



UNIDIR

Meeting Summary

**Examining Common Subregional Understandings
to Strengthen End Use/r Control Systems
to Prevent Arms Diversion**

**Subregional Consultative Meeting
Port of Spain, Trinidad and Tobago
21–22 September 2016**

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Acronyms and abbreviations

ASYCUDA	Automated System for Customs Data
ATT	Arms Trade Treaty
CARICOM	Caribbean Community
CARICOM IMPACS	Caribbean Community Implementation Agency for Crime and Security
CIFTA	Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials
CSP1	First Conference of States Parties to the Arms Trade Treaty
CSP2	Second Conference of States Parties to the Arms Trade Treaty
EUC	End user certificate
EUS	End use/r statements
INTERPOL	International Criminal Police Organization
ISACS	International Small Arms Control Standards
SALW	Small arms and light weapons
UNIDIR	United Nations Institute for Disarmament Research
UNLIREC	United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean
UNODC	United Nations Office on Drugs and Crime
UN PoA	United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
UNSCAR	United Nations Trust Facility Supporting Cooperation on Arms Regulation

Executive summary

This paper provides a summary of the discussions that took place during a two-day subregional consultative meeting organized by the United Nations Institute for Disarmament Research (UNIDIR), in partnership with the Caribbean Community Implementation Agency for Crime and Security (CARICOM IMPACS), in Port of Spain, Trinidad and Tobago, on 21–22 September 2016. The meeting was organized as part of the UNIDIR project, “Tackling diversion (Phase II): Promoting Regional Dialogue to Enhance Common Understanding and Cooperation to Strengthen End Use/r Control Systems”, which is supported by the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR). The meeting benefited from participation by 10 States from the Caribbean and North America as well as specialized organizations such as CARICOM IMPACS and the UN Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UNLIREC). The overall goal of this project is to provide a platform to facilitate a global, inclusive dialogue that examines and identifies possible options and avenues within and beyond existing global, regional and subregional instruments to strengthen end use/r control systems for the prevention of diversion of arms.

This summary paper outlines the issues addressed and discussions held during the meeting. The paper consists of five parts. The first part introduces the project and its overall objective, as well as the purpose of the sub/regional consultative meeting series. Part two introduces the key issues for end use/r control systems in the Caribbean, as identified by participants in the meeting, focusing on:

- The importance of preventing diversion of arms and ammunition imported by non-State entities; and
- Regulating the transit and trans-shipment of arms and ammunition through the Caribbean subregion.

The third part of the paper reflects the three issues considered by the participants to represent the key elements for end use/r control systems in the Caribbean:

- Regulating arms imports by non-State arms dealers, especially for non-State end users;
- Compliance with assurances agreed with exporting States;
- Regulating transit and trans-shipment.

This part also includes a summary of the responses by eight Caribbean States to the UNIDIR survey for examining options for cooperation to strengthen end use/r control systems. The fourth part summarizes the rich discussion on the potential for using existing subregional and international frameworks, instruments and approaches for strengthening end use/r control systems in the Caribbean.

The group noted the potential benefits of building upon existing definitions and approaches for the Caribbean, as well as the challenges relating to harmonization for small and larger Caribbean island States, including the development of harmonized guidelines for different agencies involved in end use/r control systems. The group focused on the potential benefits of establishing common standards for risk assessment for preventing diversion and regulating transit and trans-shipment. The group also stressed the responsibilities of importing States in preventing diversion of arms and ammunition after delivery. The fifth part of the paper notes that the group considered that

the Arms Trade Treaty (ATT) and subregional approaches represent potential avenues for the next steps in conducting a dialogue on a comprehensive approach to strengthening end use/r controls to prevent diversion.

1. Introduction

The diversion of authorized conventional arms transfers, including those of small arms, poses a persistent problem for security at the global, regional, subregional and national levels, and lies at the heart of the illicit proliferation of arms.¹ Evidence from diversion cases suggests that differences between national end use/r control systems (in particular the content, format and use of end use/r documentation), as well as the lack of shared understanding of definitions and information among relevant stakeholders, pose a challenge to tackling diversion. UNIDIR's research has identified several ways in which inadequate end use/r control systems have been evaded to divert arms to unauthorized end users, including:

- End use/r documentation is not authenticated by exporting States, and forgeries are used to acquire export licences to divert arms;
- End use/r documentation is not verified by exporting States, with information missing or which should prompt the exporting State to conduct a thorough investigation of the proposed transfer;
- Importing States do not have procedures for oversight and control of arms imports;
- States that host significant transit and trans-shipment hubs lack capacity to effectively manage risks to prevent diversion;
- Non-State end users in importing States with limited post-delivery monitoring and controls are considered a diversion risk;
- Assurances on end use or re-export are ignored by the importing State, adherence to assurances is not monitored by the exporting State and actions are not taken when reports of violations are presented to the exporting State and international community; and
- High-ranking officials in importing States are willing to provide authentic end use/r documentation to facilitate diversion to embargoed entities either en route or by undertaking an unauthorized re-export after taking delivery of arms and ammunition, for financial or strategic gains.

States in multilateral forums have repeatedly called for the examination of the harmonization of end use/r control systems to improve their role in preventing diversion. Despite these repeated international calls, a comprehensive and inclusive discussion at the global level has not yet been convened to consider possible ways and approaches to strengthen shared understandings and promote alignment in end use/r control systems. UNIDIR responded in 2015 with the project "Examining Options and Models for Harmonization of End User/r Control Systems" (Phase I), with support from the UN Trust Facility Supporting Cooperation on Arms Regulation. Phase I of this project identified key aspects of end use/r control systems that could be examined by States to establish shared understandings that inform, legitimate and motivate dialogue and collective action in strengthening end use/r controls, including enhancing international cooperation, and where possible, working towards alignment in key terms and standards. A key element of this stage of the project included global distribution of a UNIDIR survey for examining options for cooperation to strengthen end use/r control systems (UNIDIR survey), which has collected

¹ For the purpose of this meeting summary paper, "arms" is used to cover all conventional arms, including small arms and light weapons (SALW), as well as ammunition.

information on national practices, challenges and options for multilateral processes from 47 UN Member States.² A comprehensive study was released by UNIDIR in early February 2016.³ The key findings have been shared at various meetings, including:

- A side event during the First Conference of States Parties (CSP1) to the Arms Trade Treaty (ATT) in Cancún in August 2015;
- A side event during the meeting of the UN General Assembly First Committee in New York in October 2015;
- The Fifth Consultative Meeting of the EU Non-Proliferation Consortium in Brussels in July 2016; and
- A UNIDIR round-table discussion event in the margins of the Second Conference of States Parties (CSP2) to the ATT in Geneva in August 2016.

Regional consultative meetings

The overall objective of this project is to enhance the knowledge and capacity of policymakers and practitioners to identify frameworks, procedures and practical measures aimed at developing shared understanding, strengthening national end use/r control systems and facilitating cooperation at sub/regional and global levels as a means of promoting dialogue between States conducive to mitigating risks of arms diversion.

Building on the key recommendations from the first phase, Phase II (2016) consists of a **series of three regional consultative meetings** with the aim of engaging with regions and States that are not participating in existing export control regimes—i.e. States in Africa, the Caribbean and Asia—in order to promote a comprehensive approach to strengthening end use/r controls to prevent diversion. The sub/regional consultative meetings have several connected objectives:

- Review efforts, initiatives and international and sub/regional frameworks and instruments that strengthen cooperation and align end use/r control systems;
- Identify the key areas that would enhance cooperation and strengthen end use/r control systems;
- Explore the feasibility and desirability of different options for a sub/regional or global approach to strengthening end use/r control systems; and
- Consider challenges and opportunities for a sub/regional or global framework for strengthening end use/r control systems.

In achieving these objectives, the project will contribute towards the overall goal of consolidating sub/regional shared understandings of desired and feasible methods and approaches to enhance cooperation and strengthen end use/r control systems at the sub/regional and global levels. The regional consultative meetings in turn will help establish:

2 The UNIDIR survey was circulated to all UN Member States during Phase I of the project in summer 2015. Forty-one Member States—including major importing and exporting States across the world—provided a completed survey to UNIDIR. UNIDIR recirculated the survey in 2016 to States in regions and subregions that will participate in the regional and subregional consultative meetings as part of Phase II of the project. As of 21 September 2016, a total of 47 responses to the UNIDIR survey (2015–2016) had been received.

3 P. Holtom, H. Giezendanner and H. Shiotani, *Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion*, Geneva, UNIDIR, 2016. Further information on Phase I of the project is available at: bit.ly/2ifOO8j.

- Enhanced regional common understanding of potential approaches, procedures and practices, as well as the roles and responsibilities of national actors involved in strengthening end use/r controls to mitigate the risk of diversion;
- Increased awareness and dialogue between stakeholders among those States that are not participating in existing export control regimes on methods and processes to strengthen cooperation and alignment of end use/r control systems; and
- Improved regional understanding of practical steps States could take to undertake a sub/regional and/or global dialogue and process to strengthen end use/r control systems at the sub/regional and/or global levels.

The project will contribute to practical and effective implementation of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA) and the ATT, as well as relevant sub/regional instruments.

Caribbean consultative meeting, 21–22 September 2016

The first of the series of UNIDIR sub/regional consultative meetings was organized in partnership with the Caribbean Community Implementation Agency for Crime and Security (CARICOM IMPACS) in Port of Spain, Trinidad and Tobago, on 21–22 September 2016. The meeting benefited from the participation of 10 States from the Caribbean and North America: Antigua and Barbuda, the Bahamas, Barbados, Grenada, Guyana, Jamaica, Saint Vincent and the Grenadines, Saint Lucia, Trinidad and Tobago, and the United States of America. The meeting brought together senior officers of national police and defence forces and a small number of participants from national customs authorities, ministries of foreign affairs and ministries/departments of justice. In addition, experts from specialized regional organizations such as the Caribbean Community Implementation Agency for Crime and Security (CARICOM IMPACS) and the UN Regional Centre for Peace, Disarmament and Development in Latin America and Caribbean (UNLIREC) participated in the meeting. The overall guiding question for this subregional consultative meeting was:

How can States enhance shared understandings and cooperation to strengthen their national end use/r control systems in a practical manner in order to mitigate the risk of diversion to unauthorized end users and/or end uses?

2. Key issues for end use/r control systems in the Caribbean subregion

The group identified two key challenges for end use/r control systems in the Caribbean subregion:

- Preventing the diversion of arms and ammunition imported by non-State entities (i.e. arms dealers); and
- Regulating the transit and trans-shipment of arms and ammunition through the Caribbean subregion.

With regard to the first challenge, the group identified diversion from “private owners and the protective services” based in the Caribbean as an important source of illegal arms in the subregion. The group’s views reflect the analysis of a joint UN Office on Drugs and Crime (UNODC)

and World Bank report of 2007 on drugs and crime in the Caribbean.⁴ The joint UNODC and World Bank report recommended that exporting States should receive an import licence from the authorities in the State of import and thoroughly check the *bona fides* (e.g. trustworthiness, acting in good faith) of the purchasers, the proposed use for the imported arms and also verify their final destination before authorizing an export.⁵ The US Department of State has repeatedly expressed concerns with regard to export licence applications to export arms and ammunition to the Caribbean subregion.⁶ For example, the US Department of State indicated that in 2003 the US authorities did not issue a licence to export pistols and revolvers to a Caribbean State because it could not locate the end user company that had reportedly ordered the arms.⁷ In 2009, the United States identified an arms dealer in the Caribbean that had sought to procure arms from the US using revoked import authorizations.⁸ The United States is conducting checks and identifying situations in which documentation is being provided that cannot be verified. The group also heard of two European States that are conducting such pre-licensing checks before authorizing the export of arms to two well-established arms dealers in a Caribbean State. Therefore, some arms exporting States are undertaking the pre-authorization checks called for in the joint UNODC and World Bank report.

A key question in the group's discussion centred on: "What role should State authorities in the importing State play in cases where arms are being imported by a non-State arms dealer?" The group focused its attention on the issue of when or how importing State authorities should be involved in arms transfers organized by a non-State arms dealer where another non-State entity (e.g. a civilian or private security company) will be the end user. The joint UNODC and World Bank report expressed concerns about the "use of counterfeit importation certificates" and "sloppy" end use checks in Caribbean States, which had meant that "apparently legitimate" imports of arms were subsequently re-exported to entities in a third country.⁹ The group analysed cases in which the number of arms declared to customs in the exporting and/or importing State was greater than the number of arms authorized to be imported by an arms dealer in the Caribbean subregion. The arms were seized in the cases discussed by the group, indicating that checks were being conducted on arms deliveries to the subregion.

The second challenge identified by the group was also highlighted in the joint UNODC and World Bank report: the use of the Caribbean subregion as a transit and trans-shipment point

4 UNODC and the Latin America and the Caribbean Region of the World Bank, *Crime, Violence, and Development: Trends, Costs, and Policy Options in the Caribbean*, Report no. 37820, March 2007, p. 130. An analysis of arms seized in a large Caribbean State in 2013 indicated that 95 per cent of arms seized were not registered in that country or known to be registered in another country, meaning that only five per cent of seized arms had been legally imported and diverted (UNODC, *UNODC Study on Firearms 2015. A Study on the Transitional Nature of and Routes and Modus Operandi Used in Trafficking in Firearms*, 2015, p. 39). During the consultative meeting, it was noted that Latin American States were an important source of arms trafficked into this large Caribbean State.

5 UNODC and World Bank, 2007, p. 131.

6 US Department of State, *End-Use Monitoring of Defense Articles and Defense Services Commercial Exports FY 2003*, http://pmddtc.state.gov/reports/documents/End_Use_FY2003.pdf, p. 4; and the equivalent reports for 2007, 2008 and 2009, available at, respectively: http://pmddtc.state.gov/reports/documents/End_Use_FY2007.pdf, http://pmddtc.state.gov/reports/documents/End_Use_FY2008.pdf and [http://pmddtc.state.gov/reports/documents/End_Use_FY2009\(2\).pdf](http://pmddtc.state.gov/reports/documents/End_Use_FY2009(2).pdf).

7 US DoS, *End-Use Monitoring of Defense Articles and Defense Services Commercial Exports FY 2003*, http://pmddtc.state.gov/reports/documents/End_Use_FY2003.pdf, p. 4.

8 US DoS, *End-Use Monitoring of Defense and Defense Services Commercial Exports FY 2009*, [http://pmddtc.state.gov/reports/documents/End_Use_FY2009\(2\).pdf](http://pmddtc.state.gov/reports/documents/End_Use_FY2009(2).pdf), p. 12.

9 UNODC and World Bank, 2007, p. 131.

for the diversion of arms to armed groups and organized criminal groups in Central and South America. The “illicit trafficking in arms and ammunition is linked to the trafficking in drugs (mainly cocaine, heroin, marijuana and hashish) through the CARICOM Region”.¹⁰ The group discussed how Caribbean States are seeking to address this challenge via more stringent transit and trans-shipment controls. At the same time, the group discussed several challenges, such as identifying false declarations and methods for concealing goods on cargo vessels passing through the Caribbean. Considerable attention was paid to gaining actionable intelligence to enable the inspection of “vessels of concern”, as it was recognized that only a very small percentage of cargoes will be subject to physical inspection. The group therefore highlighted the need to strengthen risk assessments and identify critical risk indicators to prevent diversion, as well as to enhance information sharing mechanisms and access to databases.

3. End use/r control systems in the Caribbean subregion

The group’s deliberations on end use/r control systems in the Caribbean benefited from the information provided by eight Caribbean States in their responses to the UNIDIR survey on end use/r control systems, which are summarized in section 3.1. The group focused on three key issues in relation to end use/r control systems in the Caribbean:

- Regulating arms imports by non-State arms dealers, especially for non-State end users;
- Compliance with assurances agreed with exporting States; and
- Regulating transit and trans-shipment.¹¹

Regarding the import control process, the group contrasted the regulations for importing arms and ammunition for defence and police forces on the one hand, and for non-State end users on the other. One participant noted that both the defence forces and constabulary are authorized to import arms and ammunition and in addition to providing the exporter with an import permit, they also provide an end user certificate (EUC) signed by the permanent secretary of a designated ministry. Another participant explained how their procurement process begins by providing a request for the purchase of arms to registered vendors, which then provide quotes for consideration by the defence force. The defence force then selects a preferred vendor and provides them with a purchase order. Within the government, a designated minister signs and certifies the EUC for the order, which contains information on the items, the vendor and the purchase order. The EUC is then provided to the vendor for use in its export licence application.

Regarding assurances, participants declared that their States abide by the re-export assurances provided in end use/r documentation. One participant, however, explained that in one case State authorities almost undertook a re-export without abiding by provisions in end use/r documentation requiring that they seek authorization from the original exporting State before doing so. In this case, the authorities had reportedly forgotten about the re-export notification obligations, but the potential unauthorized re-export was identified, and permission for re-

10 Caribbean Community (CARICOM), *Report of the CARICOM Regional Task Force on Crime and Security*, September, 2002, p. 10; UNODC and World Bank, 2007, pp. 133–134.

11 In addition, the group considered a range of cross-cutting issues, such as international cooperation and information sharing, defining key terms, and roles and responsibilities for different State agencies.

export was sought and received from the original exporting State before the re-export took place. Yet several participants questioned the extent to which the original exporting State could determine the conditions under which the imported arms could be used or disposed of, if they had been purchased by the importing State. Participants were sceptical about the introduction of a “new for old” condition on arms exports for State end users if the arms are to be purchased by the State. Participants expressed the view that in such cases the preferred option for the disposal of imported arms deemed surplus to government requirements should be determined by the government of the importing State; to allow the exporting State to do so would be an infringement of State sovereignty and unlikely to be acceptable in cases where arms had been purchased. In contrast, if the arms had been received as a grant or donation, participants were willing to act in accordance with conditionalities set by the donating State.

With regard to the process for importing arms for non-State end users, participants explained that a common approach among Caribbean island States is to allow only authorized arms dealers to apply for licences to import arms. Legislation and regulations in one State define a rigorous regime for licensing an arms dealer to be able to acquire arms—usually overseen by the police force. The authorized dealer can then request an import permit if it seeks to import arms. This application is scrutinized by the arms licensing authority and, if acceptable, a permit is issued and endorsed by the designated minister. Other States take similar approaches. However, there are varying approaches to the issuing of import permits and control of imports and distribution to non-State end users.

In the main, the smaller island States have a very limited number of arms dealers authorized to apply for a permit to import arms. The application for an import permit is for a defined number of arms or amount of ammunition. When the arms arrive, their serial numbers are registered and in several cases the imported arms are held in police stores until the arms dealer presents the registration documents for an authorized arms holder (i.e. non-State end user). One participant noted that an import licence is issued when the exact end users are known—i.e. the names of the individuals or companies that are due to acquire the specified number of arms or amount of ammunition to be imported. Therefore, in the Caribbean island States where the police force oversees the licensing regime, the police commissioner is involved in the registration of the non-State arms dealer and non-State arms holder or private security company (end user). In these cases, the State authority (i.e. police commissioner) issues an import licence to be used in support of an application submitted by an entity seeking permission to export from another State. The importing State authority does not receive a copy of the end user statement or assurances provided by the arms dealer to the export licensing authorities in the supplying state. Participants noted that they do not certify written end user statements or assurances provided by arms dealers. One participant noted: “we currently rely on dealers to prepare these documents. Should we have a role?”

The larger Caribbean island States also regulate arms imports using a two-stage process of registration of authorized arms dealers and issuing of import permits to authorize an actual import. In these cases, the arms dealers could be importing hundreds of arms or a considerable volume of ammunition and the “ultimate” or “final” end user for the imported arms might not be known in advance of the issuing of the import licences. In contrast, the volume of arms imported by arms dealers located on small Caribbean island States might only be in the tens of arms, with each recipient known to the licensing authorities. Therefore, while there are commonalities among the key elements of the end use/r control systems across the Caribbean, there are differences in practice due to differences in the scale of arms imports. Systems are

in place to regulate arms dealers and arms imports via import permit or licensing systems. At present, importing State authorities in the Caribbean do not request to see, or receive, written end user statements or assurances provided by arms dealers located in the importing State. Several participants discussed whether provisions should be introduced into arms transfer control legislation to instruct non-State importing entities to provide copies of end use/r documentation to relevant authorities in the importing State as well as the exporting State. One participant noted that if assurances are provided in a contract or written end user statement then the entity that provided such assurances is legally bound to abide by such provisions, based on the laws applicable in that jurisdiction.

As noted in section 2, the issue of diversion via transit and trans-shipment through the Caribbean has been identified as a challenge for the region. The representative of one State explained how it responded to this challenge by strengthening its trans-shipment regulations system, moving from a notification system to an authorization system for arms that are subject to trans-shipment or in transit.¹² For a vessel carrying arms to be authorized to trans-ship or travel in transit via this Caribbean State, the shipping agent needs to supply—in English—the import licence, export licence and end use/r documentation. The documentation is checked for authenticity and the ministry of foreign affairs ensures that the end user is not subject to UN sanctions. Authorization to proceed is usually given within 10 days of the receipt of such documentation, and therefore it is recommended that an application is made well before the vessel carrying arms is due to arrive. However, this change in regulations reportedly resulted in a sharp reduction in the number of vessels seeking permission for the trans-shipment or in transit shipment of arms via this State.

3.1 UNIDIR survey on end use/r control systems: results for States in the Caribbean

States from the Caribbean subregion have provided information on their end use/r control systems in their responses to the UNIDIR survey on examining options for cooperation to strengthen end use/r control systems in 2015 and 2016, as well as in their reports on implementation of the UN PoA, their initial reports on implementation of the ATT, and their completed ATT Baseline Assessment Surveys. This subsection provides an overview of end use/r control systems in the Caribbean, using information provided by eight Caribbean States by 21 September 2016 in response to the UNIDIR survey on end use/r control systems (Bahamas, Barbados, the Dominican Republic, Grenada, Guyana, Saint Kitts and Nevis and two Caribbean States that requested their names to be withheld). Information from these eight completed and returned surveys are presented below to help identify areas where systems already appear to be aligned at the subregional level, or where there are national examples of good practice that merit further consideration at the subregional level.

End use/r documentation requested by export licensing authorities

Three of the eight Caribbean respondents to the UNIDIR survey indicated that their arms exports are limited in terms of quantity and frequency. One State noted that, while very few exports are authorized, end use/r documentation is required before an export authorization is issued. However, this State did not provide a response on the information to be provided in its end

12 “Trans-shipment” for this State is defined as a change of vessel for the shipment in a port located in the Caribbean island State in question. “In transit” refers to a situation in which a vessel calls into port with an arms shipment on board. “Transit” is when a vessel carrying arms passes through the State’s territorial waters but does not call into port.

use/r documentation—e.g. regarding end use/r, items, entities involved in the transfer and unique identifiers. Another State noted that exports are rarely undertaken, but that in such cases an export permit is issued by the licensing authority. Three States noted that they provide a template or checklist of elements that must be included in either the end use/r documentation or the export permit issued to the applicant. The contents of, and details requested by, these documents are almost identical.¹³ The documents contain the key elements indicated in UNIDIR’s 2015 study and found in major exporting States’ end use/r documentation.¹⁴

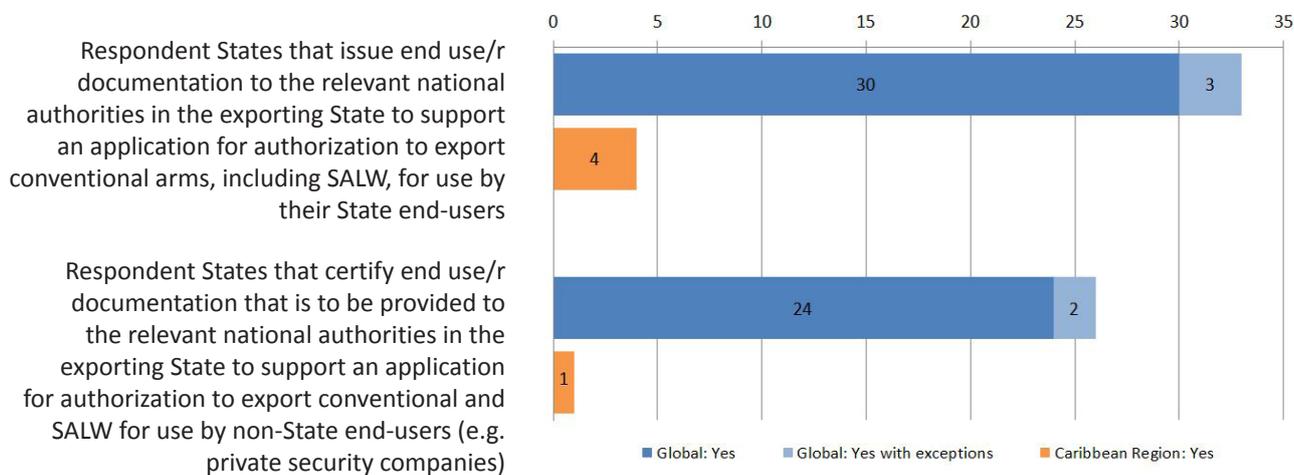
Three respondents indicated that they accept electronic copies of end use/r documentation submitted by applicants for export authorization. Two of these States still require an original hard copy of the end use/r documentation to be submitted with the application for an export authorization.

Three respondents keep records of end use/r documentation submitted by applicants for export authorization and two of them require applicants to keep such records too. One of these States maintains records for a minimum of seven years.

End use/r documentation provided by importer and end user/s

Four of the eight Caribbean States that responded to the UNIDIR survey issue end use/r documentation to the relevant national authorities in the exporting State to support an application for authorization to export arms, for use by their State end users (see Graph 1).

Graph 1. UNIDIR survey results (2015–2016):
Importing States issuing and certifying end use/r documentation



All four States use end use/r documentation provided by the exporting State when importing conventional arms. Three respondent States also use end use/r documentation that they have developed, without further specifying under which circumstances this documentation is utilized. The end use/r documentation developed by these States includes the key elements recommended

13 The only critical difference is that only one of these States requires the official letterhead of the competent authority or importing entity to be included in its end use/r documentation.

14 P. Holtom, H. Giezendanner and H. Shiotani, *Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion*, Geneva, UNIDIR, 2016. Op. cit., pp. 42-45, 64-66.

in relevant international and regional guidelines and standards.¹⁵ All three respondent States include statements on end use and end user, and two of them also include statements on final destination or location, delivery verification provisions, as well as statements related to the re-export of conventional weapons, including SALW.

Seven of the eight respondent States do not certify end use/r statements (EUS) that are to be provided to the relevant national authorities in the exporting State to support an application for authorization to export arms for use by non-State end users (e.g. private security companies).

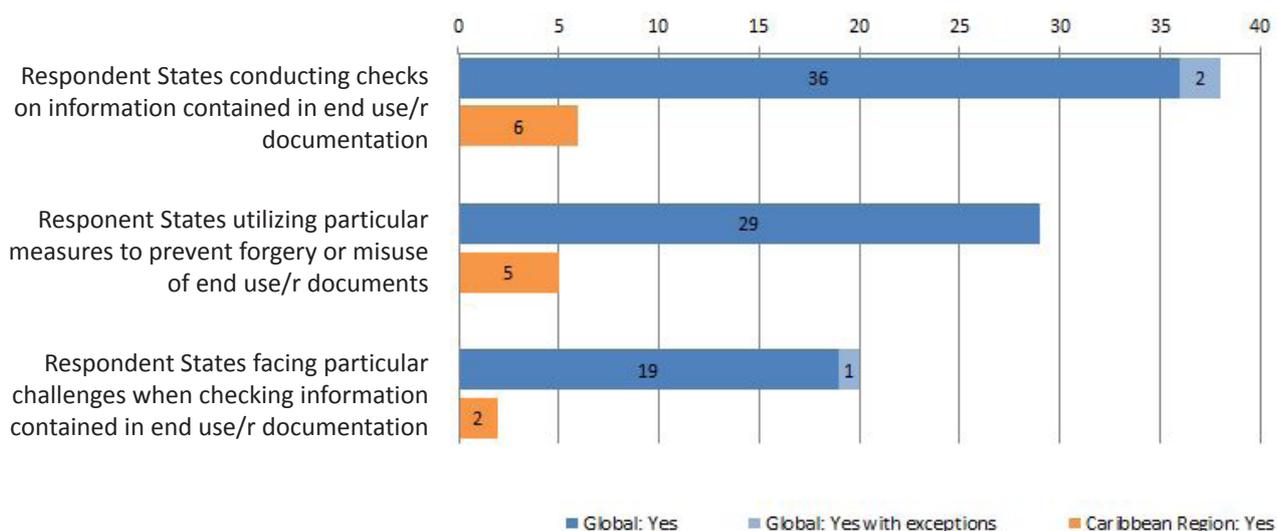
Use of end use/r documentation by competent authorities

Six of the eight respondents conduct some form of check on the information contained in end use/r documentation (see Graph 2). Five of these States utilize measures to prevent the forgery or misuse of end use/r documentation, such as:

- Investigation of all matters concerning end use/r documentation prior to any shipment being released by customs;
- Taking all shipments into police custody prior to any distribution to licence holders;
- Through checks and balancing with the national police force licensing regime and through random stop, search and verification of end use/r documentation; and
- Limiting the number of people authorized to sign off on end use/r documentation to one person.

With regard to challenges faced when checking information contained in end use/r documentation, one State noted: “[The lack of] a global mechanism to consult for the validation of information stated on End User documents (e.g. with INTERPOL) to assist in [...] risk assessment efforts.”

Graph 2. UNIDIR survey results (2015–2016):
Use of end use/r documentation by competent authorities



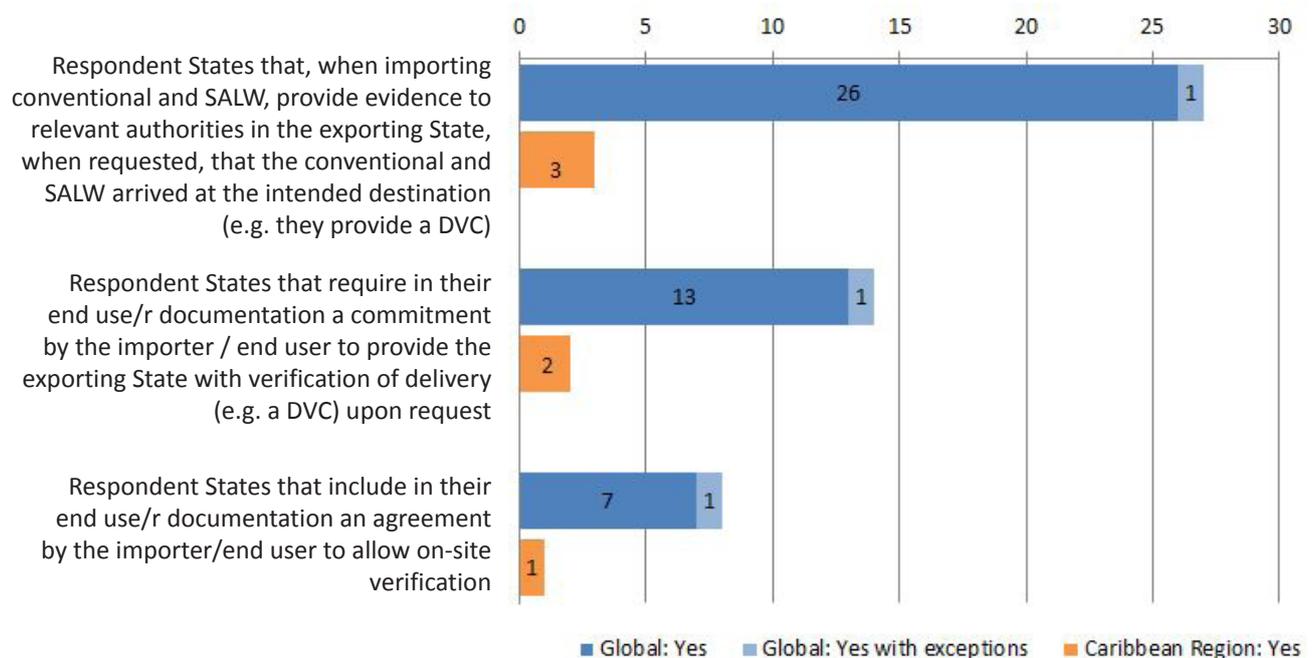
15 The only difference is that one of these States does not require the name, address and contact details of the government agency issuing the end use/r documentation to be included its end use/r documentation.

Post-delivery cooperation

Three of the eight Caribbean respondent States provide evidence to the relevant authorities in the exporting State, upon request, when the imported arms arrived at the intended destination (e.g. a delivery verification certificate) (see Graph 3). One of the three States that have developed their own end use/r documentation for import authorization also includes a statement of agreement by the importer/end user to allow on-site verification by the exporting State's competent authority. Of the five States that do not provide evidence of delivery, one State in its most recent report on implementation of the UN PoA (2016) stated that it grants the right to the exporting State to conduct a physical check at the point of delivery.

The three States that export arms do not require the importer/end user to provide evidence that the arms arrived at the intended destination (e.g. a delivery verification certificate).

Graph 3. UNIDIR survey results (2015–2016): Post-delivery cooperation



4. Assessing the utility of existing international and regional frameworks, instruments and approaches

Most of the instruments and best practice guidelines for establishing an effective end use/r control system, particularly the key elements for end use/r documentation, have been undertaken by organizations in which European and North American States are participating States. The impetus has therefore primarily been from an exporting State perspective in terms of identifying essential elements of such a system. The guidance contained in these instruments and best practice guidelines is directed towards States that have an arms industry and export control system. The group considered several questions concerning the utility of existing instruments and guidelines for strengthening end use/r controls and enhancing cooperation in the Caribbean subregion.

Can existing end use/r control definitions developed by international and regional organizations and export control regimes serve as the basis for harmonization efforts in the Caribbean subregion?

The group agreed on the possibility of using end use/r control definitions developed by international and regional organizations and export control regimes as the basis for harmonization efforts in the Caribbean subregion and globally. Participants noted that the definitions would need to be adjusted to reflect conditions in the subregion. The group expressed interest in whether these “baseline” definitions could be applicable for legislative and cooperation frameworks in the subregion. The definitions could be the basis for further dialogue, perhaps in relation to efforts to develop model legislation for ATT implementation for the subregion. For example, the group felt that the definition of “end user” in the International Small Arms Control Standards (ISACS) glossary and Wassenaar Arrangement reflected the interests and perspective of the exporting State and not the importing State, especially when arms dealers are involved in the transfer:

- End user defined by ISACS: “the ultimate recipient of an international transfer of small arms or light weapons.”¹⁶
- End user defined by the Wassenaar Arrangement: “may be a national government, national military forces, or other national authorities such as police, customs or paramilitary forces [...] companies that provide security services. Industrial end users are increasingly common when components or subsystems are exported. Depending on national system, some categories of buyers are not normally acceptable as end users for the purpose of obtaining assurances, for instance entities providing brokering services or other types of middlemen.”¹⁷

The group also recognized that:

- Harmonization efforts in the subregion can take some time to achieve a consensus; and
- Each State sometimes has its own unique characteristics that might require slight differences for some key definitions.

Should Caribbean States consider the development of best practice guidelines or common minimum standards for end use/r controls?

The group agreed that the development of best practice guidelines or common minimum standards for end use/r controls in the Caribbean is desirable and “should be considered” as part of subregional efforts to implement the ATT and CARICOM security pillars. The group considered the possible benefits of working on guidelines for transit and trans-shipment, while recognizing the different customs management systems in each jurisdiction.

Is it feasible and desirable to agree on “common minimum elements” of details of items, end user and relevant entities involved in the transfer to be exchanged between the relevant entities in the importing and exporting States (e.g. the development of a standardized end user certificate) for the Caribbean subregion?

16 International Small Arms Control Standard. 2015. *Glossary of Terms, Definitions and Abbreviations*. ISACS 01.20, Version 1.2, 30 June, p. 8.

17 Wassenaar Arrangement. 2014. *Introduction to End User/End Use Controls for Exports of Military-List Equipment*. Agreed by the Plenary, 3 July.

The group agreed that the UNLIREC model template for an end user statement provided a good basis for a potential checklist or template of “common minimum elements” for end use/r documentation. The elements considered to be essential also include the serial numbers, make and description of the arms being transferred. Participants also sought information on the delivery route to be included in such documentation.

What measures could be undertaken to help build trust between exporting and importing States?

Participants representing importing States indicated that they enjoy good relations with exporting States. They provided the following list of measures that could be undertaken to help build trust between exporting and importing States:

1. Joint tours conducted by representatives of importing and exporting States;
2. Open dialogues via a mixture of formal and informal meetings, involving not only importing and exporting States but also industry representatives;
3. Joint training at the practical/technical level;
4. Bilateral and mutual legal assistance;
5. Multi-stakeholder approaches to information exchanges;
6. Establishing and designating formal points of contact for information sharing and verification of information between exporting and importing States; and
7. Enhanced transparency for information sharing, including via certified databases.

The group also discussed how assurances provided by the importing State to the exporting State can serve as a starting point for establishing expectations. Some noted how the conduct of post-delivery follow-up helps to promote due diligence and encourages more dialogue between relevant parties to the transfer. The importance of points of contact in the right agencies was emphasized. The group considered whether CARICOM IMPACS could maintain a database of importing agencies and points of contact in the Caribbean for the use of exporting States seeking information and assurances on declared authorities. Some in the group also mentioned that the points of contact for the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA) could be another option for seeking assistance in authentication and verification of documentation in the subregion.

Is it useful in the Caribbean subregion to exchange lessons learned and sources of information for risk assessment procedures and verification? Is it feasible?

The participants agreed that exchanging lessons learned and sources of information on risk assessment procedures, especially in relation to transit and trans-shipment, is important and feasible in the subregion. CARICOM IMPACS was cited as an existing mechanism for helping to facilitate such exchanges. In addition, regional intelligence collection and sharing mechanisms were highlighted as helping to inform risk assessment. The sharing of information via the (currently in development) Caribbean Advanced Cargo Information System was also introduced as a means of exchanging information on potential cargoes of concern in a timely manner within the subregion. At the same time, several participants emphasized the need for a better understanding of diversion risks and challenges in the subregion—in particular focusing on the point in the life cycle of a weapon when it is most vulnerable to diversion, and not just during a transfer.

There was strong emphasis on the need for better evidence to inform a dialogue on roles and responsibilities in order to address diversion in the subregion. More information sharing on diversion patterns was needed. In this regard, national profiles or “maps” of diversion would be beneficial, which could be used to create and sustain a subregional knowledge base on diversion trends, practices, and actors.

Should guidance be developed for assisting risk assessments on diversion?

The group noted that guidance to address the risk of diversion should be tailored to specific agencies—i.e. customs, intelligence, etc. The group noted that customs services in the region do have guidelines and that information provided via the Automated System for Customs Data (ASYCUDA) on cargo, importers, exporters, etc. can be used for risk assessment and management of certain types of activities.

The participants discussed whether Caribbean States could work together to provide minimum risk assessment criteria and establish a subregional baseline for risk assessments, which could be linked to the operationalization of ATT obligations. For example, the possibility of developing a risk assessment checklist was raised. At the same time, the group recognized the challenge of developing subregional or international guidance, which might be too broad and superficial.

The discussion in the group switched to the benefits of providing guidance to national agencies, highlighting the way in which it could be useful to provide written standards that would help in the establishment of institutional systems rather than relying on personal knowledge. The participants highlighted the challenge caused by a knowledgeable and experienced member of staff retiring, leaving new staff members with limited guidance on their role and on risk assessment. Once again, there was a discussion of the benefits of a subregional approach to addressing the challenges of resources in small island States.

Are “post-delivery controls” and “post-delivery monitoring” more accurately identified as “post-delivery cooperation and information sharing”?

The group noted the “philosophical” and “semantic” nature of the question, but used it as the basis for a discussion on the responsibilities of different parties to a transfer regarding the use/uses of arms and ammunition after delivery to the importing State. The participants emphasized the responsibilities of government authorities in the importing State concerning post-delivery controls, monitoring, cooperation and information sharing. If an importing State, ministry or competent authority can control and monitor arms and ammunition post-delivery, the group questioned the role of an exporting State in such a situation. At the same time, information sharing with other entities—including exporting States—can play a role in the monitoring of end users and preventing diversion.

The group expressed some concerns about the idea of controls being imposed “post-delivery” by exporting States—the question was asked, “who identifies and determines what are the controls?” Concerns regarding the sovereignty of the importing State were discussed in this regard. Yet the group did note that exporting States can provide information and can cooperate to assist in the importing State’s post-delivery monitoring and controls of end use and prevention of diversion, for example when the importing State reassures the exporting State that arms and ammunition will not be diverted or re-exported without notifying the exporting State.

5. Next steps for a comprehensive approach

The eight Caribbean States that responded to the UNIDIR survey on end use/r controls referenced four international instruments and one regional instrument that could potentially support the further development and maintenance of a comprehensive approach in the subregion:

- The ATT (one respondent);
- The UN PoA¹⁸ (two respondents);
- The International Tracing Instrument¹⁹ (one respondent);
- The UN Firearms Protocol²⁰ (one respondent); and
- CIFTA²¹ (four respondents).

Within the group, two avenues were highlighted as providing potential avenues for developing a comprehensive approach to end use/r controls: the ATT at the international level and CARICOM IMPACS at the subregional level.

Arms Trade Treaty

Caribbean States have recognized and promoted the need for greater international dialogue to strengthen end use/r control systems. In its response to the request for States' views on the feasibility, scope and parameters of the ATT during 2007–2008, Jamaica stated that “the scope of a comprehensive arms trade treaty should include [...] end-use, end-user controls and end-use monitoring to reduce the risk of licit trade becoming illicit trade in arms”.²² Jamaica was also among the States participating in the Security Council meeting to consider the October 2001 report of the Panel of Experts appointed to monitor sanctions imposed on Liberia that supported the Panel's recommendation to establish a United Nations working group to develop a standardized EUC.²³ It is therefore unsurprising that the group noted that the ATT strongly influenced discussions on international avenues for strengthening end use/r controls.

The group noted the important role played by Caribbean States in pushing for the ATT text to highlight measures to address diversion. The group focused on how subregional initiatives to

18 General Assembly, *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, UN document A/CONF.195/15, 20 July 2001.

19 General Assembly, *Report of the Open-ended Working Group to Negotiate an International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons*, UN document A/60/88, 27 June 2005.

20 General Assembly, *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime*, UN document A/RES/55/255, 8 June 2001.

21 Organization of American States, *Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials*, document AG/RES. 1999 (XXXIV-O/04), 14 November 1997.

22 General Assembly, *Report of the Secretary-General. Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms*, UN document A/62/278 (Part II), 17 August 2007, p. 107.

23 Security Council, *The situation in Liberia. 4405th meeting of the Security Council*, UN document S.PV.4405, 5 November 2001. The proposal was made in: Security Council, *Report of the Panel of Experts pursuant to Security Council resolution 1343 (2001), Paragraph 19, concerning Liberia*, UN document S/2001/1015, 26 October 2001, para. 27.

implement the ATT—e.g. a model law—could also address end users, transit and trans-shipment, brokering, and arms dealers in the subregion. However, the group also considered how developments within the Caribbean could be shared via an ATT working group on implementation to support the development of good practice guidelines on end use/r controls that would include considerations of importing State and transit/trans-shipment State perspectives and practices.

The responses of the Caribbean States to the UNIDIR survey on end use/r controls also indicated the willingness of these States to share information with other States, including via an ATT mechanism. Six States provided information on the ministry or government agency that is the competent national authority to certify and authenticate end use/r documentation, where applicable. The three States that issue end use/r documentation to support an application for an export authorization provided information on the ministry or government agency that issues end use/r documentation. Seven out of the eight respondent States are willing to provide information to other States on entities authorized to certify end use/r documentation. The same seven States would also be willing to provide information to other States on entities authorized to authenticate and verify end use/r documentation submitted as part of an export authorization application. All eight respondent States would be willing to engage in an exchange with other States on/or share existing template(s).

A subregional approach

As noted above, the group noted the benefits and challenges of pursuing a subregional approach to strengthening end use/r control systems in the Caribbean. The group considered CARICOM IMPACS as a useful mechanism for facilitating such work, but noted the need for resources to be provided to enable efforts to be undertaken subregionally to develop guidelines, templates, checklists and information collection and sharing mechanism to strengthen end use/r controls and address diversion in the subregion.

In addition to CARICOM IMPACS, several participants highlighted the potential benefits of utilizing on a subregional basis the materials and tools developed by UNLIREC, such as the UNLIREC EUC and EUS templates and the materials provided in the UNLIREC ATT Implementation Course.

Observations on potential opportunities and challenges

Several potential measures could be undertaken by Caribbean States to strengthen end use/r control systems, including:

- Undertaking a **dialogue** in the Caribbean region on the key terms for end use/r controls.
- Developing a **checklist** for elements to be provided in end use/r control documentation for non-State end users.
- Developing **guidelines** on the roles and responsibilities for key government agencies in regulating exports, imports and transit/trans-shipment to prevent diversion.
- Exploring opportunities at the subregional level to strengthen risk assessment to prevent diversion at the operational level, such as:
 - Development of **risk assessment indicators at the national level**;
 - Establishing and maintaining a **knowledge management database on diversion routes, actors and practices** in the subregion;
 - Facilitating the sharing of information between **operational points of contact**.

There is a willingness to work with partners in the subregion to strengthen end use/r control systems in order to prevent diversion. There are subregional, regional and international instruments that provide potential frameworks that Caribbean States noted could be utilized to explore the potential measures listed above, such as those offered by CARICOM IMPACS, UNLIREC, CIFTA, as well as via the ATT working group on implementation. Two key potential challenges identified by the participants for advancing this issue among the Caribbean States are:

- Harmonization processes in the subregion can sometimes be time-consuming in regard to the development of relevant guidelines or operational tools.
- Each Caribbean State has its own unique characteristics that might pose a challenge to obtaining agreement on key definitions or guidelines that could be developed within the subregion.



UNIDIR

Meeting Summary

Examining Common Subregional Understandings to Strengthen End Use/r Control Systems to Prevent Arms Diversion

**Subregional Consultative Meeting
Port of Spain, Trinidad and Tobago
21–22 September 2016**

The objective of this subregional consultative meeting was to facilitate shared understanding among Caribbean States in order to identify possible approaches to enhance cooperation and strengthen end use/r control systems. The meeting contributes to a larger project, which provides a platform to facilitate an inclusive global dialogue on possible options and avenues within and beyond existing global and regional instruments to strengthen end use/r control systems and, in doing so, to more effectively address the diversion of arms.