

Article 9. Transit and Transshipment provisions in ATT initial reports

Working Group on Effective Treaty
Implementation

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Today's presentation

- Definitions of transit and trans-shipment
- What do the 61 “publicly available” initial reports tell us about State Party approaches to the regulation of transit and trans-shipment
- Linkages between Article 9 and other ATT Articles
- A possible checklist for the regulation of transit and trans-shipment

Defining transit / trans-shipment

- Transit and trans-shipment are rarely defined in treaties because there is no consensus on scope
- Dictionary definition of transit: “the action of passing through or across a place”
- Revised Kyoto Convention: “goods are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office which is the office of both importation and exportation”
- Can apply to land, air, and territorial waters

National measures to implement Article 9

The national control system includes measures that allow the regulation, where necessary and feasible, of transit/trans-shipment of conventional arms covered under Article 2(1)	Number of States Parties answering “yes” in a publicly available initial report
Measures to regulate transit	53 out of 61
Measures to regulate trans-shipment	51 out of 61
Measures to regulate transit and/or trans-shipment	55 out of 61

Based on analysis of 61 publicly available ATT initial reports

Overview of ATT States Parties approaches to regulating transit and trans-shipment

- No distinction between transit and transshipment
- Transshipment is regarded as an element or sub-component of transit
- Transit is regulated but transshipment is not
- Transshipment is regulated but transit is not

National measures to implement Article 9

Control measures for the regulation of transit and/or trans-shipment cover:	Number of States Parties answering “yes” in a publicly available initial report
Transit / trans-shipment through land territory (including internal waters)	56 out of 61
Transit / trans-shipment through territorial waters	48 out of 61
Transit / trans-shipment through national air space	53 out of 61

Based on analysis of 61 publicly available ATT initial reports

National measures to implement Article 9

Control measures for the regulation of transit and/or trans-shipment	Number of States Parties answering “yes” in a publicly available initial report
Transit / trans-shipment written authorization (licence / permit) required	35 out of 61
Written export and import authorization required	3 out of 61
Exemptions to regulation regime (permitted without regulation or under a simplified procedure under certain circumstances .	22 out of 61

Based on analysis of 61 publicly available ATT initial reports

Agencies involved in the regulation of transit / trans-shipment

Competent ministries and government agencies	Number of States Parties answering “yes” in a publicly available initial report
Export (transfer) control agency	3 out of 61
Ministry of Business / Economy / Finance / Trade (including customs)	14 out of 61
Ministry of Foreign Affairs	6 out of 61
Ministry of Defence / Interior / Public Security (including police)	16 out of 61
Multiple ministries and government agencies involved in regulation	40 out of 61

Examples of linkages to other Articles

- Article 5(3)
- Beyond Article 6
- Article 12

- Article 11
- Article 13
- Article 14

Transit and trans-shipment regulations beyond Article 2(1) scope

National control system for transit and/or trans-shipment applies to conventional arms beyond the scope of Article 2(1)	Number of States Parties answering “yes” in a publicly available initial report
Transit / trans-shipment measures apply beyond Article 2(1) scope	32 out of 61
Transit / trans-shipment measures apply to all items on the national control list	21 out of 61

Based on analysis of 61 publicly available ATT initial reports

Beyond Article 6

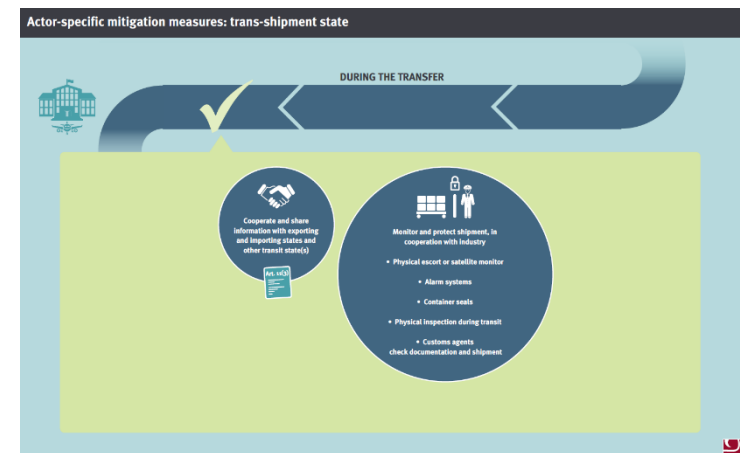
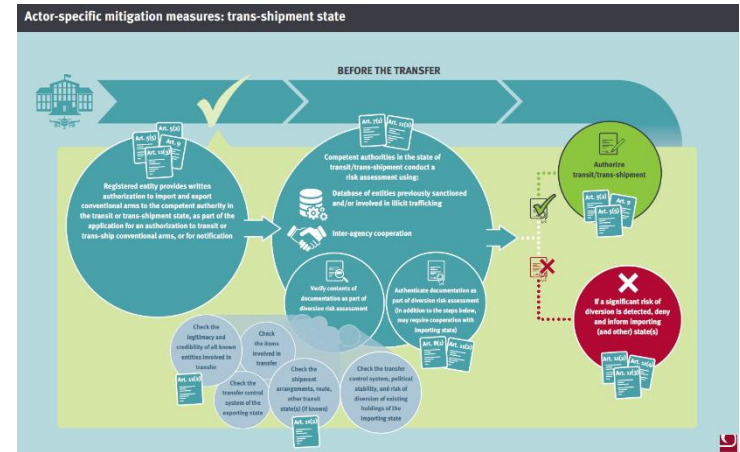
- Twenty-one of the 61 publicly available initial reports indicated that national control systems for transit and/or transshipment go beyond the fulfilment of obligations under ATT Article 6
- Nine reporting states reported applying the same criteria and risk assessment procedures for controlling and export and regulating the transit and/or transshipment of conventional arms

Article 12

- Fifty-one of the 61 publicly available initial reports indicated that the national control system includes provisions for maintaining records regarding authorizations for the transit and/or transshipment through national territory of conventional arms covered under Article 2(1) of the ATT.

Other Articles

- Article 11: Measures to address and prevent diversion during transit
- Article 13: Reporting on authorizations and actual transit and trans-shipment of conventional arms
- Article 14: Enforcement of the national system for regulating transit and trans-shipment



Possible checklist for the regulation of transit / trans-shipment

- Definition of transit and trans-shipment
- Feasible control measures in accordance with international law
- Defined scope for regulated items
- Responsibility for compliance with regulations
- Assessment criteria for authorization
- Effective administrative provisions
- Robust enforcement regime (i.e. sanctions, interagency cooperation, powers for interdict suspend a shipment, training, outreach)

Small Arms Survey, 2016, ATT Handbook, p 101

Thank you.
Questions?

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