

# ATT-BAP REPORTING GUIDANCE NOTES

## MODULE 2 – EXPORTS

The Arms Trade Treaty-Baseline Assessment project has developed a series of nine ATT-BAP Guidance Notes to assist States in the completion of their national ATT-BAP Survey and in the preparation of their initial report on measures to implement the Arms Trade Treaty, as required under Article 13 (1). Each of the ATT-BAP Guidance Notes focuses upon a particular topic and ATT commitment. Each Note:

- Identifies the relevant Treaty articles for each topic
- Introduces the ATT-BAP Survey questions and a sample of responses provided by States
- Provides information on potential sources of information for addressing the ATT-BAP Survey questions, highlighting similar questions or relevant responses contained in national reports on transfer control systems for other international instruments

### EXPORTS: RELEVANT ATT ARTICLES

#### Article 5.5

Each State Party shall take measures necessary to implement the provisions of this Treaty and shall designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms covered under Article 2 (1) and of items covered under Article 3 and Article 4.

#### Article 7.5

Each exporting State Party shall take measures to ensure that all authorizations for the export of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4 are detailed and issued prior to the export.

#### Article 7.6

Each exporting State Party shall make available appropriate information about the authorization in question, upon request, to the importing State Party and to the transit or trans-shipment States Parties, subject to its national laws, practices or policies.

#### Article 7.7

If, after an authorization has been granted, an exporting State Party becomes aware of new relevant information, it is encouraged to reassess the authorization after consultations, if appropriate, with the importing State.

#### Article 12.1

Each State Party shall maintain national records, pursuant to its national laws and regulations, of its issuance of export authorizations or its actual exports of the conventional arms covered under Article 2 (1).

**Article 12.3**

Each State Party is encouraged to include in those records: the quantity, value, model/type, authorized international transfers of conventional arms covered under Article 2 (1), conventional arms actually transferred, details of exporting State(s), importing State(s), transit and trans-shipment State(s), and end users, as appropriate.

**Article 12.4**

Records shall be kept for a minimum of ten years.

## ATT-BAP SURVEY QUESTIONS

The ATT-BAP Survey contains several questions for States to explain how they fulfill their ATT commitments with regards to the establishment and maintenance of an export control system. The questions seek information on export control legislation, relevant agencies, the authorization process and record-keeping for authorizations and actual exports, and relate to Articles 5, 7 and 12.

Examples of answers provided by States that completed ATT-BAP Surveys during 2013-2015 are included below to show the types of information that States have included in their Surveys and are indicative of the type of information governments are willing to share publicly on measures taken to implement the ATT. Completed Surveys are available for review via the 'Country Profiles' and 'Database' pages on the Arms Trade Treaty – Baseline Assessment Project Portal at: <http://www.armstrade.info/>

### 2. EXPORTS

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by South Africa			
A) Is the control of arms exports established in national legislation? [Article 5.5]	✓		The National Conventional Arms Control (NCAC), Act 2002 (Act No 4 of 2002) as amended by the The National Arms Control Amendment Act 2008 (Act No 73 of 2008). The National Conventional Arms Control Regulation, Notice No R 637 of 28 May 2004. The Firearms Control Act, No 60 of 2000 as amended and its supporting notices and regulations.

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Montenegro			
B) Which Ministry/ies or government agency/ies is/are responsible for implementing controls on arms exports? [Article 5.5]			Four Ministries are responsible for implementing controls on arms exports: Ministry of Economy, Ministry of Foreign Affairs and European Integration, the Ministry of Defense and Ministry of Interior. When applicable, depending on type and use of controlled goods, Ministry shall acquire opinion of other competent authorities as well.

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Austria			
C) Does your State take measures to ensure that all authorizations are detailed and issued prior to export? [Article 7.5]	✓		
i) If yes, what measures does your State take to ensure that all authorizations are detailed and issued prior to export?			Exporters have to apply for a license for every transaction either to the Ministry of the Economy or Ministry of the Interior. MFA and Ministry of Defence are consulted. MFA provides foreign policy advice such as IHL/HR issues, sanctions, internal or regional conflicts etc. Licenses specify goods, time etc., additional requirements (e.g. customs certificates of recipient) may be stipulated. Denied licenses have to give the reasons for denial, exporter can take negative decisions to court.

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Albania			
D) Can your State reassess an authorization if your State becomes aware of new and relevant information? [Article 7.7]	✓		<p>As prescript in the “Law No. 9707, dated 5 April 2007 “On State Import-Export Control Of Military Goods And Dual-Use Goods And Technologies”: The State Export Control Authority may revoke or hold licences, authorisations and international import certificates in abeyance:</p> <ol style="list-style-type: none"> <li>1. In the event of an emergency involving national security needs and interest, or in order to ensure fulfilment of the international obligations of the Republic of Albania.</li> <li>2. If an entity goes into liquidation, in line with the relevant legal procedures.</li> <li>3. If the entity involved in international transfers of goods goes bankrupt, and the relevant bankruptcy legal procedures are started against it.</li> <li>4. If there is need for the State Export Control Authority to conduct additional expertise of the documents submitted by the entity involved in international transfers of goods, which is applying for licence, authorisation, or international import certificate.</li> <li>5. If notice is taken that the entity involved in international transfers of goods has violated the legislation, including legislation on export control, provided for in this Law.</li> </ol>

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Romania			
E) Does your State maintain records of arms export authorizations? [Article 12.1]	✓		
i) For how many years are records maintained? [Articles 12.1, 12.4]			<p>Official records are maintained electronically and stored permanently. Exporters have the obligation to preserve for 15 years the documents on operations carried out with military goods subject to control. In the case in which military goods are exported, imported, transferred or are used in brokering activity which are in connection with international instruments concerning the traceability, the persons referred to in article 3 have the obligation to keep at least 20 years the documents related to the operations carried out. In the case of economic agents who manufacture military goods which are related to international instruments concerning to traceability, the period of storage of the documents is of at least 30 years. Records contain information on quantity, value, model/type, importing State, end-user, as well as license type, number, expiry date, description of goods and control list category number, end-use, other relevant information.</p>

ii) What information do the records contain? [Article 12.3]			
a) Quantity	✓		
b) Value	✓		
c) Model/type	✓		
d) Importing State	✓		
e) End-User	✓		
f) Other (please specify)			License type, number, expiry date, description of goods and control list category number, end-use, other relevant information

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Portugal			
F) Does your State maintain records of actual arms exports? [Article 12.1]	✓		
i) For how many years are records maintained? [Articles 12.1, 12.4]			15 years minimum
ii) What information do the records contain?			
a) Quantity	✓		
b) Value	✓		
c) Model/Type	✓		
d) Importing State	✓		
e) End-User	✓		
f) Transit /transshipment State(s)	✓		
g) Other (please specify)			License use documentation

## SOURCES FOR INFORMATION

The information required to answer the questions and sub-questions contained in Section 2 Exports will be contained in primary and/or secondary legislation or a Presidential decree, as well as policy guidelines. States may be able to find and use relevant information contained within their reports on implementation of the UN Programme of Action (PoA) or their UNSCR 1540 implementation reports, specifically with regard to questions on legislation, policy guidelines and procedures.

### RELEVANT QUESTION(S) FROM UN POA REPORTING TEMPLATE AND UNSCR 1540 IMPLEMENTATION REPORT MATRIX:

ATT-BAP SURVEY QUESTION(S)	UN POA REPORTING TEMPLATE QUESTION(S)	UNSCR 1540 IMPLEMENTATION REPORT MATRIX QUESTION(S)
Question 2.A. - Is the control of arms exports established in national legislation?	Question 6. - Does your country have laws, regulations or administrative procedures to exercise effective control over the export, import or retransfer of SALW? List laws, regulations or administrative procedures to exercise effective control over the export, import, transit or retransfer of SALW.	OP 3 (c) and (d) and OP6 and OP10. Controls of NW, CW and BW, including related materials. - Which of the following legislation, procedures, measures, agencies exist to control border crossings, export/import and other transfers of NW, CW, BW and Related Materials? Can violators be penalized?: (5) Export control legislation in place
Question 2.B. - Which Ministry/ies or government agency/ies is/are responsible for implementing controls on arms exports?  Question 2.B.i. - Which Ministry or agency leads this process?		OP 3 (c) and (d) and OP6 and OP10. Controls of NW, CW and BW, including related materials. - Which of the following legislation, procedures, measures, agencies exist to control border crossings, export/import and other transfers of NW, CW, BW and Related Materials? Can violators be penalized?: (4) Enforcement agencies/ authorities (11) National Licensing Authority
Question 2.C. - Does your State take measures to ensure that all authorizations are detailed and issued prior to export? [Article 7.5]  Question 2.C.i. - If yes, what measures does your State take to ensure that all authorizations are detailed and issued prior to export?	Question 6.2. - Does a person or an entity who transfers SALW require a license or other form of authorization to transfer SALW from/into your country?  Question 6.5. - What kind of documents does your country require prior to authorizing an export of SALW to another country?  Question 6.7. - Does your country verify or seek to authenticate EUCs or other types of end-user documentation provided?	OP 3 (c) and (d) and OP6 and OP10. Controls of NW, CW and BW, including related materials. - Which of the following legislation, procedures, measures, agencies exist to control border crossings, export/import and other transfers of NW, CW, BW and Related Materials? Can violators be penalized?: (6) Licensing provisions (7) Individual licensing (8) General licensing (9) Exceptions from licensing (10) Licensing of deemed export/ visa (12) Interagency review for licenses (17) End-user controls

ATT-BAP SURVEY QUESTION(S)	UN POA REPORTING TEMPLATE QUESTION(S)	UNSCR 1540 IMPLEMENTATION REPORT MATRIX QUESTION(S)
<p>Question 2.E. - Does your State maintain records of arms export authorizations?</p> <p>Question 2.F. - Does your State maintain records of actual arms exports?</p>	<p>Question 6.14. - Does your country require that exporters and importers of SALW keep records of their activities?</p>	
<p>Question 2.G. – Please provide any other information on export practices you would like to share.</p>	<p>Q. 6.6 When exporting, does your country place any restriction on re-export of SALW? If so, what are the restrictions placed on re-export? Re-export permitted only when there is prior notification; Re-export permitted only when there is prior approval.</p> <p>Q. 6.9. Does your country permit the export of SALW without a licence or under simplified procedure under certain circumstances? Peacekeeping, temporary exports, equipment needed for training purposes, equipment needed for repair, delivery of spare parts, other.</p>	

