Best practices, lessons learned and new recommendations on preventing and combating the diversion and illicit international transfer of small arms and light weapons to unauthorised recipients

Input from Switzerland with regard to NV ODA-2020-00057

1. General considerations
In many parts of the world the diversion of small arms and light weapons (SALW) presents a significant challenge, undermining security, peace and sustainable development. Against this backdrop, Switzerland reiterates the importance of preventing and combating the diversion and illicit international transfer of SALW to unauthorised recipients.

2. Best practices and lessons learned
Pre-transfer risk assessments form the basis for responsible exports. Switzerland therefore considers pre-transfer risk assessments and solid end-user documentation as key to preventing the diversion of SALW to unauthorised recipients.

When assessing the diversion risks associated with a specific SALW export application, end-user certificates (EUCs) are a helpful source of information. Switzerland therefore requests that EUCs provide details of the SALW to be transferred, the parties involved in the transfer and the intended end user and end-use of the SALW. The EUCs can be used, for example, to determine whether the stated recipient and/or end-use of the SALW in question are reasonable. They can thus provide indications of potential diversion risks. However, EUCs have also proven to help mitigate such risks. For this reason, Switzerland requests that an SALW non-retransfer clause be included in EUCs. This clause provides a reactive control to halt or review further exports.

In the case of SALW exports to non-state recipients, requesting and enforcing EUCs from foreign private entities may be challenging due to a lack of jurisdiction. In these cases however, Switzerland requests a copy of the import licence or an international import certificate in order to verify if the home country of the non-state recipient is aware of and consents to the SALW transfer in question. The diversion risk associated with non-state recipients of SALW can therefore also be countered.

EUCs, import licences and international import certificates are only effective in preventing the diversion of SALW if they are authentic. Yet authenticating these documents can be challenging. Involving foreign embassies in Switzerland and Swiss embassies in the destination country has proven to be an effective approach. Also, connecting licensing authorities through direct points of contact can facilitate such verification processes.

Cooperation between importing and exporting countries is essential to preventing the diversion of SALW. Switzerland believes that on-site verifications, known as post-shipment verifications (PSVs), could provide a framework for such cooperation as another effective measure to prevent the diversion of SALW. Switzerland has conducted 36 on-site verifications of SALW globally since 2013. They have helped Switzerland identify a few cases where recipients of SALW did not comply with the non-retransfer clause contained in the EUCs. Through the on-site verification process, PSVs have proven helpful to some visited countries in improving their administrative system to ensure EUC compliance.

Furthermore, the results of PSVs and on-site verification can also help exporting countries to assess the diversion risk associated with future export applications. PSVs do not therefore merely mitigate the risk of diversion, but also provide a means of understanding the compliance systems in place in the recipient countries. Findings from PSVs that detected non-compliance with the EUCs, for instance, have
subsequently influenced Switzerland’s future licensing decisions regarding the countries concerned and enhanced its export control system.

Switzerland has had a positive experience of PSVs and sees them as a confidence-building measure. The understanding for this measure shown by the countries visited and their openness for further verifications, if necessary, testify to its general acceptance. Switzerland’s practice also demonstrates that PSVs can even be undertaken with limited human resources. However, the support and local knowledge of the competent Swiss embassy and/or military attaché are essential to enable PSV requests to be forwarded to the competent authorities or persons in charge. The involvement of embassies and/or military attachés in conducting PSVs could be of particular interest to countries which, due to budgetary limitations, may not be in a position to deploy experts for each verification.

3. Conclusion
Unilateral efforts to prevent the diversion of SALW are not enough. Multilateral efforts and joint action are also crucial. Considering the high level of illegally traded SALW, it is Switzerland’s view that cooperation between importing and exporting countries to address the risk of diversion should be further strengthened. Such cooperation should also include bilateral agreements to ensure compliance with EUCs. Post-shipment verifications are definitely a useful tool to implement this cooperation.

Bern, 28.02.2020