
ATT-BAP REPORTING GUIDANCE NOTES

MODULE 6 – PROHIBITIONS

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

PROHIBITIONS: RELEVANT ATT ARTICLES

Article 6

1. A State Party shall not authorize any transfer of conventional arms, covered under Article 2 (1) or of items covered under Article 3 or Article 4, if the transfer would violate its obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes.

2. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if the transfer would violate its relevant international obligations under international agreements to which it is a Party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms.

3. A State Party shall not authorize any transfer of conventional arms covered under Article 2 (1) or of items covered under Article 3 or Article 4, if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party.

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 specific circumstances under which States Parties are obliged to deny the authorization of any conventional arms transfers. The questions seek information on whether the State prohibits arms transfers in the given circumstances and relevant international agreements to which it is a party, and relates to Article 6.

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/>

6. PROHIBITIONS

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Albania			
A) Does your State prohibit transfers of conventional arms: i) If the transfer would violate obligations under measures adopted by the United Nations Security Council acting under Chapter VII, in particular arms embargoes. [Article 6.1]	✓		Ministry of Foreign Affairs and Albanian State Export Control Authority (AKSHE), are the responsible authorities which cooperates, according to their competences, in the development of monitoring activities and in the application of embargos and restrictive regimes for the export of strategic goods and the obligations which follow from applying the embargos on the transport of strategic goods, decided by a UN Security Council resolution, on a common position approved by the EU and a OSCE decision, the decision of some NATO members or application of the legal acts of the relevant authorities of the Republic of Albania. In this framework, the application of restrictive regimes, another duty of the State's Export Control Authority through the Ministry of Defense, is the preparation, the determination and application of sanctions, the preparation of the necessary methodological norms, mechanisms, procedures and Guidance for the application of control regimes on the strategic goods activities. This authority was given to AKSHE by the Decision of the Council of Minister no.43, of 16.01.2008, published on the Official Gazette No.8, Page 240, of 30.01.2008.

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Trinidad and Tobago			
A) Does your State prohibit transfers of conventional arms: ii) If the transfer would violate relevant international obligations under international agreements to which you are a party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms. [Article 6.2]	✓		
a) Please provide a list of the relevant international agreements to which you are a party. [Article 6.2]			United Nations Convention on Transnational Organized Crime (UN TOC) - Firearms Protocol; United Nations Programme of Action (UN PoA) to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) in All Its Aspects; Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials (CIFTA) - Organization of American States (OAS)

	Yes	No	Details / Reference / Web link /Additional comments
Response taken from ATT-BAP Survey completed by Sweden			
A) Does your State prohibit transfers of conventional arms: iii) If you have knowledge at the time of authorization that the arms or items covered by your State's legislation would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which you are a Party. [Article 6.3]	✓		

<p>a) Please provide a list of the relevant international agreements to which you are a party. [Article 6.3]</p>			<ul style="list-style-type: none"> • Rome Statute of the International Criminal Court; • Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; • Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; • Convention (III) relative to the Treatment of Prisoners of War; • Convention (IV) relative to the Protection of Civilian Persons in Time of War; • Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts; • Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts; • Convention for the Protection of Cultural Property in the Event of Armed Conflict including additional protocols; • Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques; • Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and Warfare; • Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction; • Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects inclusive Amendment and Protocols; and • Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction.
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	Yes	No	Details / Reference / Web link /Additional comments
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Response taken from ATT-BAP Survey completed by Switzerland

<p>B) Please provide any other information on prohibitions you would like to share.</p>			<p>It is the understanding of Switzerland that the term “grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a party” in Article 6, paragraph 3, encompasses acts committed in international and in non-international armed conflict, and includes, among others, serious violations of Common Article 3 to the Geneva Conventions of 1949, as well as, for States Parties to the relevant agreements, war crimes as described in the Hague Convention IV of 1907 and its Regulations, the Additional Protocols of 1977 to the Geneva Conventions and the Rome Statute of the International Criminal Court of 1998. It is the understanding of Switzerland that the term “knowledge” in Article 6, paragraph 3, in light of the object and purpose of this Treaty and in accordance with its ordinary meaning, implies that the State Party concerned shall not authorize the transfer if it has reliable information that provide substantial grounds that the transfer would be used in the commission of the enlisted crimes.</p>
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SOURCES FOR INFORMATION

The information required to answer the questions and sub-questions contained in Section 6 Prohibitions 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 UNSCR 1540 implementation reports. More specifically, select responses to questions in the implementation report matrix concerning Operative Paragraph 2 of the Resolution as well as details on legally binding instruments, organizations, codes of conduct, arrangements, statements or other issues to which your State is a party or is involved in can be applied to your ATT implementation report.

The following are some examples of relevant international agreements for each of the questions relating to Section 6 Prohibitions:

Regarding Question 6.A.i.:

- Chapter VII of the UN Charter

Regarding Question 6.A.ii.:

- Examples of UN instruments
 - United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects (Convention on Certain Conventional Weapons (CCW / CCWC))
 - United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA)
 - United Nations Convention against Transnational Organized Crime (TOC) – Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition (Firearms Protocol)
- Examples of relevant multilateral/international agreements
 - Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (Biological and Toxin Weapons Convention (BTWC) or Biological Weapons Convention (BWC))
 - Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention (CWC))
 - Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (Ottawa Treaty)
 - Convention on Cluster Munitions
 - The Hague Code of Conduct against the Proliferation of Ballistic Missiles (HCOC) (International Code of Conduct against the Proliferation of Ballistic Missiles) (ICOC)
 - The Missile Technology Control Regime (MTCR)
 - Treaty on Non-Proliferation of Nuclear Weapons (NPT)
 - Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies
- Examples of relevant regional agreements
 - Andean Plan to Prevent, Fight and Eradicate Illicit Trafficking in Small Arms in All its Aspects
 - Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition, Parts and Components that Can be Used for Their Manufacture, Repair or Assembly (Kinshasa Convention)
 - Economic Community of West African States (ECOWAS) Convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials
 - European Union (EU) Common Position 2003/468/CFSP on the Control of Arms Brokering
 - European Union (EU) Common Position 2008/944/CFSP Defining Common Rules Governing the Control of Exports of Military Technology and Equipment

- Inter-American Convention Against Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and other Related Materials (CIFTA Convention)
- Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa and Bordering States
- Organization for Security and Cooperation in Europe (OSCE) Document on Small Arms and Light Weapons
- South African Development Community (SADC) Protocol on the Control of Firearms, Ammunition and Other Related Materials

Regarding Question 6.A.iii:

- Convention for the Protection of Cultural Property in the Event of Armed Conflict and Additional Protocols
- Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques
- Geneva Conventions and Additional Protocols
- Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or Other Gases, and Warfare (Geneva Protocol)
- Rome Statute of the International Criminal Court