transfer of military materiel to that state is being issued. This commitment can be provided by including it in the end-user assurances that are typically listed in the end-user certificate (EUC) that importing states sign and which the exporter attaches to the export licence application.[10] It can also be provided by the importing state issuing a separate written assurance to the exporting state.[11]

A more fundamental concern relates to whether on-site inspections help to prevent cases of diversion. In response to the SIPRI survey, one official noted that on-site inspections only provide a snapshot of the presence of the inspected materiel at the time of examination.[12] However, representatives of several states that have implemented on-site inspections indicated that the information collected informs an assessment that goes beyond confirming the presence of exported military materiel and is valuable for reducing subsequent diversion risks.[13] The process of planning and conducting an on-site inspection builds confidence between exporting and importing states, and provides an opportunity to probe whether the recipient state can account for and present the exported arms, as well as supply adequate documentation on any possible losses.[14] This information can lead to a decision to conduct additional visits or indicate a need for further engagement or possible capacity building in the areas of physical security and stockpile management (PSSM) and record-keeping. Conversely, a refusal to allow an inspection visit to take place can guide the state's export licensing risk assessments and be shared with other states via, for example, the systems of information exchange established through the European Union (EU) and the Wassenaar Arrangement on Export Controls for Conventional Arms and

[9] For example, under US export controls military materiel exported from the USA remains subject to US licensing requirements throughout its lifecycle. See Voetelink, J., 'Limits on the extraterritoriality of United States export control and sanctions legislation', eds R Beeres et al., *NL ARMS Netherlands Annual Review of Military Studies 2021* (Asser Press: Berlin, 2022), pp. 187–21.

[10] See Organization for Security and Co-operation in Europe, End User Certificate for Small Arms and Light Weapons, 28 Sep. 2011.

[11] See Varisco, Brockmann and Robin (note 2), p. 13.

[12] SIPRI survey (note 3), anonymous response (3).

[13] Swiss State Secretariat for Economic Affairs (the Swiss national export licensing authority) representatives, Interview with authors, 7 Oct. 2020; German Federal Office for Economic Affairs and Export Control (BAFA) official, Interview with authors, 8 Oct. 2020.

[14] Swiss State Secretariat for Economic Affairs representatives, Interview with authors, 7 Oct. 2020; and German BAFA official, Interview with authors, 8 Oct. 2020.

Dual-use Goods and Technologies (Wassenaar Arrangement).[15]

Aside from the USA, most states that have adopted on-site inspections have also sought to focus their attention on certain types of military materiel where cases of diversion are more readily apparent and detectable. For example, when adopting on-site inspections, Germany decided that they would initially—during a pilot phase—be applied only to exports of small arms and light weapons (SALW) and certain firearms.[16] Following the assessment of the pilot phase, Germany removed this restriction with a view to expanding the application of on-site inspections to other war weapons including major weapons.[17] In the case of Czechia, on-site inspections are focused on armoured vehicles, fixed-wing aircraft and helicopters.[18] States have also focused their attention on destinations where the risk of diversion is deemed to be particularly high. For example, Czechia uses the controls only when the situation requires it, which is typically not the case for EU and North Atlantic Treaty Organization (NATO) members or similar destination countries.[19] Similarly, Germany exempt EU and NATO members and the newly adopted Swedish model will exclude 'traditional partner countries'.[20] States and regions that do not produce and export SALW or complete weapon systems to destinations where risks of diversion are high have been more disinclined about adopting on-site inspections. For example, in response to the SIPRI survey, officials in the Belgian region of Flanders noted that using on-site inspections in connection with exports of components for incorporation in other EU or NATO states—which form the bulk of the region's exports—would not be 'feasible or pertinent'.[21]

REQUIRING ON-SITE INSPECTIONS

A state that has introduced on-site inspection provisions has to decide in which specific cases to use them and to seek assurances from an importing state that inspections can take place. The broader considerations, outlined above, regarding the types of military materiel and destinations where the tool is appropriate, can inform this process but it is also necessary to have a procedure for identifying the specific exports where assurances are required. Most states have assigned this responsibility to an existing interagency body already involved in export controls, often comprising representatives from the ministries of trade, economy,

[15] See Varisco, Brockmann and Robin (note 2), p. 14.

[16] German Federal Ministry for Economic Affairs and Energy (note 1).

[17] German Federal Foreign Office, 'Mehr Kontrolle für Rüstungsexporte' [More control over arms exports], 16 June 2021.

[18] See Varisco, Brockmann and Robin (note 2), p. 13.

[19] Czech Ministry of Foreign Affairs representative, Interview with authors, 16 Sep. 2020.

[20] SIPRI survey (note 3), response of Germany, 29 July 2021; and Swedish Inspectorate of Strategic Products, 'Utredning om efterkontroller i utlandet' [Investigation of follow-up inspections abroad], 29 Mar. 2018, pp. 32, 49–50.

[21] SIPRI survey (note 3), response of Belgian region of Flanders, 20 Aug. 2021. In Belgium licences for arms exports are issued on the regional level (the Flemish, Walloon and Brussels-Capital region); only licences for exports by the armed forces and the police are issued on the federal level.

foreign affairs, and defence.[22] Those bodies generally require inspections on a case-by-case basis, considering factors often relating to the sensitivity of the product and the situation in the country of destination.[23] For example, Switzerland has compiled a 'country–risk matrix' classifying destination countries into four categories according to criteria such as diversion risks and previous cases, armed conflict, domestic and regional stability, the human rights situation and the danger of the respective war material being used against the civilian population in the country.[24] Meanwhile, in its assessment procedure, Bulgaria takes into account relevant information regarding the end use and end user, such as reports of United Nations sanctions committees and non-governmental organizations (NGOs), and information shared by EU partners.[25]

The main concern raised in connection with the process of requiring on-site inspections—both in states that have adopted on-site inspections and in those that have considered doing so—is that the importing state could refuse to provide an assurance that an inspection can take place. Of the states that responded to the SIPRI survey, only one indicated that an end user had refused a request to add an inspection clause to an export.[26] However, there are other reports of requests being refused or a source of tension. In 2009 India reportedly reacted negatively to the US decision to attach on-site inspection clauses to exports of military materiel on the grounds that they constituted an 'infringement of sovereignty'.[27] In 2020 there were reports that some of the main recipients of exports of military materiel from South Africa had rejected the inclusion of inspection clauses and were threatening to change to a different arms supplier. This prompted a warning from a South African defence industry association that this could 'threaten the sector's survival'.[28] In 2021 it was reported that one 'state from the Arab region' had abandoned the procurement of German-made weapons because of a requirement to agree to on-site inspections.[29]

Numerous steps can be taken to reduce the tensions associated with requiring importing states to agree to on-site inspections and to build trust. One step could be to 'reframe' language about on-site inspections and focus less on 'controls' and 'monitoring' and more on 'post-delivery cooperation'.[30]

[22] SIPRI survey (note 3), responses of Spain, 6 July 2021, and Slovakia, 23 July 2021.

[23] Czech Ministry of Foreign Affairs representative, Interview with authors, 16 Sep. 2020; Spanish national export control authority, Written communication with authors, 5 Oct. 2020; SIPRI survey (note 3).

[24] Swiss State Secretariat for Economic Affairs representatives, Interview with authors, 7 Oct. 2020.

[25] SIPRI survey (note 3), response of Bulgaria, 9 Aug. 2021.

[26] SIPRI survey (note 3), anonymous response (4).

[27] Joshi, S., 'Indian irritation with end-use monitoring', *StratPost*, 22 July 2009; and Joshi, S., 'Harpoon deal sorts out End Use Monitoring', *StratPost*, 25 Sep. 2010.

[28] 'South Africa amends arms export document after inspection row', Reuters, 13 May 2020; and Bavier, J. and Winning, A., 'South Africa blocks arms sales to Saudi and UAE in inspection row', Reuters, 22 Nov. 2019.

[29] Tillack, H. M., 'Drohende Kontrolle schreckte arabischen Kunden von Waffenkauf ab' [Impending control deters Arab customer from weapons purchase], *WELT*, 9 Sep. 2021.

[30] Holtom, P., *Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion* (United Nations

This shift can be seen in the outcome document of the seventh Biennial Meeting of States of the UN Programme of Action, held in July 2021, with the wording 'where appropriate, and in accordance with applicable bilateral agreements' added to the term 'post-shipment verifications'.[31] Similarly, in a working paper on diversion presented at the seventh CSP of the ATT in August 2021, the expression 'carry out on-site verifications' was replaced by 'engage in post-delivery cooperation'.[32]

Compromises on the modalities of inspections can also be found to address the concerns of importing states. In response to the concerns raised in the 2020 case outlined above, South Africa reportedly changed the wording of its on-site inspection clause such that checks would be performed 'through diplomatic process' rather than by 'an inspector designated by the minister'.[33] Similarly, in the case of the US disagreement with India, additional clauses were added stating that it would be possible for India to 'decide the time and place of any inspection'.[34] Some exporting states have also made efforts to raise awareness in importing states about the purpose of on-site inspections. For example, Germany has tasked its Federal Foreign Office with informing third countries about its introduction of on-site inspections.[35] Finally, steps can also be taken to allay the concerns of domestic manufacturers. For example, in Sweden the national export licensing authority assessed the likely impact of the planned introduction of on-site inspections on exports of military materiel, finding that it would not create any major economic consequences in the long term.[36]

CONDUCTING ON-SITE INSPECTIONS

A state that has adopted a system of post-shipment on-site inspections and attached an inspection clause to a particular export has to determine if and when the clause should be triggered and a request made to conduct an actual inspection. The main concerns that states have noted and encountered in connection with this process relate to the political sensitivities and bureaucratic hurdles that can arise when contacting the importing state to request an inspection. Government structures, the personnel involved or the responsibilities of particular authorities can change between the point at which the assurance is provided and the request is

Institute for Disarmament Research: Geneva, 2015), p. 100.

[31] United Nations, General Assembly, 'Report of the Seventh 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/2021/1, 11 Aug. 2021, para. 28; see previous drafts (e.g. draft 5 of 29 July 2021) at Reaching Critical Will, 'Documents from the 2021 UNPoA Seventh Biennial Meeting of States', [n.d.].

[32] Arms Trade Treaty, Sixth Conference of States Parties, 'Working paper presented by the President of the Sixth Conference of States Parties to the ATT: Transparency and exchange of information: Its role in the prevention of diversion', ATT/CSP6/2020/PRES/611/Conf.TranspInfExch.Rev1, 28 July 2020, para. 6; and Arms Trade Treaty, Seventh Conference of States Parties, Final report, ATT/CSP7/2021/SEC/681/Conf.FinRep.Rev1, 2 Sep. 2021, para. 28.

[33] 'South Africa amends arms export document after inspection row' (note 28).

[34] Joshi, S., 'End use monitoring pact creates political furor', *StratPost*, 21 July 2009.

[35] German Federal Ministry for Economic Affairs and Energy (note 1).

[36] Swedish Inspectorate of Strategic Products (note 20), p. 64.

made. This can make it difficult to contact the relevant authority or personnel in the importing state, or can generate a lack of understanding and resistance when they are contacted.[37] In addition, responsibility for providing the assurance and authorizing an inspection may rest in different agencies or levels of seniority.[38] Furthermore, conducting an inspection may require access to restricted locations or confidential information, which the importing state may be unwilling to approve.[39]

States conducting on-site inspections have put in place several measures to address these concerns. In order to overcome preparatory challenges and make the necessary arrangements, Switzerland relies on support from a range of sources, including the Swiss embassy in the importing state, the responsible Defence Attaché, the company that produced and exported the military materiel, and diplomatic personnel from the importing state in Switzerland.[40] Germany seeks to pre-empt potential concerns about on-site inspections through 'constructive dialogue and outreach' in order to promote the broader acceptance of on-site inspections.[41] There are indications that these efforts are mutually reinforcing and help to build a broader awareness and acceptance of the process of conducting on-site inspections. German officials have noticed that it is 'often easier and quicker to organize on-site inspections in countries where Switzerland had already conducted such inspections in the past'.[42] Finally, Switzerland has sought to address the specific concerns that can arise in connection with providing access to restricted locations by giving importing states the option of presenting the materiel 'in a place that is convenient for them'.[43]

Once a request to conduct an inspection has been made and accepted, the exporting state needs to plan and conduct the inspection. The processes of planning and conducting an inspection can generate a wide range of interlinked concerns. Insufficient economic resources, limited diplomatic presence in importing states, and a lack of pertinence are some of the most cited concerns and are often provided as reasons for not adopting on-site inspections in the first place.[44] A lack of personnel with the specific technical expertise needed to conduct on-site inspections effectively is also sometimes cited as a concern.[45] In addition, logistical challenges can be a further impediment to on-site inspections, particularly when military materiel is widely disbursed or located in remote areas that are difficult to access.[46] Finally, security concerns can also

[37] German BAFA official, Interview with authors, 2 Nov. 2021.

[38] Flanders Chancellery & Foreign Office licensing officials, Interview with authors, 24 Sep. 2020.

[39] SIPRI survey (note 3), response of Switzerland, 15 July 2021.

[40] SIPRI survey (note 3), response of Switzerland, 15 July 2021.

[41] SIPRI survey (note 3), response of Germany, 29 July 2021.

[42] Varisco, Brockmann and Robin (note 2), p. 28.

[43] SIPRI survey (note 3), response of Switzerland, 15 July 2021.

[44] SIPRI survey (note 3), anonymous response (2); anonymous response (3); Belgian region of Walloon region, 13 July 2021; Belgian region of Flanders, 20 Aug. 2021; and Montenegro, 15 July 2021.

[45] SIPRI survey (note 3), response of Germany, 29 July 2021.

[46] US Department of State, Directorate of Defense Trade Controls, 'End-use monitoring of defense articles and defense services:

restrict access to specific sites and impede inspection visits. These need not necessarily arise from the existence of an armed conflict. For instance, most states that conduct post-shipment on-site inspections halted their implementation during the Covid-19 pandemic because of the potential health risks and travel restrictions.[47]

Different responses to these concerns and challenges have been adopted and proposed. For example, some EU member states have proposed a wider role for the EU in terms of providing support for conducting on-site inspections to help overcome the problems generated by resource limitations or a lack of diplomatic presence in importing states.[48] To ensure the availability of technical expertise, states that have conducted on-site inspections have sought to provide training to their personnel on investigation skills, weapons knowledge and safety regulations.[49] Moreover, there are other resources that exporting states could draw upon. For example, as part of the project iTrace, EU national arms export licensing authorities can request the project implementer, Conflict Armament Research, to support or provide 'post-shipment/post-delivery verification capacity to Member States'.[50] States have also found other solutions to overcome both the logistical and security concerns associated with conducting on-site inspections. Switzerland, for instance, has in some circumstances 'requested that the arms be gathered at one to three central locations, if this was possible for the end recipient'.[51] In August 2021 Germany agreed with Mexico to conduct a 'virtual inspection' in which the relevant national authorities showed a part of the exported materiel and their serial numbers by video from 21 different locations.[52] Physical on-site checks will be used later to complete the inspection.[53]

CONCLUSIONS AND RECOMMENDATIONS

States have raised a range of concerns and encountered numerous challenges in connection with adopting, requiring, and conducting on-site inspections (see table 1). Some of these concerns and challenges indicate that not all exporters of military materiel are likely to conclude that on-site inspections are a useful tool for

commercial exports FY 2020', Blue Lantern Annual EUM Report, 2021, p. 3.

[47] Swiss State Secretariat for Economic Affairs representatives, Interview with authors, 7 Oct. 2020; German BAFA official, Interview with authors, 8 Oct. 2020; Czech Ministry of Foreign Affairs representative, Interview with authors, 16 Sep. 2020; German Federal Ministry for Economic Affairs and Energy, 'Bericht der Bundesregierung über ihre Exportpolitik für konventionelle Rüstungsgüter im Jahre 2020' [Report of the Federal Government on its export policy for conventional military materiel in the year 2020], June 2021.

[48] SIPRI survey (note 3), response of Belgian region of Flanders, 20 Aug. 2021.

[49] SIPRI survey (note 3), response of Germany, 29 July 2021.

[50] Council Decision (CFSP) 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.

[51] SIPRI survey (note 3), response of Switzerland, 15 July 2021.

[52] Remarks by Rainer Schmiedchen, German Federal Foreign Office, at the Stimson Center event on 'Analyzing Diversion Dynamics: Lessons learned', 31 Aug. 2021; and Tillack, H. M., 'Drohende Kontrolle schreckte arabischen Kunden von Waffenkauf ab' [Impending control deters Arab customer from weapons purchase], *WELT*, 9 Sep. 2021.

[53] German BAFA official, Interview with authors, 2 Nov. 2021.

Table 1. States' responses to concerns and challenges in different phases of post-shipment on-site inspections of military materiel

Inspection phase	Concerns and challenges	Responses
Adopting on-site inspections	• Legal basis and creation of extra-territoriality in export controls	• Limited changes, mostly to EUCs
	• Effectiveness in preventing diversion	• Value of confidence-building and information collected
	• Cost and resource limitations	• Limited scope to certain military materiel and certain destinations
Requiring on-site inspections	• Process and decision-making powers	• Interagency process and assessment procedures on case-by-case basis
	• Negative connotation of terminology	• Reframing and standardization in multilateral forums
	• Political sensitivities and sovereignty concerns	• Awareness-raising and direct engagement with importing states and exporting companies
Conducting on-site inspections	• Contacting the recipient state/responsiveness	• Facilitation through local embassies and diplomats
	• Response from appropriate ministries	• Prior outreach and initial dialogue with relevant ministries
	• Cost, personnel and expertise	• Pooling expertise and possible role for the EU; regular training
	• Logistics	• Gathering weapons in selected inspection locations
	• Security	• Cooperation with local and national authorities; possible initial virtual inspections followed and completed by an on-site inspection

EU = European Union; EUCs = End-user certificates.

Source: SIPRI survey of export licensing officials on on-site inspections, responses from 21 states, 2021.

preventing cases of diversion. Most states that have adopted on-site inspections have determined that they are better suited for exports of certain types of military materiel to certain destinations, implying that they may not be of value for states that do not produce such items or conduct such transfers. States' views on the benefits of on-site inspections also appear to be closely tied to the types of diversion cases they have previously encountered. For example, Germany, Sweden and Switzerland all took steps to adopt or expand their use of on-site inspections after cases in which exported military materiel appeared to have been re-exported or re-transferred in ways that did not conform with the end-user assurances attached to the original export.[54] These cases led to calls from NGOs and parliamentarians to take steps to prevent diversion. In the absence of such controversies and pressures it may be hard to achieve the political will necessary to adopt on-site inspections. Several studies have noted that cases of controversial exports that expose regulatory gaps and generate reputational damage are often a key

[54] See Swiss State Secretariat for Economic Affairs, 'Schweizer Handgranaten in Syrien: Abschluss der Untersuchungen und Massnahmen' [Swiss hand grenades in Syria: conclusion of investigation and measures], Media release, 21 Sep. 2012; Sveriges Radio, 'ISP: "Detta är ytterst allvarligt"' [ISP: 'This is extremely serious'], 27 July 2009; and Knight, B., 'Heckler & Koch fined €3.7 million over illegal arms sales to Mexico', DW, 21 Feb. 2019.

cause of changes to states' export controls.[55]

At the same time, the practices and experiences of the increasing number of states that have adopted on-site inspections point to ways in which other concerns and challenges—particularly those relating to the opposition of importing states, the costs associated with conducting inspections, and the overall ability of the controls to help prevent diversion—can be effectively addressed and overcome (see table 1). These experiences also point to the potential, and the clear value, of generating a broader consensus about the role of on-site inspections and the relationships they create and foster between exporting and importing states. This would involve states viewing and framing their use less as a demand that is imposed upon importing states and more as a collaborative process in which trust is built up between different national authorities for the purpose of identifying and addressing diversion risks. Moreover, if on-site inspections were to become a more standardized practice at the EU, ATT or Wassenaar Arrangement levels, this could incentivise their adoption.

The following recommendations are aimed at building on the experience states have gained in the field of on-site inspections and promoting their use as one of a broader set of controls aimed at preventing diversion.

- States should pursue the standardization of post-shipment on-site inspections at the EU, ATT and Wassenaar Arrangement levels to enable and incentivise the adoption of such controls by more states and reduce the need for reliance on national political circumstances.
- States and non-governmental experts should continue improving the understanding of approaches and strategies for on-site inspections and identifying and agreeing on good practices in this area.
- States should frame the use of on-site inspections as a collaborative process in which trust is built up between different national authorities, rather than as a demand by one state on another. Whenever possible, the process could include the additional provision of capacity building and support on PSSM.
- States should make continued efforts to sensitize both exporting companies and importing states as to the value and effectiveness of on-site inspections.
- States should create more opportunities to share and, if possible, pool the expertise of national officials with direct experience of conducting on-site inspections.
- States and non-governmental experts should explore and develop good practices on how to overcome concerns and challenges, for example, by developing and running desktop exercises with licensing officials and diplomatic personnel.

[55] See e.g. Erickson, J. L., *Dangerous Trade: Arms Exports, Human Rights, and International Reputation* (Columbia University Press: New York, 2016).

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