

Best Practices to Prevent Destabilising Transfers of Small Arms and Light Weapons (SALW) through Air Transport

Participating States of the Wassenaar Arrangement

Having regard to the Guidelines and Procedures including the Initial Elements of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, and in particular:

- the Best Practice Guidelines for Exports of Small Arms and Light Weapons (SALW) adopted December 2002;
- the “Elements for Export Controls of Man-Portable Air Defence Systems (MANPADS)” adopted December 2003 and as amended in 2007.

Recognising that air transport is one of the main channels for the illicit spread of SALW, particularly to destinations subject to a United Nations arms embargo or involved in armed conflict;

Considering that some transport companies or agents and their associated intermediaries employ a range of techniques and strategies to avoid official scrutiny and legal regulations, such as falsifying transport documentation, concealing information on the origin of weapons, including cases when they are produced illegally, or when the origin is not known or questionable, concealing actual flight plans, routes, and destinations, as well as falsification of aircraft registration or quick change of registration numbers;

Bearing in mind the 2001 UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, and, where appropriate, the relevant provisions of the 2000 OSCE documents and other regional initiatives Participating States are party to;

Taking into account existing international standards applicable to air transport, *inter alia*, Article 35 and Annex 18 of the Chicago Convention on International Civil Aviation;

Taking into account existing national legislation regulating the transport by air of weapons;

Recognising governments’ right to transport by air SALW, including through private companies, as well as the existing regulations and the economic demands relating to the air transport of goods;

Affirm that they are fully committed to preventing destabilising accumulations of SALW through air transport *and thus agree to the following Best Practices*:

1. Scope

These Best Practices cover air transport of SALW, excluding those that are transported by government, military or Government-chartered aircraft.

Participating States recognise that they assume full responsibility for transport by their government, military, or Government-chartered aircraft and that they encourage other States to assume the same responsibility.

2. Measures

Non-governmental air transport of SALW, if not forbidden by the Participating States' law, will be submitted, as appropriate to the following measures:

- 2.1. When issuing an export licence for SALW, each Participating State may require additional information on air transport to be provided by the exporter to the relevant authorities prior to the actual export taking place.

Such additional information on transport may include the following elements:

- air carrier and freight forwarding agent involved in the transportation;
- aircraft registration and flag;
- flight route to be used and planned stopovers;
- records of previous similar transfers by air;
- compliance with existing national legislation or international agreements relating to air transport of weapons.

Thus, although details about air transport and route are usually not known when applying for an export licence, a Participating State may issue such an export licence subject to the condition that this information shall be provided to Government authorities before the goods are actually exported; it will then be clear for enforcement officers controlling the actual export that such a licence is not valid without evidence that the requested additional information has been provided.

- 2.2. When a Participating State knows about an exporter, air carrier or agent that failed to comply with the requirements mentioned in 2.1 when requested to do so, or about an identified destabilising attempt to export SALW by air, and if the planned export of SALW is assessed by it to contribute to a destabilising accumulation or to be a potential threat to security and stability in the region of destination, the related relevant information shall be shared with other Participating States as appropriate.
- 2.3. Each Participating State's relevant authorities may require the exporter to submit a copy of the certificate of unloading or of any other relevant document confirming the delivery of SALW, if they have been exported from or landed on or departed from an airport/airfield on their national territory or if they have been transported by their flag aircraft.
- 2.4. Participating States may take appropriate action to prevent circumvention of national controls and scrutiny, including exchange of information on a voluntary basis about exporters, air carriers and agents that failed to comply with the requirements of 2.1 and 2.3 above when requested to do so, and about cases of transit or transshipment by air of SALW that may contribute to a destabilising accumulation or be a potential threat to security and stability in the region of destination.

- 2.5. Whenever a Participating State has information indicating that an aircraft's cargo includes SALW, and that its flight plan includes a destination subject to a UN arms embargo or located in a conflict zone, or that the exporter, the air carrier or agent concerned is suspected of being involved in destabilising transfers of SALW by air or has failed to comply with the requirements in 2.1 or 2.3 when requested to do so, the case should be referred to the relevant national enforcement authorities.

3. Public-private dialogue

Participating States are committed to keeping air carriers informed, whether on a national basis or within relevant international bodies, about implementation of these measures.