



Arms Trade Treaty Implementation Toolkit

Module 8 Transit and Trans-shipment

Available on: www.un.org/disarmament/ATT

I. Introduction

Any countries joining the Arms Trade Treaty (ATT) are required to put in place effective measures to implement the Treaty.

Each State Party will decide which measures it needs to adopt in order to carry out its obligations under the ATT. These measures may vary from country to country.

This eighth module, *Transit and trans-shipment*, aims to assist States in regulating arms transit and trans-shipment taking place under their jurisdiction, where necessary and feasible.

II. Regulating transit and trans-shipment under Article 9 of the ATT

➤ Both transit and trans-shipment constitute a “transfer” under Article 2 (2) of the ATT. States Parties shall take measures, where necessary and feasible, to regulate transit or trans-shipment under their jurisdiction of conventional arms covered under Article 2 (1) through its territory in accordance with international law.¹

➤ States Parties have the prerogative to adopt measures to regulate the transit or trans-shipment of ammunition and parts and components, even though the ATT does not explicitly require them to do so under Article 9.

➤ Measures to regulate transit and trans-shipment shall be taken in accordance with relevant international law. For instance, any transit and trans-shipment regulation should be consistent with the rights and obligations under the UN Convention on the Law of the Sea (UNCLOS),² the Convention on International Civil Aviation,³ the International Convention concerning the Carriage of Goods by Rail (CIM)⁴ and the Convention on Transit Trade of Land-locked States.⁵

➤ Regulating transit and trans-shipment poses challenges, particularly in countries with long borders or large territorial waters and limited capacity (human and technical) to exercise control over goods transiting.

➤ Countries that process large volumes of trans-shipment operations can also find it difficult to effectively regulate trans-shipment. Moreover, there are different approaches to regulation of air, land and sea transport. Consequently, a one-size-fits-all approach is not feasible.

¹ Article 9.

² United Nations, *Treaty Series*, vol. 1833, p. 3.

³ United Nations, *Treaty Series*, vol. 15, p. 295.

⁴ United Nations, *Treaty Series*, vol. 1101, p. 226.

⁵ United Nations, *Treaty Series*, vol. 597, p. 3.

III. What constitutes transit and trans-shipment?

- The ATT does not provide a definition for transit and/or trans-shipment.
- According to the International Small Arms Control Standards (ISACS),⁶ transit and trans-shipment are:

ISACS 01.20

Transit: "Movement of goods across the territory of a State as part of a transfer between two other States, including the trans-loading of the goods at the points of entry into and exit from the transit State".

Trans-shipment: "Transport of goods to an intermediate location outside the exporting and importing States, where they are loaded to a different transport vessel and transported to their final destination (or additional point of trans-shipment) without crossing the territory of the State in which the trans-loading takes place.

Note. Trans-shipment usually takes place in transport hubs at ports and often takes place within designated customs areas, which are not subject to customs checks or duties".

- States Parties may wish to adopt these definitions or draw from them, when adopting relevant national laws and policies to implement the ATT.

IV. Measures to be considered by States Parties when regulating transit and trans-shipment

States Parties are in charge of their implementation efforts to comply with their obligations under the ATT. To this effect, they may consider adopting any of the following measures:

a. Adopting laws, regulations and procedures stating:

- National definition of transit and/ or trans-shipment;
- National authorities (which ministries or agencies are responsible for regulating transit and trans-shipment);
- Criteria for granting or refusing transit/trans-shipment authorizations (regulatory procedures), if applicable. These should include the requirement that authorization be denied when the transit or trans-shipment would violate or contribute to violate Article 6 of the ATT;
- Record keeping of conventional arms authorized to transit or be trans-shipped;
- Legal and/or administrative actions that would be applied in case of offences (enforcement measures and mechanisms, prosecution and punishment).

⁶ Available at www.smallarmsstandards.org.

b. Establishing regulatory procedures,⁷ such as:

-Licensing system. Under this system, an exporter needs to apply and obtain a transit/trans-shipment authorization from the national authority in the transit/trans-shipment State prior to the transit/trans-shipment of weapons through the territory under the jurisdiction of said State.

-Prior notification.⁸ Notification procedures requiring the national authority in the transit/ trans-shipment State to be provided with information and documentation on the movement of weapons transiting/being trans-shipped through territory under its jurisdiction, in advance of the weapons' arrival in its territory.

-Transit/trans-shipment control by customs authorities. Customs authorities of the transit/trans-shipment State have to be notified of the arms shipments at the point of entry. A technical and documentary check could be conducted.

c. Putting in place enforcement measures and mechanisms to ensure compliance with laws, regulations and administrative procedures related to transit and trans-shipment of conventional arms.

d. States with limited resources may wish to limit transit/trans-shipment to certain entry points/ports.

e. Maintaining records of conventional arms authorized to transit or be trans-shipped in the territory under the State Party's jurisdiction.⁹

V. International cooperation and assistance

See module 6 for details.

⁷ For example, States Parties to the Inter-American Convention against the Illicit Manufacturing and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials have to establish and maintain an effective system of international transit licences or authorizations for transfers of firearms, ammunition, explosives and other related materials under Article IX.

⁸ For example, see Article 10.2 (b) of the Firearms Protocol.

⁹ Article 12 (2).