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Prohibitions and Export Assessment: Tracking ATT Implementation

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The Question

How do states parties implement Articles 6 & 7 ATT?

- looking at national legislation, regulations and policies
- not looking at national transfer or export decisions

General Findings

- mostly domestic legislation, regulations and policies as basis for arms transfer assessments and decisions
- few states have adapted domestic legal framework for implementing Articles 6 & 7

Overarching Prohibitions

Art. 6(1)

→ sanctions-related legislation and measures

Art. 6(2)

→ specific legislation and sanctions-related measures

Art. 6(3)

→ national criteria on IHL and IHRL

Art. 7(1)(a)

- international and regional security and stability
- national security
- positive ramifications of exports on peace and security
- exports' effects on national defence industries

Serious Violations of IHL & IHRL

Art. 7(1)(b)(i) & Art. 7(1)(b)(ii)

- assessment of general respect of IHL & IHRL
- similar or nearly identical national criteria as in ATT
- few national criteria preclude exports when importing state is involved in armed conflict & when importing state violates human rights in widespread and systematic manner

Terrorism, Transnational Organized Crime and Gender- Based Violence

Art. 7(1)(b)(iii) & Art. 7(1)(b)(iv) & Art. 7(4)

- assessment of importing state's general attitude and behavior regarding terrorism & transnational organized crime
- assessment of risk and measures related to diversion
- assessment of respect of IHL and IHRL

Additional Criteria

- 27/58 states parties (47 %); have additional export criteria
- 51/58 states parties (88 %); assess risk of diversion
- foreign policy interests & respect of international obligations
- criteria favoring arms exports

Threshold for Export Denial

Art. 7(3)

→ absolute thresholds for denial:

‘clear’, ‘high’, ‘substantial’, ‘reasonable suspicion’ & ‘avoid’

→ relative thresholds for denial:

‘take into account’, ‘consider’ & ‘assess’

Risk Mitigation Measures, Timely Authorization, Re- Assessment & Information- Sharing

Art. 7(2) → 35/58 states parties (60%)

Art. 7(5) → 50/58 states parties (86%)

Art. 7(6) → 52/58 states parties (90%)

Art. 7(7) → 47/58 states parties (79%)

Art. 8(3) → 40/58 states parties (70%)

Discussion & Further Information

Prohibitions and Export Assessment: Tracking Implementation of the Arms Trade Treaty

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