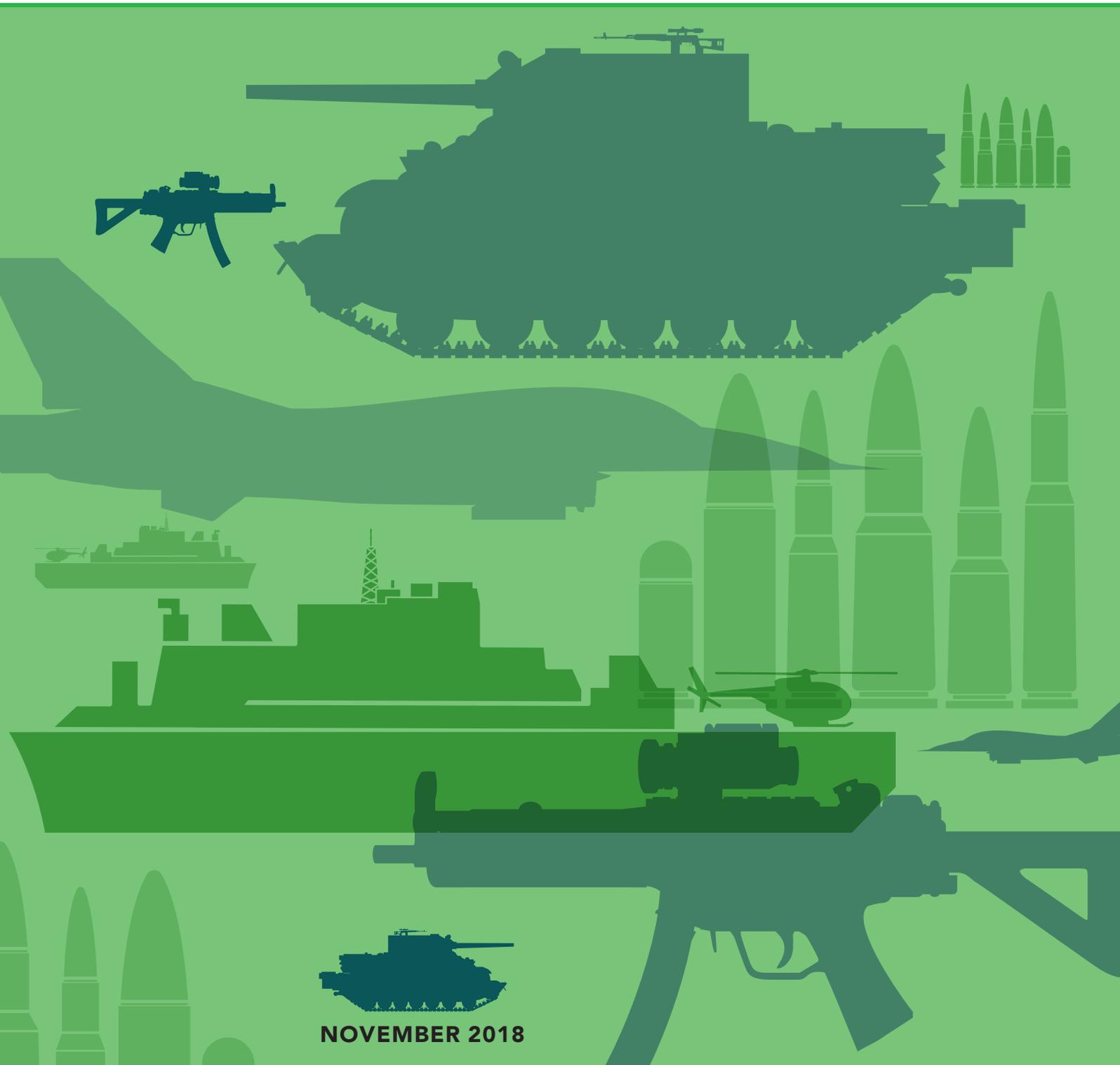




Sierra Leone

ATT national assessment report



NOVEMBER 2018

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Acknowledgements

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Contents

Foreword	i
Introduction	1
Recommendations	3
The Arms Trade Treaty	5
Sierra Leone and the arms trade	6
Legislation	7
National control list	11
Division of responsibilities	14
Licensing assessment and decision-making	17
Documentation	20
Information management and transparency	22
Procurement and importation by the state	24
Control at the border	25
Conclusion	26
ANNEX I: The Arms Trade Treaty	28
ANNEX II: Proposed amendments to the Arms & Ammunition Act	38
ANNEX III: Proposed amendments to the Sierra Leone National Commission on Small Arms Act	42
ANNEX IV: Summary descriptions of Wassenaar Arrangement Munitions List categories	43
ANNEX V: Additional items to be controlled	44
ANNEX VI: Information sources relevant to assessing risks of violations of international law	45
ANNEX VII: Sample Export Licence Application Form	46
ANNEX VIII: Sample End-Use Certificate (EUC)	50

Foreword

The Arms Trade Treaty (ATT) is the first global and legally binding instrument to regulate the transfer of conventional arms. It was adopted by the United Nations General Assembly on 2 April 2013, and formally entered into force on 24 December 2014.

Beginning 2011, the Sierra Leone National Commission on Small Arms (SLeNCSA) was actively involved in the process leading to the signing and ratification of the ATT by Sierra Leone on 25 September 2013 and 12 August 2014 respectively.

Sierra Leone is fully committed to the ATT, but due to limitations in her relevant national laws, regulations, structures, policies and practices, she cannot fully comply with her obligations. In that regard, SLeNCSA, in partnership with Saferworld, a UK-based international non-governmental organisation working with governments and civil society organisations to prevent armed violence and promote human security, accessed funding from the Voluntary Trust Fund of the ATT to assess Sierra Leone's legislation, with the aim of filling the gaps to ensure ATT implementation compliance.

The draft Assessment Report was validated on 25 September 2018. Among other things, it recommends that the scope of SLeNCSA be expanded to include all conventional arms. This means that the SLeNCSA Act of 2010 will need to be amended, and the Commission re-named the Sierra Leone National Commission on Arms (SLeNCA). It also recommends that the phrase 'small arms and light weapons' in both the SLeNCSA Act of 2010 and the Arms and Ammunition Act of 2012 be replaced by terminology more suited to the scope of the ATT and the new mandate of the Commission, for example to 'military items' or 'arms' as appropriate.

With the amendment of the SLeNCSA and the Arms and Ammunition Acts, Sierra Leone would be legally positioned to fully implement the ATT, thereby having full authority to prosecute violators of the provisions of the treaty.

Brig-Gen. (Rtd.) Tamba Rodnic Allieu (OOR)

Commissioner

Sierra Leone National Commission on Small Arms

Introduction

Sierra Leone has been a strong supporter of the Arms Trade Treaty (ATT) since the negotiation stage. It signed the ATT on 25 September 2013 and ratified on 12 August 2014, which means that Sierra Leone was one of the founding States Parties to the Treaty when it entered into force on 24 December 2014. Since entry-into-force, Sierra Leone has continued to demonstrate active interest and participation in the Treaty, such that it is well placed to play a leadership role in the sub-region and possibly even more widely. H.E. Ambassador Yvette Stevens of the Permanent Mission of Sierra Leone to the UN in Geneva was in the vanguard of those working through formal ATT processes to explore the links between the Sustainable Development Goals and the Treaty, while Sierra Leone is one of only two African states (the other being South Africa) to have met all its reporting obligations under the Treaty and placed all its reports in the public domain.

As a binding instrument governing the international transfer of conventional arms, the ATT confers a number of legal obligations on its members. Given Sierra Leone's history and circumstances, including the very limited exposure the country currently has to the arms trade, it should come as no surprise that Sierra Leone is not yet in a position to implement all the provisions of the Treaty.

This report of the Sierra Leone National Commission on Small Arms (SLeNCSA), which was developed with the cooperation and assistance of departments and ministries from across government, is an important step on the journey to full compliance, and as one more example of Sierra Leone's commitment to the ATT. It examines Sierra Leone's relevant national laws, regulations, structures, policies and practices. It identifies how and where Sierra Leone is and is not currently in compliance with its Treaty obligations, and makes a number of recommendations about how best to address its compliance gaps.

The report is part of a larger project, funded by the ATT Voluntary Trust Fund (VTF), that will develop a national action plan setting out a prioritised set of steps that Sierra Leone will need to take to become fully ATT compliant.

The report takes due account of the country's historical, geographical, political, security and economic circumstances. Factors that have been taken into consideration include:

- Sierra Leone's relatively recent experience as a country in conflict;
- Sierra Leone's membership of the ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and Other Related Materials (ECOWAS Convention) and the implications this has for transfers of SALW to, from or through Sierra Leone territory, with particular reference to Chapter II of the ECOWAS Convention;
- Limitations on the government's capacity and resources;
- The existing government and civil service structures that will be of relevance to the development of a comprehensive but efficient strategic trade management system, including the National Commission on Small Arms;
- The positive relations that Sierra Leone has with its neighbours;

- The fragile security situation in a number of states in Sierra Leone's 'neighbourhood';
- The absence of commercial manufacture of conventional arms in the country;
- Sierra Leone's very restricted involvement in the international arms trade, whether as an exporting, importing or transit state.

The analysis has involved a combination of desk-based research and interviews with a wide range of stakeholders from government, parliament and local civil society. It included a scenario or case-study workshop for technical experts with representatives from various national security institutions and government ministries as well as civil society. It is recommended to the Sierra Leone government as the basis for moving forward to achieve full Treaty compliance.

Recommendations

To achieve full compliance with the ATT, Sierra Leone should:

- Establish an Executive Order banning the export or import of any conventional arms not covered by the Arms & Ammunition Act without the explicit written authority of the President until such time as appropriate legislation is in force (see below).
- Make the Arms & Ammunition Act the primary legislative instrument through which the ATT is enacted and amend it accordingly as a matter of urgency.
- Establish, maintain and publish a national register of arms brokers, with procedures for assessing suitability of potential brokers and for revoking extant registrations.
- Adopt the Wassenaar Arrangement Munitions List and PL5001 of the UK Military List as Sierra Leone's national control list in the form of schedules to the Arms & Ammunition Act.
- Expand the mandate of the Sierra Leone National Commission on Small Arms (SLeNCSA) to cover cross-border flows of all conventional arms and establish it as the home of the Licensing Authority responsible for administering the national arms transfer control system.
- Change the name of SLeNCSA to better describe its new scope and mandate, for example to the Sierra Leone National Commission on Arms (SLeNCA).
- Establish a Licensing Committee from within the membership of the SLeNCSA Advisory Committee responsible for assessing any applications to transfer arms and making recommendations (to approve or reject applications) based on those assessments.
- Ensure that the provisions of the ATT are applied to all exports (and other applicable transfers – e.g. imports, transit and transshipment, brokering) regardless of whether the exporter is a private, commercial, or state actor.
- Promote the effectiveness of the Advisory and Licensing Committees of SLeNCSA/SLeNCA by guaranteeing continuity of membership from each of the component Ministries/agencies.
- Assign specific ultimate responsibility for decisions on licences to a single Minister of the government.
- Establish regulations and written procedures and processes for the management of all aspects of the arms transfer licensing system.
- Review, update and publish all documentation related to the licence application process for use by suppliers, exporters, importers, brokers, transportation agents, end-users etc. (e.g. licence application forms, end-use certificate templates).
- Place information regarding relevant legislation, regulations, control lists, procedures, documentation, the registry of brokers, policies, and reports on licences granted and transfers made (see below) in the public domain via SLeNCSA's/SLeNCA's website.

- Proactively engage with other ATT States Parties, the ATT Secretariat, ECOWAS Convention partners and the ECOWAS Commission to seek assistance where required, including with regard to particular licensing assessments.
- Assign two officials to act as authorised signatories for end-use certification purposes, and communicate their identity, function and contact details to the ATT Secretariat.
- Improve familiarity among relevant officials regarding information in the public domain and on websites that may help them in discharging their duties, e.g. from the official ATT Secretariat website.
- Require imports by state security providers to follow agreed procedures and that information on all such imports is shared with the Licensing Committee and the Licensing Authority.
- Ensure that all government ministries, departments and agencies importing or holding conventional arms have adequate safe-storage facilities and effective stockpile-management procedures in place.
- Continue to compile, produce and deliver in a timely fashion and with full cross-governmental cooperation the national annual report as mandated by the ATT to the ATT Secretariat for publication, and update the national initial report as and when appropriate. As noted above, these reports should also be published in Sierra Leone, for example on the SLeNCSA/SLeNCA website. Reporting responsibilities should be set out in legislation.
- Ensure that *all* exports and imports from and to Sierra Leone are included in the annual report, regardless of the identity of the exporter/importer.
- So as to assist border management, limit the points of legal import, export and transit of all items on the national control list into, from and through Sierra Leone to Lungi International Airport (LIA), Freetown Port, and the official land border crossing points at Gendema and Pamalap, except where a case-specific written exemption is provided on the authority of the Commissioner-General of the National Revenue Authority.
- Improve the extent and quality of safe-storage facilities at LIA, Freetown Port, Gendema and Pamalap, and at other main border-crossing points where feasible, and establish clear procedures for rapid, secured transfer of shipments of controlled items to secure-storage facilities where it is not possible to guarantee the security of arms on site.

The Arms Trade Treaty

The ATT is intended to establish the highest possible common international standards for regulating the international trade in conventional arms; to prevent and eradicate the illicit trade in conventional arms and prevent their diversion for the purpose of contributing to international and regional peace, security and stability; and reduce human suffering. (See Annex 1 for the full text of the Treaty.) Adopted by vote in the UN General Assembly on 2 April 2013, it entered into force on 24 December 2014.

The Treaty outlaws any international transfer of conventional arms that is not explicitly authorised by the States Parties involved in the transfer. It requires States Parties to *inter alia*:

- Establish a national control system to regulate the trade in conventional arms;
- Establish a national list of items subject to control;
- Prohibit the export, import, transit or brokering of controlled items where knowledge exists that the transfer would be in breach of international law, e.g. where it would contravene a UN arms embargo, or the arms to be transferred would be used to commit genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949 or war crimes;
- For all other exports conduct a risk assessment and refuse exports where it determines there is a risk of specified negative consequences (for example the risk that the relevant items could be used to commit or facilitate a serious violation of international humanitarian law);
- Keep national records of transfers;
- Report to the ATT Secretariat on measures taken to implement the Treaty and, on an annual basis, on relevant exports from and imports to its territory.

The Treaty also contains a number of provisions relating to international co-operation and assistance, and to its administration and ongoing implementation and development, such as the establishment and responsibilities of an administrative (not executive) Secretariat and a periodic Conference of States Parties (CSP), and procedures for Treaty amendment. Nation states remain sovereign: all decision-making with regard to conventional arms transfers remains in the hands of States Parties – there is no body mandated in the Treaty to stand above States Parties and make decisions or adjudicate on national decision-making.

Sierra Leone and the arms trade

There is no commercial production of conventional arms in Sierra Leone. The country has submitted annual reports to the ATT Secretariat listing its exports and imports for all three years for which those reports have been due. According to those reports, from 2015 to 2017, the only arms imports occurred in 2016, when Sierra Leone imported 10 armoured combat vehicles; 235 revolvers/pistols; 1,000 sub-machines guns; 1,050 assault rifles and six heavy machine guns. Over the same three-year period Sierra Leone has reported no exports.¹ Sierra Leone is not a transit hub, though it does have transit cargo and parcel post.

All of this points very clearly to the fact that with the possible exception of some transit, Sierra Leone plays a very minor role in the arms trade, and there is no indication and little reason to anticipate that this level of activity is likely to change significantly in the foreseeable future.

Sierra Leone already has a comprehensive law in place for regulating small arms and light weapons, ammunition and related materials. As a member of ECOWAS, it is obliged to abide by the articles of the ECOWAS Convention relating to the prohibition of transfer of SALW (Chapter 2, Articles 3–6), which means that with regard to SALW Sierra Leone already has transfer controls in place that in many respects are much more restrictive than those required by the ATT.

Sierra Leone therefore has a strong base from which to build full compliance with the ATT, though with a significant and obvious gap in terms of laws and systems with regard to major conventional arms. Sierra Leone is however subject to considerable capacity restrictions, which create implementation challenges.

Ultimately, Sierra Leone will need to balance its limited engagement in the arms trade and its capacity constraints with the need to be able to fully implement the ATT on the infrequent occasions where relevant activity occurs. This report takes full account of this situation, and is therefore very much focused on promoting full compliance but with a light touch.

¹ It is possible there were some transfers that went unrecorded and unreported – during the early days of Treaty implementation, as processes and systems are being established and regularised, it would come as no surprise if there were to be omissions – however there is no reason to think that the figures reported so far substantially underestimate Sierra Leone's involvement in the arms trade.

Legislation

As the ATT is a legally-binding instrument, in order to become fully compliant Sierra Leone will have to ensure that the Treaty is given force in national law. An early question for Sierra Leone – as for every State Party – is therefore to assess whether this can best be achieved by amending existing legislation or through a new law (which would itself then probably require adjustment to other existing legislation).

Sierra Leone is in the useful position whereby with only a relatively small number of changes to the Arms & Ammunition Act, 2012 (AAA)², to the Sierra Leone National Commission on Small Arms Act, 2010³, and potentially to some other laws and regulations, for example the Customs Act, 2011⁴, national legislation can be largely compliant with all the requirements of the ATT.

Arms and Ammunition Act (AAA)

It is the recommendation of this report that the AAA should be the primary legislative instrument through which the ATT is enacted. The AAA was established to “provide for the control of the transfer of [SALW], their ammunitions and other related materials from, to or through Sierra Leone; to provide for the regulation of the manufacture of [SALW], to provide for institutional and operational capacities to regulate possession and use of [SALW] within Sierra Leone and to provide for other related matters.”⁵

The principal mismatch between the purpose and existing powers of the AAA and the requirements of the ATT is with regard to scope. In one respect the ambit of the ATT is wider than that of the AAA, while in another respect it is narrower.

Wider, in that whereas the AAA applies only to SALW and their ammunition, the ATT is much broader, covering from small arms up to major conventional weapons platforms and systems such as fighter aircraft, tanks and armoured vehicles, and naval vessels.

Narrower, in that the ATT deals only with *international transfers* (taken to include export, import, brokering and transit/transshipment). The AAA, by contrast, in addition to controlling international transfers of SALW, also regulates for example their domestic sale and transfer, manufacture, ownership, possession and use, along with SALW stockpile management.

The primary tasks, therefore, are to:

- expand the scope of the AAA so that the part dealing with transfer (Part V) is amended to include other conventional arms (not just SALW)

² Arms and Ammunition Act, 2012, www.sierra-leone.org/Laws/2012-09.pdf.

³ Sierra Leone National Commission on Small Arms Act, 2010, <http://www.sierra-leone.org/Laws/2010-06.pdf>.

⁴ Customs Act, 2011, <http://www.sierra-leone.org/Laws/2011-09.pdf>.

⁵ Arms and Ammunition Act, Op. cit.

- make any other adjustments as necessary to be consistent with the details of the ATT in other respects
- maintain the existing integrity of the other parts of the Act.

Annex II of this report contains a list of suggested changes that achieves all three of these aims and brings Sierra Leone close to full legislative compliance with the ATT. The main focus of the changes addresses the question of scope as discussed above, though other issues – for example the factors that the government is to consider when deciding whether to authorise a transfer of arms – are dealt with as necessary. The changes are also cognisant of Sierra Leone’s other relevant obligations, for example the ECOWAS Convention on SALW, their Ammunition & Other Related Materials (ECOWAS Convention)⁶ and UN Security Council embargoes. Every care has been taken, however, to keep amendments as few and as streamlined as possible.

Regulating import, transit and brokering within the Arms & Ammunition Act

It has frequently been observed that while the ATT does address all kinds of arms transfer (and transfer is defined in Article 2 of the Treaty as “export, import, transit, transshipment and brokering”), its central focus is on exports. It does however have articles explicitly regulating import (Article 8), transit or transshipment (Article 9) and brokering (Article 10), although each of these contain caveats – such as ‘where necessary’ (import), ‘where necessary and feasible’ (transit or transshipment), and ‘pursuant to national laws’ (brokering) – which has led some to assume that these provisions are therefore discretionary.

However, when considered alongside Article 6, which deals with prohibited transfers – for example where the transfer would violate a UN arms embargo or be used in the commission of genocide – these obligations to control import, transit/transshipment and brokering are mandatory rather than optional or contingent.

States Parties must therefore have the legislation and procedures in place to regulate these activities where the relevant circumstances apply. Sierra Leone is in the fortunate position that this is already the case for SALW, ammunition and related materials through the AAA. Extending this to meet all the obligations in the ATT can be managed through relatively minor amendment to the AAA.

With regard to transit, we understand that all ships docking in Sierra Leone are required to provide the National Revenue Authority (NRA) with full cargo manifests in advance, which should assist Sierra Leone in meeting its obligations. The NRA should alert the Licensing Authority whenever the cargo manifest shows that there are conventional military items on board, at which point the Authority can consider whether those arms fall foul of Article 6 and, in the event that they do, order Customs to detain the cargo.

One area where more clarification and elaboration may be necessary is with regard to arms brokering. The current definition of brokering needs to be tightened, while the existing reference in the AAA to requiring those involved in brokering to register their operations needs to be expanded. For example, more detail on what registration would involve and what would happen to the information gathered would be useful. This is addressed in more detail in Annex II.

⁶ ECOWAS Convention on SALW, their Ammunition & Other Related Materials, 14 June 2006, www.poa-iss.org/RegionalOrganizations/ECOWAS/ECOWAS%20Convention%202006.pdf.

Interim measures

There is currently some ambiguity regarding the regulation of the international transfer of conventional arms that are not covered by the AAA. This report recommends that until such time as the new legislation is in place, Sierra Leone establishes a mechanism to ensure the government has the means to regulate transfers of all conventional arms. For example, Sierra Leone could establish an Executive Order for a total ban on the export or import of any conventional arms not covered by the AAA without the explicit written authority of the President until such time as amended legislation enters into force.

National control list

Fundamental to an effective national arms transfer control system is a comprehensive, unambiguous and clearly-expressed list of controlled items that covers all types of conventional military equipment and which is updated on a regular basis in response to technological developments.

Appropriate scope of a control list

During Treaty negotiations an explicit decision was taken to not define a precise, detailed list of items to which the Treaty would apply, on the grounds that this could slow the negotiations by (literally) years. Instead the Treaty requires each State Party to develop its own national control list (Article 5(2)), taking the seven categories of major conventional arms from the UN Register of Conventional Arms, small arms and light weapons, and ammunition and components for all of these types of arms (ATT Articles 2(1), 3 and 4) as the minimum, but then encouraging States Parties “to apply the provisions of this Treaty to the broadest range of conventional arms” (Article 5(3)). States Parties are also obliged to enforce UN embargoes, which typically prohibit supply of an extremely wide range of conventional arms, very much in keeping with the spirit of Article 5(3). In addition, current standard good practice at the national level, regardless of ATT requirements, goes way beyond the minimalist approach.

Examples of military items that would fall outside a narrow interpretation but which virtually all states would agree should not be traded without specific government approval include:

- A range of military air platforms, vehicles and vessels that do not have certain ‘offensive’ capabilities or fall under a particular size or capability threshold. Examples include military trainer or transport aircraft, amphibious landing vessels.
- Force-multiplier equipment, i.e. equipment that enables more effective use of personnel or weapons or weapons platforms. Examples include refuelling aircraft, fire-control equipment, military-specification radar, night-vision items.
- Hand grenades.

Issues that are important when deciding how to establish and maintain a national control list include:

- Comparability – Using the same (or almost the same) list as other States Parties is important with respect to international cooperation and assistance.
- Clarity – Any ambiguity regarding which particular items are or are not controlled can create significant challenges for the administrators, while ‘customers’ (i.e. (potential) exporters and importers) need to understand their legal obligations so as to help the system function efficiently and to avoid inadvertent non-compliance/law-breaking.

- Ease of development and maintenance – Developing a unique, bespoke national list requires significant technical expertise and is both time- and resource- intensive even for those that do have that expertise. Moreover, military and security technology is constantly evolving, and national control lists need to keep up with this in a timely manner.

With all this in mind, we recommend that Sierra Leone adopts the pre-existing Wassenaar Arrangement Munitions List as its national control list.⁹

The Munitions List has been refined over time; it is comprehensive, precise and non-ambiguous from a technical perspective, and is maintained and regularly updated by acknowledged experts in the field from around the world. It is increasingly acknowledged as the international standard, forming the basis of the national lists of all 41 members of the Wassenaar Arrangement¹⁰, and for a growing number of non-Wassenaar members as well.

The List is publicly available, with the Wassenaar Arrangement website advising that the “Munitions List is published here ... for the specific purpose of informing and assisting other countries which are developing or strengthening their national export control list for conventional arms.” The Wassenaar Arrangement Secretariat includes outreach among its functions and has recently been discussing control list issues with the ECOWAS Commission.

The content of the Wassenaar Arrangement Munitions List

The Munitions List is arranged in 22 categories, regularly updated, covering all types of conventional munitions from complete systems down to specific components (including everything in Articles 2–4 of the ATT). See Annex IV for summary descriptions of the List categories.

It is highly likely that most of the categories and items on the List will not be crossing Sierra Leone’s border at any time in the foreseeable future. This, however, is not a reason to reject the List, and indeed this is a situation already faced by a significant number of existing Wassenaar Arrangement Participating States that are not significant arms exporters.

For example, in the five years 2012–16, Wassenaar Arrangement member and ATT State Party Latvia did not issue any licences for 12 of the 22 Military List categories. Of the 127 export licences Latvia issued over the five years, almost all fell within just three of the 22 categories. 108 licences were for either small arms (ML1) or their ammunition (ML3), while another 10 were for ‘electronic equipment especially designed for military use’ (ML11). The use of the Munitions List, far from being an encumbrance, meant that for Latvia arms management was made more straightforward.

The experience of Latvia, along with other States that are not significant defence-equipment producers or exporters, is that the Munitions List does not create an excessive bureaucratic burden. The List is not used by Customs officers as a checklist against which all exports and imports must be physically compared.

⁹ ‘The Wassenaar Arrangement on export controls for conventional arms and dual-use goods and technologies munitions list’, The Wassenaar Arrangement, December 2015, https://www.wassenaar.org/app/uploads/2017/12/Stand_Alone_Munitions_List_WA_2017.pdf.

¹⁰ The 41 Participating States of the Wassenaar Arrangement are Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Romania, Russia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, the UK and the US.

But it is available to commercial entities operating in the territory of the relevant State so that they can check whether their products are licensable; it enables States to communicate effectively when they become aware of a problem, with the necessary legal means available for interception, inspection and/or confiscation as required. In situations where authorities are unsure whether items are in fact controlled, the possibility exists to seek advice from counterparts in other States or potentially within the ATT or Wassenaar Arrangement Secretariats, something which licensing and customs officials from around the world recommend as useful in building contacts and knowledge across different jurisdictions.

It is not a problem and no extra work has been created if after many years Sierra Leone has, as expected, had no contact at all with most of the items on the Munitions List. But if Sierra Leone does become aware that certain listed items are in prospect of entering, leaving or transiting its territory, it has the legal basis for interceding as necessary.

To take advantage of the regular list-updates produced by the Wassenaar Arrangement with minimal additional workload, this report suggests that the national control list can most easily and efficiently be managed via a Schedule to the AAA, which could be updated without amendment of the Act itself.

Additional items

The Munitions List does however omit certain equipment – relating predominantly to crowd-control and to items capable of delivering electric shocks (e.g. tasers, electric-shock batons) – that the Sierra Leone government has made clear it does not want private persons and companies to be able to import (or export) without permission.

This equipment can be easily added via the inclusion in the AAA of a short second Schedule. In the interests of efficiency, we recommend basing that Schedule on a brief existing section (PL5001) of the UK national list¹¹ (see Annex V).

This report recommends that Sierra Leone manages its national control list obligation through the creation of a two-schedule structure, with Schedule 1 based on the Wassenaar Arrangement Munitions List and Schedule 2 based on the PL5001 section of the UK Military List. Updates would be easily managed by mirroring the changes to the source lists. In addition, if it so chose, Sierra Leone could easily accommodate any bespoke change in the event that it wanted to add (or remove) any items independently.

¹¹ PL5001 of the UK Military List of the 'UK Strategic Export Control Lists', *UK Department for International Trade*, March 2018, p. 27 of 28, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/626629/controllist20170713.pdf.

Division of responsibilities

Good – and well-established – practice is that the management and oversight of conventional arms transfers should involve a wide range of different actors from within government, as well as other stakeholders from the legislature and civil society. This is largely already the case in Sierra Leone regarding small arms management, and is given legislative force and operationalised through the functions and make-up of SLeNCSA and its Advisory Committee.

The level of crossover between international conventional arms transfer controls and small arms management is such that this report recommends SLeNCSA is tasked to take on a similar coordinating role in terms of ATT implementation as it already has for SALW control. With management of transfers of SALW already one of SLeNCSA's functions, there would seem little point and significant inefficiencies in establishing a new/different agency to take on this role for other conventional arms. In this context it is also noteworthy that, in part as a consequence of the widespread ratification of the ATT by ECOWAS States, many small arms commissions in ECOWAS partner countries and the ECOWAS Commission itself are looking at a similar expansion of mandate. This would require changing SLeNCSA's establishing Act (the Sierra Leone National Commission on Small Arms Act). It would also be logical to provide for a change in name to, for example, the Sierra Leone National Commission on Arms (SLeNCA).

The expansion of mandate will however need to be carefully thought through in terms of the implications for the division of responsibilities among the various involved government agencies and other stakeholders as these apply to administrative/coordinating, advisory and executive/decision-making functions.

In this regard, SLeNCSA's – or SLeNCA's – primary function can be seen as predominantly administrative/coordinating, and would include though not necessarily be limited to the following:

- Functioning officially as Sierra Leone's 'Licensing Authority' for conventional arms transfers;
- Managing the development and updating of relevant legislation, regulations, systems procedures and documentation;
- Collecting and disseminating relevant information to the Commission's members;
- Developing and maintaining an IT infrastructure sufficient to enable the efficient functioning of the system;
- Operating as the contact and information-dissemination point for licence applicants – informing them of their rights and responsibilities, alerting them to any changes to relevant laws, regulations, systems, mechanisms and processes, receiving and processing licence applications, and informing applicants of licensing decisions;

- Conducting outreach to those entities to whom arms transfer controls may be relevant or who may express an interest (including legislative or other parliamentary committees; potential exporters, importers, distributors and dealers, brokers, transportation agents; media; civil society, and end users);
- Convening and where appropriate chairing meetings at which licensing and other decisions are taken;
- Compiling information, keeping records, developing and submitting the required reports to the ATT Secretariat (and other institutions as may be deemed necessary or appropriate);
- Operating as Sierra Leone's ATT National Point of Contact for the ATT Secretariat and other States Parties (and any other interested actors from outside the country);
- Verifying end-use documentation and assurances received from other states, for example by confirming the veracity of authorising signatures via the ATT Secretariat or bilaterally;
- Keeping abreast of international ATT developments and representing Sierra Leone or arranging and coordinating Sierra Leone's representation as required at ATT events, for example the annual Conferences of States Parties and related intercessional meetings.

For the foreseeable future, it is expected that the number of licence applications will be small enough such that licensing-related functions will create very little additional burden. However, there will inevitably be some resource implications for, in the first instance, making the necessary changes to the Sierra Leone system (including those described in this report) to achieve full compliance with the ATT. In future there will be various ongoing tasks among those described above – for example compiling the annual report; preparing for, attending and reporting back on external ATT events; maintaining the IT system – that will involve some additional resources. International assistance is however available to help address these challenges and SLeNCSA/SLeNCA should be proactive in seeking to access support and assistance.¹²

There appears little reason to think that the make-up of the Advisory Committee to SLeNCSA would need to change if the mandate of the Commission is extended to cover all conventional arms, though it may make sense for it to provide more oversight as well as advice.

In the context of arms transfer controls specifically, it is recommended that its functions would include:

- Making and providing feedback on proposals regarding arms transfer legislation, regulations, procedures, documentation, IT systems etc.;
- Providing advice and feedback on and ultimately endorsing SLeNCSA's/SLeNCA's plans and internal policies
- Evaluating the performance of SLeNCSA/SLeNCA;
- Reviewing the effectiveness and appropriateness of the national system over time;
- Advising and making recommendations regarding licencing policy, and reviewing that policy as appropriate;
- Advising and providing oversight on general enforcement issues and policies.

¹² For more on the types of cooperation and assistance activities that are already being carried out in the context of the ATT, see the SIPRI project 'Mapping ATT-relevant cooperation and assistance activities', <http://www.att-assistance.org/>.

For the most part there would seem to be no reason why the full membership of the Committee should not be present when performing the functions above. There may however be occasions where, for example for reasons of national security, it is decided to restrict participation in certain discussions. The default position should, however, be that all members of the Committee are welcome to attend all sessions of Committee meetings, with a process to be established for determining when and why exceptions might be made, and with the issue of participation subject to periodic review.

By contrast, for operational decision-making, most obviously with regard to particular licence applications, or when considering more sensitive issues, for example regarding specific enforcement questions, it may be more appropriate to establish a smaller and more operational Licensing Committee comprising representatives from departments or ministries with particular expertise, knowledge or interests.

It is anticipated that the Licensing Committee would be convened by SLeNCSA/SLeNCA and include members from at least the Office of National Security, the Ministry of Internal Affairs (MIA), the Ministry of Foreign Affairs and International Co-operation, the Ministry of Justice, the Ministry of Defence (in the person of the representative of the Armed Forces) and the National Revenue Authority. Given the frequent importance of confidential information in licensing assessments, consideration should also be given as to how to best include intelligence and security agencies in the information-gathering, liaison and assessment processes.

The respective roles of the Committee members would need to be established, but these could vary depending on the issue under consideration. For example, the NRA would likely be more active concerning questions relating to enforcement, transit or transportation issues than to equipment end-users. The MIA might play a major role with respect to imports, but might be less central with regard to export decisions.

It is anticipated that the Licensing Committee would not have ultimate decision-making powers, but instead would provide recommendations to a Minister tasked with final responsibility for licensing. For more on this see the next section.

Licensing assessment and decision-making

The ATT, in Articles 6, 7 and 11, sets out possible consequences that must be considered by the national authorities for any potential export in advance of taking a decision whether to permit the export.

Under Article 6 (prohibitions) of the ATT, States Parties are obliged to prohibit any prospective transfer that is not consistent with its existing international obligations or where the arms to be transferred would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949 or war crimes. Important to note here is that the term ‘transfer’ covers export, import, transit, transshipment and brokering.

If the transfer is not prohibited under Article 6, then for proposed *exports*, States Parties must consider certain additional risks before taking a decision on whether to allow or refuse that export. These risks relate to:

- Peace and security;
- Potential violations of international humanitarian law (IHL) and international human rights law (IHRL);
- Terrorism;
- Transnational organised crime;
- Gender-based violence or violence against women and children; and
- Diversion of the arms to be exported.

The ATT does not set out the process of or lines of responsibility for decision-making. However, in most jurisdictions with developed arms transfer control systems, the process involves a multi-departmental assessment and recommendation, with ultimate responsibility falling to a Government Minister, though the particular ministry varies from country to country. We recommend that Sierra Leone follows a similar procedure.

In some states, where large number of licence applications are considered (perhaps thousands every year), the decision-making authority might be delegated to officials for ‘routine’ cases. However formal responsibility will still rest with the designated Minister and in more difficult or complex cases that Minister would be expected to be directly involved or at least explicitly informed in advance. In the case of Sierra Leone, where we anticipate the number of licence applications will be few, it is recommended that the designated Minister should be informed of all individual cases and to give her or his direct approval or rejection.

The function of the Licensing Committee in this process would be to make the appropriate risk assessment and on that basis make recommendations to the Minister (the ‘competent national authority’ as required by ATT Article 5(5)). Given the small number of licence applications Sierra Leone can expect to receive, it would be inefficient and indeed unreasonable to expect all members of the Licensing Committee to develop the necessary expertise to make a detailed assessment of all

of the above factors. Instead, it is proposed that the Committee assign lead responsibility for each of these factors to a designated member, though members should feel free to consult with one another on an ongoing basis as they see fit. For each licence application the Committee as a whole would then collate the component assessments and arrive at an overall conclusion and recommendation.

Again in the interests of efficiency, each agency or ministry should designate a lead person to represent their agency/ministry in all meetings, to lead the particular risk assessment function of their agency, and to operate as the ‘expert’/point of contact for others within their agency. Rapid rotation of these individuals should be avoided if possible; this function requires a specific expertise and it will be unhelpful if this has to be re-acquired on a frequent basis.

For those States Parties to whom this type of risk-based assessment process is relatively new, there are a variety of materials (including many in the public domain) available to assist. This can be broken into two types: those which describe how to conduct an assessment, and sources which provide information relevant to determining risk factors in any particular licensing assessment.

Many of these materials have been collated through the formal ATT process itself. The Fourth Conference of States Parties (CSP₄) of the ATT¹³, held in Tokyo in August 2018, welcomed a series of ‘reference documents’ collated and produced by the ATT Working Group on Effective Treaty Implementation which are relevant to risk assessments, such as:

- List of possible reference documents to be considered by States Parties in conducting risk assessment under Article 7
- List of possible reference documents to be considered by States Parties to prevent and address diversion
- Possible voluntary guiding and supporting elements in implementing obligations under Article 6(1)¹⁴

There are other useful sources as well, governmental and non-governmental, many of which are included among the reference documents referred to above from the ATT Working Group of Effective Treaty Implementation Chair’s Draft Report to CSP₄.

Examples include the EU’s ‘User’s Guide to Council Common Position 2008/944/CFSP’, available online, to assist licensing officials from EU Member States in administering their own regional arms transfer control agreement. The User’s Guide was updated in 2015 in part to reflect the requirements of the ATT and includes a great deal of guidance which is explicitly ATT-relevant.¹⁵ Annex VI to this report includes by way of example an illustrative list of relevant open-source information sources recommended in the EU User’s Guide for assessing the risk that arms might be used to commit or facilitate serious violations of IHL or IHRL.¹⁶

¹³ Final Report to the Arms Trade Treaty Fourth Conference of States Parties, ATT/CSP4/2018/SEC/369/Conf.FinRep.Rev1, 24 August 2018, para. 23, https://www.thearmstradetreaty.org/images/CSP4/CSP4_documents/CSP4_Final_Report_August_2018_ATT_CSP4_2018_SEC_369_Conf.FinRep.Rev1.pdf.

¹⁴ ATT Working Group of Effective Treaty Implementation, Chair’s Draft Report to CSP₄, Arms Trade Treaty Fourth Conference of States Parties, ATT/CSP4.WGETI/2018/CHAIR/355/Conf.Rep, 20 July 2018, Annexes B, C and E, https://www.thearmstradetreaty.org/images/CSP4/CSP4_documents/ATT_CSP4_WGETI_Draft_Report_EN.pdf.

¹⁵ ‘User’s Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment,’ Council of the EU, 20 July 2015, <http://data.consilium.europa.eu/doc/document/ST-10858-2015-INIT/en/pdf>.

¹⁶ *Ibid.*, Annex I to chapter 2 section 2, pp. 59–60.

Saferworld has recently released, as part of its series of ‘Expert Group’¹⁷ publications, ‘Implementing the ATT: Undertaking an arms transfer risk assessment’¹⁸, which is specifically designed to assist states with limited experience and limited capacity in this area to work through the assessment process.

In addition, there are a number of States Parties with extensive experience of criteria-based licensing assessments who could and in some instances already do provide direct support to those to whom this type of process is relatively new. The ATT explicitly and repeatedly calls on States Parties to co-operate and provide assistance for Treaty implementation, and the ATT Secretariat is mandated to facilitate exchanges between States Parties. While the ATT does not oblige States Parties to assist each other in terms of risk assessment, it definitely encourages it, and many of the more experienced States Parties have repeatedly indicated a willingness to cooperate along these lines. The opportunity therefore exists to take advantage of this potential support, and Sierra Leone should seek to take every opportunity to do so, for example by establishing links and lines of communication with experienced States Parties at the Conferences of States Parties and other ATT-related events.

Once the Licensing Committee has completed a licensing assessment, its recommendations, along with brief commentary/rationale and any explanatory (or dissenting) comments that any members of the committee could request be included, should be sent to the Minister. It would then fall to that Minister to approve or deny the licence, or to request further information/explanation from the Licensing Committee.

Where the system is functioning well, the Minister would be expected on most occasions to accept the recommendation of the Licensing Committee. If a pattern of rejecting the recommendations were to develop, it would suggest a problem in the system and that a review might be in order. It is important for the integrity of the process that the Minister (or other ultimate decision-maker) does not direct the Committee, is not involved until she or he receives the recommendation of the Licensing Committee, and that the Licensing Committee keeps a written record of all recommendations and dissenting views.

Important to note here is that the requirement to undergo this assessment applies to all exports (and in the case of Article 6, all transfers), including cases where the exporter is a ministry, department or agency of the Sierra Leone government. It would not be permitted under the Treaty if, for example, the Sierra Leone Police were to export an armoured crowd-control vehicle without this proposed export being subject to a proper risk assessment. The assessment would not necessarily have to follow exactly the same *procedure* for an export by a commercial or private actor, though it would have to pass the same tests, i.e. that it would not have any of the negative consequences referred to above (and in Articles 6, 7 and 11 of the Treaty). We do however recommend that in the interests of consistency, quality of decision-making, good governance and transparency, that a similar process is followed. This would also have the benefit of simplifying the task of complying with the ATT’s record-keeping and reporting obligations.

Finally, it is worth reflecting again that the number of licence applications likely to be received by the Licensing Committee will be very few, and that the increase in the workload of the relevant officers is likely to be limited, which creates the risk that this function is not seen as a high priority. But when applications are received, as a State Party to the ATT Sierra Leone will need to meet its assessment obligations in full, and therefore needs to be adequately prepared.

¹⁷ Expert Group on ATT Implementation, <https://www.saferworld.org.uk/en-stories-of-change/the-expert-group-on-att-implementation-egai>.

¹⁸ ‘Implementing the ATT: Undertaking an arms transfer risk assessment’, Saferworld, August 2018, <https://www.saferworld.org.uk/downloads/att-expert-group-briefing-no.6---final.pdf>.

Documentation

Any effective transfer control system needs appropriate documentation and documentation processing systems for managing arms transfer requests. There are several key elements to this, each of which should ideally be based on electronic digital systems that can 'talk' to each other. The elements are:

- Transfer licence application
- Transfer licence
- End-use(r) certification
- Customs clearance

Sierra Leone already has a number of licence application forms. Becoming an ATT State Party has created the perfect opportunity to reassess what is needed, to ensure that any forms used are fit for purpose (in that they cover all necessary issues but are straightforward to submit and administer), and to look at how to use modern digital technologies to improve the security and efficiency of the process.

As a first principle, any entity wishing to export arms from Sierra Leone will need to complete an export licence application. Preferably, this whole process should be carried out on-line, but at the very least the appropriate forms should be available for download from the SLeNCSA/SLeNCA website. There is no 'perfect' licence application form, and it will be up to Sierra Leone to decide what shape it wants its though various models are available (and a copy of an example application form from the Saferworld publication 'Implementing the ATT: Undertaking an arms transfer risk assessment' can be found in Annex VII to this report). Whichever application format is chosen, each application should be given a unique number which should follow the proposed export from the start to the completion of the process, and which should appear on all related documents. The applicant will at a minimum need to provide information about all parties to the transaction (including intermediaries where these exist), the items to be transferred (description, quantity, value), supply routes (as these become known) and the end-user and end-use.

Where the goods are to be exported from Sierra Leone the licence application will need to be accompanied by end-use documentation. Models are available from which Sierra Leone could draw to decide its preferred format, and other States Parties would no doubt be willing to assist Sierra Leone in this regard if requested. See Annex VIII for a sample end-user certificate (EUC), once again taken from Saferworld's 'Implementing the ATT: Undertaking an arms transfer risk assessment'.¹⁹

At a minimum, an EUC should include information on:

- The exporter;
- The end-user;
- The country of end-use;
- The items being transferred (description, quantity and value);
- The proposed end-use of the items.²⁰

¹⁹ Ibid.

²⁰ For further information on best practices for end-use certification see *OSCE Handbook of Best Practices on Small Arms and Light Weapons: Best Practice Guide on Export Control of SALW*, 2003, p. 9, <http://www.osce.org/fsc/13616?download=true>.

While a generic sample certificate could be available on-line, every EUC will need to be uniquely numbered, consistent with the numbering on the initial licence application. Once completed, end-use documentation will need to be signed by an authorised signatory of the importing state, who should be available to answer any follow-up questions to confirm the legitimacy of the transfer. It is recommended that Sierra Leone also follow good practice in requiring at least that the items will not be re-exported without the explicit written permission of the government of Sierra Leone. Depending on circumstances, Sierra Leone should also consider including a blanket non-re-export undertaking in the end-use documentation.

Where it is importer, in most cases Sierra Leone should expect to be required to make an end-use declaration. It is recommended that two officials should be assigned the role of authorised signatories in such circumstances. Their details should be held by the ATT Secretariat, which would then be expected to communicate these to other States Parties. Only these two individuals would be authorised to sign documents of this type on behalf of Sierra Leone, and they would need to be available to answer any queries the exporting state might have about the transfer.

Steps should be taken to ensure that Customs documentation and export/import licensing documentation can be (and are) matched. Immediately upon a decision being taken, a copy of the licence issued or details of the refused application should be dispatched to the Director of the NRA. The unique licence number (see above) should appear on the relevant customs forms. Copies of export/import licences should accompany the physical goods at the point of export or import. Where documentation is missing or there are discrepancies, the goods in question would be held until such time as absences or discrepancies are addressed. Ultimately, goods should be impounded if the problems cannot be resolved.

Information management and transparency

One of the functions of the licensing authority will be to collect, organise and disseminate information related to the ATT and its implementation.

In the first instance, all relevant laws, regulations, procedures, the control list, standard documents (such as licence application forms), and the text of all relevant instruments or agreements to which Sierra Leone is bound (e.g. the ECOWAS Convention and the ATT) should be placed in the public domain, ideally on SLeNCSA/SLeNCA's website. The rationale behind this is that any entity with an intention to engage in international trade to, from or through Sierra Leone needs to know what their legal rights and obligations are, including for the purpose of avoiding inadvertent law-breaking. They can also benefit from a better understanding of the country's obligations and commitments. The website should also act as gateway for individuals and companies seeking to comply with the Sierra Leone regime to access assistance from the Licensing Authority. For the most part, this information once uploaded will require little amendment; once the website is properly established, the maintenance of this part at least should be straightforward.

SLeNCSA/SLeNCA will also be the obvious agency to compile and maintain a Registry of brokers. This Registry should be in the public domain (on the website as above), and should include a list of all entities denied permission to function as a broker or that have had an existing permission revoked. The existence and web-location of the Registry should be communicated to the ATT Secretariat and to other ATT national points of contact. Given the international nature of arms brokering and the tendency of problematic brokers to engage in 'jurisdiction-shopping', there is real value in sharing information about potentially problematic actors with officials working in other countries.

Keeping records of all licences applied for, issued and refused, and of all actual transfers that take place (note that authorisations and actual transfers do not always tally, for example because not all export/import licences are utilised in full) would also seem to fall naturally to SLeNCSA/SLeNCA. Such records would then form the basis for the compilation of the reports as required by the ATT, i.e. the initial report on the measures Sierra Leone had undertaken in order to implement the Treaty (which was produced as required but should be updated when further steps are taken), and annual reports concerning all authorised or actual exports and imports of conventional arms (due by 31 May each year for the calendar year preceding). The annual reports are to cover both commercial and government exports and imports where they occur, e.g. the export of body armour by a private security company from its operative in one country to its operatives in another country, or the import of automatic rifles and armoured vehicles by the army. In all cases the data should be collated by the licensing authority for inclusion in the annual report, which will then be made available to the ATT Secretariat. It would also be

in accordance with good practice in many other states for this report to be presented to parliament and placed on the website alongside the other information. SLeNCSA/SLeNCA could also use this data to compile and maintain a record of all those who have applied for licences over time – in effect, this would create a *de facto* registry of importers and exporters.

In addition, the overlap between reporting requirements for, for example the UN Programme of Action on Small Arms, the 1540 Committee and in particular the UN Register of Conventional Arms, would argue in favour of a single agency being responsible for all thereby delivering on a range of reporting commitments in an efficient fashion.

During the negotiations, a number of poorly-resourced states expressed their concerns about the reporting burden that the ATT would involve. However, as long as the right systems are in place, reporting need not prove burdensome in Sierra Leone. Given the relatively low number of transfers per year involving Sierra Leone, if records are kept and updated on an ongoing basis, producing accurate and comprehensive reports should be straightforward.

Procurement and importation by the state

It is not uncommon for imports of controlled goods by state agencies (e.g. armed forces and police) to be treated differently to imports by individuals or commercial actors (e.g. gun dealers, private security companies, military equipment manufacturers, extractive industries). It is not, however, recommended that government agencies should be able to import arms completely freely and independently. Instead, good practice demands that even though procedures may be relatively streamlined, any import should still be subject to authorisation under the same overarching framework as for private and commercial importers (notwithstanding other cross-governmental processes that may be relevant, e.g. competitive tendering rules or budgeting procedures).

The details of state procurement and importing practices are a matter for the Sierra Leone government, but it is critical that these procedures are formally established and elaborated, that lines of decision-making and responsibilities are clear, and that all of this is a matter of public record. The details of any actual imports need to be communicated in advance to the NRA for customs-clearance purposes. SLeNCSA/SLeNCA should also be informed so as to promote and ensure cross-governmental co-operation, transparency and accountability, and to meet record-keeping and reporting obligations.

In all cases of import by the state, the agencies involved need to ensure they have adequate safe-storage facilities and effective stockpile management procedures in place, and not just in Freetown but across the whole of Sierra Leone. The need for effective physical security and stockpile management (PSSM) is well understood and work is currently underway with the assistance of the Mines Advisory Group to improve PSSM in the country. This however is also a potential issue for other ATT States Parties that are potential future exporters of arms to Sierra Leone, as they will be obliged to assess the risk that arms exported to Sierra Leone might be diverted, lost or stolen from insecure locations.

Control at the border

In light of the country's long and porous borders, it is not realistic to expect Sierra Leone's border management agencies, whether alone or in co-operation with their counterparts in bordering states, to be able to always prevent conventional arms from being smuggled into or out of the country. This is especially the case with movements of small numbers of small arms (the 'ant trade'). However, there are steps that can be taken to better manage transfers of military items, especially commercial transfers (which are a significant focus of the ATT), through formal border crossing points.

Nor is it realistic to expect experts in identifying conventional arms to be available at all of Sierra Leone's border-crossing points. We therefore recommend that no imports or exports of conventional arms be permitted into or out of Sierra Leone except through explicitly designated locations. Further, we would recommend limiting those named ports to LIA, the Freetown Sea Port, and the official land-border crossings at Gendema and Pamalap, although with the proviso that exemptions could be made to that restriction at the discretion of the Commissioner-General of the NRA on a case-by-case basis.

Where arms are discovered at any other border point, they could then be held until an appropriate expert is able to determine either remotely through the use of photographs and documentation or, where necessary, through physical inspection at the crossing point. This is standard practice worldwide.

This does, however, raise the issue of secure-storage facilities at border crossings, which should be the subject of review by the Commissioner-General of the NRA. For military items exported from, imported to, or in transit through Sierra Leone, Customs and other enforcement agencies should ensure they have all required powers and full access. If this is not the case, it should be subject to immediate review.

The facilities and procedures at LIA may not be adequate to safely handle or store commercial shipments of conventional arms. A joint review by both airport authorities, Police and NRA is required. Increased cargo-handling capacity at LIA could result in increased revenue for the airport and the State.

In the event of arms being interdicted or at least delayed at land-border crossing points, the same problems of secure storage exist. It is not reasonable to expect that all or even just a few key land-border crossings will be able to address this in the near future. Another approach to securing arms shipments would be to transport them as soon as possible from the border to secure storage areas, for example the national arsenal or nearest suitable army base. Procedures should therefore be established and communicated to all border crossing points for how to expedite such arrangements.

Conclusion

This report has identified a number of issues that Sierra Leone will need to address, in addition to what is already been done, to be fully compliant with the ATT. Among the most significant of these are:

- Establishing the legal basis for controlling the international transfer of *all* conventional arms (not just SALW their ammunition and related materials), in the first instance through an Executive Order but then through new ATT-specific legislation.
- Establishing, maintaining and publishing a national register of arms brokers.
- Developing an inter-agency framework and coordinating body for administering the transfer controls system, and a clear licensing decision-making process.
- Establishing regulations and written procedures and processes for the management of all aspects of the arms transfer licensing system.
- Publishing online relevant legislation, regulations, control lists, procedures, documentation, the registry of brokers, policies, and reports on licences granted and transfers made.
- Ensuring that the provisions of the ATT are applied to *all* relevant transfers, regardless of whether the transferring party is a private, commercial, or state actor.
- Requiring imports by state security providers to follow agreed procedures and for information on all such imports to be shared with the Licensing Authority.
- Ensuring that all government ministries, departments and agencies importing or holding conventional arms have adequate safe-storage facilities and effective stockpile-management procedures in place.
- Designating Lungi International Airport, Freetown Port, and the official land border crossing points at Gendema and Pamalap as the only points of legal import, export and transit of all items on the national control list into, from and through Sierra Leone to, except where a case-specific written exemption is provided on the authority of the Commissioner-General of the NRA.

Sierra Leone is better-placed to action some of the recommendations than might first be assumed. The existing AAA can be brought into line with the ATT relatively painlessly, and SLeNCSA is well placed to take on the roles and functions required to coordinate many aspects of Treaty compliance. Moreover, Sierra Leone's limited engagement with the arms trade should result in only a small additional workload once the necessary structures, systems and mechanisms are established.

The next stage in this project, once this assessment report has been finalised, will be to develop a national action plan (NAP) based on its findings. The NAP will consist of a series of prioritised steps which once taken will see Sierra Leone very close to full ATT compliance.

Sierra Leone is now a beneficiary partner country to the EU under the 'EU Council Decision on Union outreach activities in support of the implementation of the

ATT'.²¹ The Initial Meeting under that project took place in October 2018. There is an opportunity for the EU project to support Sierra Leone's journey to full ATT compliance, including by seeking to build upon this assessment and the NAP to follow. Other opportunities for follow-on funding exist, for example through the ATT Voluntary Trust Fund (VTF), the UN Trust Facility Supporting Cooperation on Arms Regulation (UNSCAR) and through bilateral assistance and cooperation.

²¹ 'Council Decision (CFSP) 2017/915 on Union outreach activities in support of the implementation of the Arms Trade Treaty', EU Official Journal, L139/38, 29 May 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017D0915&from=EN>.

ANNEX I

The Arms Trade Treaty

Preamble

The States Parties to this Treaty,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling Article 26 of the Charter of the United Nations which seeks to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources,

Underlining the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end use and end users, including in the commission of terrorist acts,

Recognizing the legitimate political, security, economic and commercial interests of States in the international trade in conventional arms,

Reaffirming the sovereign right of any State to regulate and control conventional arms exclusively within its territory, pursuant to its own legal or constitutional system,

Acknowledging that peace and security, development and human rights, are pillars of the United Nations system and foundations for collective security and recognizing that development, peace and security and human rights are interlinked and mutually reinforcing,

Recalling the United Nations Disarmament Commission Guidelines for international arms transfers in the context of General Assembly resolution 46/36H of 6 December 1991,

Noting the contribution made by the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, as well as the 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, and the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons,

Recognizing the security, social, economic and humanitarian consequences of the illicit and unregulated trade in conventional arms,

Bearing in mind that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict and armed violence,

Recognizing also the challenges faced by victims of armed conflict and their need for adequate care, rehabilitation and social and economic inclusion,

Emphasizing that nothing in this Treaty prevents States from maintaining and adopting additional effective measures to further the object and purpose of this Treaty,

Mindful of the legitimate trade and lawful ownership, and use of certain conventional arms for recreational, cultural, historical, and sporting activities, where such trade, ownership and use are permitted or protected by law,

Mindful also of the role regional organizations can play in assisting States Parties, upon request, in implementing this Treaty,

Recognizing the voluntary and active role that civil society, including non-governmental organizations, and industry, can play in raising awareness of the object and purpose of this Treaty, and in supporting its implementation,

Acknowledging that regulation of the international trade in conventional arms and preventing their diversion, should not hamper international cooperation and legitimate trade in materiel, equipment and technology for peaceful purposes,

Emphasizing the desirability of achieving universal adherence to this Treaty,

Determined to act in accordance with the following principles;

Principles

- The inherent right of all States to individual or collective self-defense as recognized in Article 51 of the Charter of the United Nations;
- The settlement of international disputes by peaceful means in such a manner that international peace and security and justice, are not endangered in accordance with Article 2(3) of the Charter of the United Nations;
- Refraining in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations in accordance with Article 2 (4) of the Charter of the United Nations;
- Non-intervention in matters which are essentially within the domestic jurisdiction of any State in accordance with Article 2(7) of the Charter of the United Nations;
- Respecting and ensuring respect for international humanitarian law in accordance with, *inter alia*, the Geneva Conventions of 1949, and respecting and ensuring respect for human rights, in accordance with, *inter alia*, the Charter of the United Nations and the Universal Declaration of Human Rights;
- The responsibility of all States, in accordance with their respective international obligations, to effectively regulate the international trade in conventional arms, and to prevent their diversion, as well as the primary responsibility of all States in establishing and implementing their respective national control systems;
- The respect for the legitimate interests of States to acquire conventional arms to exercise their right to self-defense and for peacekeeping operations; and to produce, export, import and transfer conventional arms;
- Implementing this Treaty in a consistent, objective and non-discriminatory manner,

Have agreed as follows:

Article 1 Object and Purpose

The object of this Treaty is to:

- Establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms;
- Prevent and eradicate the illicit trade in conventional arms and prevent their diversion;

for the purpose of:

- Contributing to international and regional peace, security and stability;
- Reducing human suffering;
- Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.

Article 2 Scope

- i. This Treaty shall apply to all conventional arms within the following categories:
 - (a) Battle tanks;
 - (b) Armoured combat vehicles;
 - (c) Large-calibre artillery systems;
 - (d) Combat aircraft;
 - (e) Attack helicopters;
 - (f) Warships;
 - (g) Missiles and missile launchers; and
 - (h) Small arms and light weapons.

2. For the purposes of this Treaty, the activities of the international trade comprise export, import, transit, trans-shipment and brokering, hereafter referred to as “transfer”.
3. This Treaty shall not apply to the international movement of conventional arms by, or on behalf of, a State Party for its use provided that the conventional arms remain under that State Party’s ownership.

Article 3

Ammunition/Munitions

Each State Party shall establish and maintain a national control system to regulate the export of ammunition/munitions fired, launched or delivered by the conventional arms covered under Article 2(1), and shall apply the provisions of Article 6 and Article 7 prior to authorizing the export of such ammunition/munitions.

Article 4

Parts and Components

Each State Party shall establish and maintain a national control system to regulate the export of parts and components where the export is in a form that provides the capability to assemble the conventional arms covered under Article 2 (1). Each State Party shall apply the provisions of Article 6 and Article 7 prior to authorizing the export of such parts and components.

Article 5

General Implementation

1. Each State Party shall implement this Treaty in a consistent, objective and non-discriminatory manner, bearing in mind the principles referred to in this Treaty.
2. Each State Party shall establish and maintain a national control system, including a national control list, in order to implement the provisions of this Treaty.
3. Each State Party is encouraged to apply the provisions of this Treaty to the broadest range of conventional arms. National definitions of any of the categories covered in Article 2(1)(a)–(g) shall not cover less than the descriptions used in the United Nations Register of Conventional Arms at the time of entry into force of this Treaty. For the category covered in Article 2(1)(h), national definitions shall not cover less than the descriptions used in relevant United Nations instruments at the time of entry into force of this Treaty.
4. Each State Party, pursuant to its national laws, shall provide its national control list to the Secretariat, which shall make it available to other States Parties. States Parties are encouraged to make their control lists publicly available.
5. Each State Party shall take measures necessary to implement the provisions of this Treaty and shall designate competent national authorities in order to have an effective and transparent national control system regulating the transfer of conventional arms covered under Article 2(1) and of items covered in Article 3 and Article 4.
6. Each State Party shall designate one or more national points of contact to exchange information on matters related to the implementation of this Treaty. A State Party shall notify the Secretariat, established under Article 18, of its national point(s) of contact and keep the information updated.

Article 6

Prohibitions

1. A State Party shall not authorize any transfer of conventional arms covered under Article 2(1) or of items covered under Article 3 or Article 4, if the transfer would violate its obligations under measures adopted by the United Nations Security Council acting under Chapter VII of the Charter of the United Nations, in particular arms embargoes.

2. A State Party shall not authorize any transfer of conventional arms covered under Article 2(1) or of items covered under Article 3 or Article 4, if the transfer would violate its relevant international obligations under international agreements to which it is a Party, in particular those relating to the transfer of, or illicit trafficking in, conventional arms.
3. A State Party shall not authorize any transfer of conventional arms covered under Article 2(1) or of items covered under Article 3 or Article 4, if it has knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party.

Article 7

Export and Export Assessment

1. If the export is not prohibited under Article 6, each exporting State Party, prior to authorization of the export of conventional arms covered under Article 2(1) or of items covered under Article 3 or Article 4, under its jurisdiction and pursuant to its national control system, shall, in an objective and non-discriminatory manner, taking into account relevant factors, including information provided by the importing State in accordance with Article 8(1), assess the potential that the conventional arms or items:
 - (a) would contribute to or undermine peace and security;
 - (b) could be used to:
 - (i) commit or facilitate a serious violation of international humanitarian law;
 - (ii) commit or facilitate a serious violation of international human rights law;
 - (iii) commit or facilitate an act constituting an offence under international conventions or protocols relating to terrorism to which the exporting State is a Party; or
 - (iv) commit or facilitate an act constituting an offence under international conventions or protocols relating to transnational organized crime to which the exporting State is a Party.
2. The exporting State Party shall also consider whether there are measures that could be undertaken to mitigate risks identified in (a) or (b) in paragraph 1, such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States.
3. If, after conducting this assessment and considering available mitigating measures, the exporting State Party determines that there is an overriding risk of any of the negative consequences in paragraph 1, the exporting State Party shall not authorize the export.
4. The exporting State Party, in making this assessment, shall take into account the risk of the conventional arms covered under Article 2(1) or of the items covered under Article 3 or Article 4, being used to commit or facilitate serious acts of gender based violence or serious acts of violence against women and children.
5. Each exporting State Party shall take measures to ensure that all authorizations for the export of conventional arms covered under Article 2(1) or of items covered under Article 3 or Article 4 are detailed and issued prior to the export.
6. Each exporting State Party shall make available appropriate information about the authorization in question, upon request, to the importing State Party and to the transit or trans-shipment States Parties, subject to its national laws, practices or policies.
7. If, after an authorization has been granted, an exporting State Party becomes aware of new relevant information, it is encouraged to reassess the authorization after consultations, if appropriate, with the importing State.

Article 8

Import

1. Each importing State Party shall take measures to ensure that appropriate and relevant information is provided, upon request, pursuant to its national laws, to the exporting State Party, to assist the exporting State Party in conducting its national export assessment under Article 7. Such measures may include end use or end user documentation.

2. Each importing State Party shall take measures that will allow it to regulate, where necessary, imports under its jurisdiction of conventional arms covered under Article 2(1). Such measures may include import systems.
3. Each importing State Party may request information from the exporting State Party concerning any pending or actual export authorizations where the importing State Party is the country of final destination.

Article 9

Transit or trans-shipment

Each State Party shall take appropriate measures to regulate, where necessary and feasible, the transit or trans-shipment under its jurisdiction of conventional arms covered under Article 2(1) through its territory in accordance with relevant international law.

Article 10

Brokering

Each State Party shall take measures, pursuant to its national laws, to regulate brokering taking place under its jurisdiction for conventional arms covered under Article 2(1). Such measures may include requiring brokers to register or obtain written authorization before engaging in brokering.

Article 11

Diversion

1. Each State Party involved in the transfer of conventional arms covered under Article 2(1) shall take measures to prevent their diversion.
2. The exporting State Party shall seek to prevent the diversion of the transfer of conventional arms covered under Article 2(1) through its national control system, established in accordance with Article 5(2), by assessing the risk of diversion of the export and considering the establishment of mitigation measures such as confidence-building measures or jointly developed and agreed programmes by the exporting and importing States. Other prevention measures may include, where appropriate: examining parties involved in the export, requiring additional documentation, certificates, assurances, not authorizing the export or other appropriate measures.
3. Importing, transit, trans-shipment and exporting States Parties shall cooperate and exchange information, pursuant to their national laws, where appropriate and feasible, in order to mitigate the risk of diversion of the transfer of conventional arms covered under Article 2(1).
4. If a State Party detects a diversion of transferred conventional arms covered under Article 2(1), the State Party shall take appropriate measures, pursuant to its national laws and in accordance with international law, to address such diversion. Such measures may include, alerting potentially affected State Parties, examining diverted shipments of such conventional arms covered under Article 2(1), and taking follow-up measures through investigation and law enforcement.
5. In order to better comprehend and prevent the diversion of transferred conventional arms covered under Article 2(1), State Parties are encouraged to share relevant information with one another on effective measures to address diversion. Such information may include information on illicit activities including corruption, international trafficking routes, illicit brokers, sources of illicit supply, methods of concealment, common points of dispatch, or destinations used by organized groups engaged in diversion.
6. States Parties are encouraged to report to other State Parties, through the Secretariat, on measures taken in addressing the diversion of transferred conventional arms covered under Article 2(1).

Article 12 Record keeping

1. Each State Party shall maintain national records, pursuant to its national laws and regulations, of its issuance of export authorizations or its actual exports of the conventional arms covered under Article 2(1).
2. Each State Party is encouraged to maintain records of conventional arms covered under Article 2(1) that are transferred to its territory as the final destination or that are authorized to transit or trans-ship territory under its jurisdiction.
3. Each State Party is encouraged to include in those records: the quantity, value, model/type, authorized international transfers of conventional arms covered under Article 2(1), conventional arms actually transferred, details of exporting State(s), importing State(s), transit and trans-shipment State(s), and end users, as appropriate.
4. Records shall be kept for a minimum of ten years.

Article 13 Reporting

1. Each State Party shall, within the first year after entry into force of this Treaty for that State Party, in accordance with Article 22, provide an initial report to the Secretariat of measures undertaken in order to implement this Treaty, including national laws, national control lists and other regulations and administrative measures. Each State Party shall report to the Secretariat on any new measures undertaken in order to implement this Treaty, when appropriate. Reports shall be made available, and distributed to States Parties by the Secretariat.
2. States Parties are encouraged to report to other States Parties, through the Secretariat, information on measures taken that have been proven effective in addressing the diversion of transferred conventional arms covered under Article 2(1).
3. Each State Party shall submit annually to the Secretariat by 31 May a report for the preceding calendar year concerning authorized or actual exports and imports of conventional arms covered under Article 2(1). Reports shall be made available, and distributed to States Parties by the Secretariat. The report submitted to the Secretariat may contain the same information submitted by the State Party to relevant United Nations frameworks, including the United Nations Register of Conventional Arms. Reports may exclude commercially sensitive or national security information.

Article 14 Enforcement

Each State Party shall take appropriate measures to enforce national laws and regulations that implement the provisions of this Treaty.

Article 15 International Cooperation

1. States Parties shall cooperate with each other, consistent with their respective security interests and national laws, to effectively implement this Treaty.
2. States Parties are encouraged to facilitate international cooperation, including exchanging information on matters of mutual interest regarding the implementation and application of this Treaty pursuant to their respective security interests and national laws.
3. States Parties are encouraged to consult on matters of mutual interest and to share information, as appropriate, to support the implementation of this Treaty.
4. Parties are encouraged to cooperate, pursuant to their national laws, in order to assist national implementation of the provisions of this Treaty, including through sharing information regarding illicit activities and actors and in order to prevent and eradicate diversion of conventional arms covered under Article 2(1).

5. States Parties shall, where jointly agreed and consistent with their national laws, afford one another the widest measure of assistance in investigations, prosecutions and judicial proceedings in relation to violations of national measures established pursuant to this Treaty.
6. States Parties are encouraged to take national measures and to cooperate with each other to prevent the transfer of conventional arms covered under Article 2(1) becoming subject to corrupt practices.
7. States Parties are encouraged to exchange experience and information on lessons learned in relation to any aspect of this Treaty.

Article 16 International Assistance

1. In implementing this Treaty, each State Party may seek assistance including legal or legislative assistance, institutional capacity building, and technical, material or financial assistance. Such assistance may include stockpile management, disarmament, demobilization and reintegration programmes, model legislation, and effective practices for implementation. Each State Party in a position to do so shall provide such assistance, upon request.
2. Each State Party may request, offer or receive assistance through, *inter alia*, the United Nations, international, regional, subregional or national organizations, non-governmental organizations, or on a bilateral basis.
3. A voluntary trust fund shall be established by States Parties to assist requesting States Parties requiring international assistance to implement this Treaty. Each State Party is encouraged to contribute resources to the fund.

Article 17 Conference of States Parties

1. A Conference of States Parties shall be convened by the provisional Secretariat, established under Article 18, no later than one year following the entry into force of this Treaty and thereafter at such other times as may be decided by the Conference of States Parties.
2. The Conference of States Parties shall adopt by consensus its rules of procedure at its first session.
3. The Conference of States Parties shall adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.
4. The Conference of States Parties shall:
 - (a) Review the implementation of this Treaty, including developments in the field of conventional arms
 - (b) Consider and adopt recommendations regarding the implementation and operation of this Treaty, in particular the promotion of its universality;
 - (c) Consider amendments to this Treaty in accordance with Article 20;
 - (d) Consider issues arising from the interpretation of this Treaty;
 - (e) Consider and decide the tasks and budget of the Secretariat;
 - (f) Consider the establishment of any subsidiary bodies as may be necessary to improve the functioning of this Treaty; and
 - (g) Perform any other function consistent with this Treaty.
5. Extraordinary meetings of the Conference of States Parties shall be held at such other times as may be deemed necessary by the Conference of States Parties, or at the written request of any State Party provided that this request is supported by at least two thirds of the States Parties.

Article 18 Secretariat

1. This Treaty hereby establishes a Secretariat to assist States Parties in the effective implementation of this Treaty. Pending the first meeting of the Conference of States Parties, a provisional Secretariat will be responsible for the administrative functions covered under this Treaty.
2. The Secretariat shall be adequately staffed. Staff shall have the necessary expertise to ensure that the Secretariat can effectively undertake the responsibilities described in paragraph 3.
3. The Secretariat shall be responsible to States Parties. Within a minimized structure, the Secretariat shall undertake the following responsibilities:
 - (a) Receive, make available and distribute the reports as mandated by this Treaty;
 - (b) Maintain and make available to States Parties the list of national points of contact;
 - (c) Facilitate the matching of offers of and requests for assistance for Treaty implementation and promote international cooperation as requested;
 - (d) Facilitate the work of the Conference of States Parties, including making arrangements and providing the necessary services for meetings under this Treaty; and
 - (e) Perform other duties as decided by the Conferences of States Parties.

Article 19 Dispute Settlement

1. States Parties shall consult and, by mutual consent, cooperate to pursue settlement of any dispute that may arise between them with regard to the interpretation or application of this Treaty including through negotiations, mediation, conciliation, judicial settlement or other peaceful means.
2. States Parties may pursue, by mutual consent, arbitration to settle any dispute between them, regarding issues concerning the interpretation or application of this Treaty.

Article 20 Amendments

1. Six years after the entry into force of this Treaty, any State Party may propose an amendment to this Treaty. Thereafter, proposed amendments may only be considered by the Conference of States Parties every three years.
2. Any proposal to amend this Treaty shall be submitted in writing to the Secretariat, which shall circulate the proposal to all States Parties, not less than 180 days before the next meeting of the Conference of States Parties at which amendments may be considered pursuant to paragraph 1. The amendment shall be considered at the next Conference of States Parties at which amendments may be considered pursuant to paragraph 1 if, no later than 120 days after its circulation by the Secretariat, a majority of States Parties notify the Secretariat that they support consideration of the proposal.
3. The States Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall, as a last resort, be adopted by a three-quarters majority vote of the States Parties present and voting at the meeting of the Conference of States Parties. For the purposes of this Article, States Parties present and voting means States Parties present and casting an affirmative or negative vote. The Depositary shall communicate any adopted amendment to all States Parties.
4. An amendment adopted in accordance with paragraph 3 shall enter into force for each State Party that has deposited its instrument of acceptance for that amendment, ninety days following the date of deposit with the Depositary of the instruments of acceptance by a majority of the number of States Parties at the time of the adoption of the amendment. Thereafter, it shall enter into force for any remaining State Party ninety days following the date of deposit of its instrument of acceptance for that amendment.

Article 21

Signature, Ratification, Acceptance, Approval or Accession

1. This Treaty shall be open for signature at the United Nations Headquarters in New York by all States from the Third Day of the Sixth Month of 2013 until its entry into force.
2. This Treaty is subject to ratification, acceptance or approval by each signatory State.
3. Following its entry into force, this Treaty shall be open for accession by any State that has not signed the Treaty.
4. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 22

Entry into Force

1. This Treaty shall enter into force ninety days following the date of the deposit of the fiftieth instrument of ratification, acceptance, or approval with the Depositary.
2. For any State that deposits its instrument of ratification, acceptance, approval or accession subsequent to the entry into force of this Treaty, this Treaty shall enter into force for that State ninety days following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 23

Provisional application

Any State may at the time of signature or the deposit of instrument of its ratification, acceptance, approval or accession, declare that it will apply provisionally Article 6 and Article 7 pending its entry into force.

Article 24

Duration and Withdrawal

1. This Treaty shall be of unlimited duration.
2. Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty. It shall give notification of such withdrawal to the Depositary, which shall notify all other States Parties. The notification of withdrawal may include an explanation of the reasons for its withdrawal. The notice of withdrawal shall take effect ninety days after the receipt of the notification of withdrawal by the Depositary, unless the notification of withdrawal specifies a later date.
3. A State shall not be discharged, by reason of its withdrawal, from the obligations arising from this Treaty while it was a Party to this Treaty, including any financial obligations that it may have accrued.

Article 25

Reservations

1. At the time of signature, ratification, acceptance, approval or accession, each State may formulate reservations, unless the reservations are incompatible with the object and purpose of this Treaty.
2. A State Party may withdraw its reservation at any time by notification to this effect addressed to the Depositary.

Article 26

Relationship with other international agreements

1. The implementation of this Treaty shall not prejudice obligations undertaken by States Parties with regard to existing or future international agreements, to which they are parties, where those obligations are consistent with this Treaty.
2. This Treaty shall not be cited as grounds for voiding defense cooperation agreements concluded between States Parties to this Treaty.

Article 27

Depositary

The Secretary-General of the United Nations shall be the Depositary of this Treaty.

Article 28

Authentic Texts

The original text of this Treaty, of which the Arabic, Chinese, English, French, Russian, and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

ANNEX II

Proposed amendments to the Arms & Ammunition Act

Introduction

This report recommends that the Arms & Ammunition Act (AAA) should be the primary legislative instrument through which the ATT is enacted. The following list of suggested changes (along with those relating to the Sierra Leone National Commission on Small Arms Act – see Annex III, below) would go a long way towards Sierra Leone achieving full legislative compliance with the Treaty.

The proposed changes are however not fully comprehensive, and are presented in substantive terms, rather than attempting to present new legislation in finished form. Working through the current law, substantive issues are identified and responses are proposed.

Part I: Preliminary

Range of equipment to which the AAA applies

The AAA applies only to SALW, their ammunition and ‘other related materials’, whereas the ATT has a much broader scope. In addition, Sierra Leone is obliged to be able to effectively control military and related items as and when elaborated in arms embargoes as established by UN Security Council resolutions, which typically go further than the types of equipment referred to explicitly in the ATT.

Related to this, the existing AAA definition of “small arms” is problematic. As currently drafted, a small arm ‘includes any arm used by one person, firearms and other destructive arms or devices’. Under this formulation, small arms cover more than firearms, but what those additional items might be is not defined. Furthermore, the term “firearms” is not itself defined, while later in the small arms interpretation a number of firearms are listed (e.g. revolver, machine-guns, assault rifles), but these are categorised not as firearms per se but as “other destructive arms or devices”.

Response: Create a definition for ‘arms’ or ‘military items’ that covers all conventional arms. This will best be done by reference to (and creation of) Schedules, whereby “‘Military items’ [or ‘arms’] shall mean those items listed in the Schedules of the Act.” Within this, SALW definitional problems would then be solved by defining them as “Those items listed in [specific categories] within the Schedules”. By locating the items to be controlled within Schedules, this will also streamline the process of amending the scope of the AAA in future in response to technological and other developments, which might be expected to occur on a regular basis, as there would be no need to revisit the primary legislation. (See below for more on Schedules and how these could be updated.)

Definition of “brokering”

The definition in the AAA is taken from the ECOWAS Convention, however it suffers from two problems. The first is that it refers only to SALW; the second is that there does not appear to be any geographical or nationality-based restriction on the jurisdiction of the law as it applies to brokering.

Response: Change the reference to SALW to ‘military items’; make it clear where and to whom the rules on brokering apply (to Sierra Leone nationals and residents, and activities carried out in Sierra Leone). Note a similar change will need to be made in PART V of the Act.

Part II: The registrar of SALW

The references in this Part to the National Commission on Small Arms and Light Weapons and its functions will create a mismatch in the context of the expanded scope of the Act to cover all conventional arms, including with regard to record-keeping and reporting.

Response: Change the name of the Commission to the Sierra Leone National Commission on Arms (SLeNCA). Similar changes should be made throughout the Act as necessary and appropriate. This will also require changes to the Sierra Leone National Commission on Small Arms Act (see Annex III below).

The ATT includes mandatory record-keeping and reporting obligations. The Registrar of SALW (as it is currently titled) should in this Part be made responsible for gathering, organising and reporting the necessary information, *inter alia* to the ATT Secretariat.

Part IV: Possession and use within Sierra Leone

The current law makes no reference to controlling the possession and use of major conventional arms by non-governmental entities. This suggests that there is nothing in Sierra Leone law to limit the rights of an individual or company to possess and/or use items such as military vehicles and aircraft and naval vessels.

Response: Change the reference in Article 11 (1) so that it refers to “items as listed in the Schedules”.

Part V: Transfer of small arms and light weapons

(Note the title of this part will need to change to *TRANSFER OF MILITARY ITEMS*)

SALW and military items

There are repeated references to SALW that will need to be changed to ‘military items’. There are, however, occasions where discrete references to SALW will need to be retained, so as to remain consistent with, without going beyond, the ECOWAS Convention. See box 1 for a detailed list.

BOX 1

Changes to Part V of the Arms & Ammunition Act required to address the increase in scope from SALW to all conventional arms

Numbers refer to relevant article or sub-article, additional language is in **bold italics**.

- 18(1) SALW → military items
- 18(2) SALW → military items
- 18(1)(a) to read: “***for SALW***, be supported by an exemption certificate ...”
- 18(4) to read: “The particulars of every licence granted or refused ***for transfers of SALW*** under this section shall be entered in the National Small Arms and Light Weapons Register and in such form and as may be prescribed. ***The Registrar shall keep records of the particulars of every licence granted or refused for transfers of other military items under this section in such form and as may be prescribed.***”
- 19 SALW → military items
- 19(a) SALW → military items
- 19(d) SALW → military items
- 20(1) SALW → military items
- 21 (1) SALW → military items
- 21 (2) SALW → military items
- 21 (3) SALW → military items

Risk assessments

Articles 6 and 7 of the ATT, which deal with transfer prohibitions and risk assessments, introduce elements to consider as part of the licence decision-making process not included in the ECOWAS Convention.

Response: Add these elements into article 19(d) of the AAA. These are:

- UN Security Council arms embargoes
- other relevant international agreements to which Sierra Leone is a Party
- international human rights law
- gender-based violence; violence against women and children
- diversion (note that the current lack of reference to the risk of diversion also puts the AAA at odds with Article 6.5 of the ECOWAS Convention)

Brokering (Article 21)

1. As noted above with regard to PART I, the reference to brokering seems to set no restriction of any sort on the identity, nationality or location of any person engaged in brokering activity.

Response: Clarify where and to whom the rules on brokering apply (to Sierra Leone nationals and residents, and entities incorporated in Sierra Leone, and activities carried out in Sierra Leone)

2. While “All persons including companies incorporated in Sierra Leone, financial agents and transportation agents that are engaged in the brokering of SALW shall register their operations with the Registrar” (21 (1)) is in keeping with A10 of the ATT, which states that measures taken to regulate arms brokering “may include requiring brokers to register”, there is no reference to what happens next.

Response: Explicitly require that

- the relevant agency keeps and publishes a Brokering register
- all applicants will be subject to a “fit and proper person” test
- the details of any brokers whose application was refused or revoked will be included in the Register
- the Register will be made available publically and to the ATT Secretariat.

Part VI: Manufacture and sale within Sierra Leone

SALW and military items

As with PART V, there are changes that need to be made in light of whether it is appropriate to reference all military items or only SALW. See box 2 for a detailed list.

BOX 2

Changes to Part VI of the Arms & Ammunition Act required to address the increase in scope from SALW to all conventional arms

Numbers refer to relevant article or sub-article, additional language is in bold italics; language to be removed has been struck through

- 22(1) SALW → military items
- 22(2) SALW → military items, but *first reference only*
- 22(3) SALW → military items
- 22(3) (d) to read: “**for SALW**, the procedure for entering details of each ~~item small arm and light weapon~~ into the National Small Arms and Light Weapons Register”
- 22(5) to read: “The particulars of every licence granted **for manufacture or sale of SALW** under this section shall be entered in the National Small Arms and Light Weapons Register which shall be kept by the Registrar in such form and manner and as may be prescribed. ***The Registrar shall keep records of the particulars of every licence granted or refused for manufacture or sale of other military items under this section in such form and as may be prescribed.***”

- 23(1) SALW → military items
- 24(b) SALW → military items
- 27 SALW → military item (both references)

Part VII: Miscellaneous

Role of National Revenue Authority (NRA)

The AAA does not grant the NRA the necessary enforcement powers.

Response: Add into Article 29 that the enforcement of Articles 18 and 21 shall be a function of the NRA and that all powers provided to the NRA may be utilised to carry out this function.

Other issues

National control list

The development and upkeep of a comprehensive list of items to which the AAA should apply can most easily be managed through the use of Schedules, which could be updated without amendment of the Act itself. Rather than Sierra Leone taking on the role of developing and maintaining the list of items itself, which is a highly technical and time-consuming exercise, we have recommended managing this through the development of two Schedules.

Schedule 1 should be based on the Wassenaar Arrangement Munitions List, which is fully comprehensive, to the point where it covers everything included in Articles 2 to 4 of the ATT, as well as other equipment that would typically be included in any UN arms embargo.

Schedule 2 would cover equipment that is not covered by the Munitions List, but which the government does not want private persons and companies to be able to import without permission. This equipment relates primarily to crowd-control and to items capable of delivering electric shocks (e.g. tasers, electric-shock batons). This very short Schedule is taken from section PL5001 of the UK Consolidated list of strategic military and dual-use items that require export authorisation.

These schedules should be created so that they automatically update as and when the Wassenaar and UK lists are updated, though Sierra Leone will retain the option of changing or adding to that list on a bespoke basis as it sees fit.

Drafting corrections

During our examination of the AAA, we have noticed points where minor drafting changes may be helpful for the sake of clarity or accuracy. Examples include:

PART II Article 2, where it is stated that SLeNCSA “shall be responsible for the regulation and licensing, transfer, manufacture, sale, possession and use of SALW throughout Sierra Leone”, this would appear to be better expressed as “...shall be responsible for the regulation and licensing *of the* transfer, manufacture, sale, possession and use of SALW throughout Sierra Leone”.

PART V Article 21(3) where it is stated that “all registered ... brokering companies and agents shall provide full disclosure or relevant import or export licences or associated documents ...” should read “all registered ... brokering companies and agents shall provide full disclosure of relevant import or export licences or associated documents ...”

This report recommends that Sierra Leone takes advantage of the opportunity presented by the process of amending relevant laws to make them ATT-compliant to, in addition, carry out a ‘legal scrub’ to address these and other similar issues. Note this would not be of any substantive impact and would not alter the intent of the legislation; rather it would be to ensure that original intention is indeed served by the language of the Act.

ANNEX III

Proposed amendments to the Sierra Leone National Commission on Small Arms Act

The proposed changes to the AAA will also require that changes be made to the Sierra Leone National Commission on Small Arms Act. These changes, are, however, few and minor.

In the first instance, the name of the Act should change to the *Sierra Leone National Commission on Arms Act* (SLenCAA).

Part I: Preliminary (Interpretations)

In two instances the name of the Commission need to be amended, as follows:

- “Advisory Committee” means the Sierra Leone National Commission on Small Arms Advisory Committee established by section 11
- “Commission” means the Sierra Leone National Commission on Small Arms established by section 2

There will need to be an additional definition as follows: ‘Arms’ shall mean those goods listed in the Schedule of the Arms and Ammunition Act 2012 (as amended).

We also note that the definition of “small arms” includes light weapons but does not include “ammunition and related materials” (and in this respect fails to mirror the definition in the AAA). We recommend that these extra elements are added to the “small arms” definition.

Part II: Establishment of commission

2(1) Change the name of the Commission to the Sierra National Commission on Arms.

Under 9(1) and 9(2)(b), change the references to SALW to “arms”.

Introduce an additional sub-clause under 9(2) which establishes the Commission as responsible for keeping records of all transfers of arms to, through or from Sierra Leone, and for producing and publishing relevant reports consistent with Sierra Leone’s international commitments and obligations (e.g. under the ATT).

The arms-transfer-licence decision-making process

The AAA identifies the Registrar as responsible for issuing, or refusing transfer licences. It makes no reference to which other individuals or agencies/institutions might be involved in that process.

The Sierra Leone National Commission on Small Arms Act does not refer to the licence decision-making process, however it does contain a list of institutions that are to make up an Advisory Committee to the Commission.

Standard operational practice would be to create an ‘Assessment Committee’ or ‘Licensing Committee’ of several departments/ministries/ agencies (probably a subset of those making up the existing Advisory Committee) who would together consider arms transfer licence applications. Given the current arrangements with respect to SALW as set out in the current AAA, the simplest approach would be for the Registrar to maintain final decision-making responsibility for licensing decisions and overall responsibility for the workings of the new Assessment/Licensing Committee.

Note this would apply only to applications for *international transfers* of conventional arms into, through, or from Sierra Leone. The Assessment/Licensing Committee would *not* be involved in issues with regard to movement, ownership or use etc. of conventional arms within the borders of Sierra Leone.

ANNEX IV

Summary descriptions of Wassenaar Arrangement Munitions List categories

- ML1** Smooth-bore weapons with a calibre of less than 20 mm, other arms and automatic weapons with a calibre of 12.7 mm (0.5 inches) or less and accessories and specially designed components therefor.
- ML2** Smooth-bore weapons with a calibre of 20 mm or more, other weapons or armament with a calibre greater than 12.7 mm (0.5 inches), projectors and accessories and specially designed components therefor.
- ML3** Ammunition and fuse setting devices, and specially designed components therefor.
- ML4** Bombs, torpedoes, rockets, missiles, other explosive devices and charges and related equipment and accessories, specially designed for military use, and specially designed components therefor.
- ML5** Fire control, and related alerting and warning equipment, and related systems, test and alignment and countermeasure equipment, specially designed for military use, and specially designed components and accessories therefor.
- ML6** Ground vehicles and components.
- ML7** Chemical agents, biological agents, riot-control agents, radioactive materials, related equipment, components and materials.
- ML8** 'Energetic materials' and related substances.
- ML9** Vessels of war (surface or underwater), special naval equipment, accessories, components therefor and other surface vessels.
- ML10** Aircraft, lighter-than-air vehicles, unmanned aerial vehicles (UAVs), aero-engines and aircraft equipment, related equipment, and components, specially designed or modified for military use.
- ML11** Electronic equipment, spacecraft and components, not specified elsewhere on the Munitions List.
- ML12** High velocity kinetic energy weapon systems and related equipment, and specially designed components therefor.
- ML13** Armoured or protective equipment and constructions and components.
- ML14** Specialised equipment for military training or for simulating military scenarios, simulators specially designed for training in the use of any firearm or weapon controlled by ML1 or ML2, and specially designed components and accessories therefor.
- ML15** Imaging or countermeasure equipment, specially designed for military use, and specially designed components and accessories therefor.
- ML16** Forgings, castings and other unfinished products, specially designed for items specified by ML1 to ML4, ML6, ML9, ML10, ML12 or ML19.
- ML17** Miscellaneous equipment, materials and 'libraries', and specially designed components therefor.
- ML18** Production equipment and components for the production of products specified by the Munitions List, and specially designed components therefor.
- ML19** Directed energy weapon (DEW) systems, related or countermeasure equipment and test models, and specially designed components therefor.
- ML20** Cryogenic and 'superconductive' equipment, and specially designed components and accessories therefor.
- ML21** 'Software' specially designed or modified for the development, production, operation or maintenance of equipment specified by the Munitions List.
- ML22** 'Technology' required for the development, production, operation, installation, maintenance (checking), repair, overhaul or refurbishing of items specified by the Munitions List.

ANNEX V

Proposed Schedule 2 to the Arms & Ammunition Act – Additional items to be controlled

The following is a list of equipment in addition to that on the Wassenaar Arrangement Munitions List, taken from PL5001 of the UK Military List, that Sierra Leone has shown an interest in including as controlled goods.

Security and para-military police goods as follows:

- a. Acoustic devices represented by the manufacturers or suppliers thereof as suitable for riot-control purposes, and specially designed components therefor;
- b. Anti-riot and ballistic shields and specially designed components therefor;
- c. Shackles designed for restraining human beings having an overall dimension including chain, when measured from the outer edge of one cuff to the outer edge of the other cuff, of between 240mm and 280mm when locked;
- d. Water cannon and specially designed components therefor;
- e. Riot control vehicles which have been specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose;
- f. Components specially designed or modified for portable devices designed or modified for the purposes of riot control or self-protection by the administration of an electric shock (e.g. electric-shock batons, electric-shock shields, stun-guns and electric-shock dart-guns).

ANNEX VI

Information sources relevant to assessing risks of violations of international law

From the User's Guide to EU Council Common Position 2008/944/CFSP²²

An illustrative list of relevant open information sources recommended by the EU to assist in assessing the risk arms might be used to commit or facilitate serious violations of international humanitarian law or international human rights law.

Office of the UN High Commissioner for Human Rights (www.ohchr.org)
 United Nations (www.un.org; <http://untreaty.un.org>)
 International Committee of the Red Cross (www.icrc.org)
 Council of Europe (www.coe.int)
 European Union (<http://europa.eu>)
 Organization for Security and Co-operation in Europe (www.osce.org)
 Organization of American States (www.oas.org)
 African Union (www.au.int)
 Amnesty International (www.amnesty.org)
 Human Rights Watch (www.hrw.org)
 Fédération internationale des ligues des droits de l'homme (www.fidh.org)
 Organisation mondiale contre la torture (www.omct.org)
 Association for the Prevention of Torture (www.apt.ch)
 International Commission of Jurists (www.icj.org)
 International Criminal Court (<https://www.icc-cpi.int/>) and ad hoc tribunals
 International agencies operating in the recipient state
 International Crisis Group (<http://www.crisisgroup.org/>)
 Coalition to Stop the Use of Child Soldiers [now Child Soldiers International] (<http://www.child-soldiers.org/index.php>)
 Small Arms Survey (<http://www.smallarmssurvey.org/>)
 SIPRI (<http://www.sipri.org/>) and other research institutes
 Military manuals (instructions to armed forces)

²² 'User's Guide to Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment', COARM 172, CFSP/PESC 393, 20 July 2015, <http://data.consilium.europa.eu/doc/document/ST-10858-2015-INIT/en/pdf>.

ANNEX VII**Sample Export Licence
Application Form****Section 1: Exporter details**

Name	
Address	
Telephone	
Mobile	
Email address	
Website	
Nature of business	

**Section 2: Details of manufacturer or supplier of items
(if different from exporter)**

Name	
Address	
Telephone	
Mobile	
Email address	
Website	
Nature of business	

Section 3: Details of items for export

Type of item	
Part number (<i>if applicable</i>)	
Control list reference	
Weight	
Quantity (<i>number of items</i>)	
Value	
Description of use(s) for item	

Section 4: Items specifications/uses

Are the items designed or modified for military use?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)
Are the items designed or modified for development or production of military items?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)
Are the items designed or modified for use in relation to cryptography or cryptographic functions?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)
Are the items designed or modified for use in nuclear, chemical, or biological programmes?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)
Are the items to be incorporated into military equipment?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)
Are the items to be incorporated into a plant or system for production of military equipment?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)

Section 5: End-use details

Have you been informed by government that the items are, or may be intended, in part or in their entirety, for use in connection with nuclear, chemical or biological weapons or missiles capable of delivering such weapons?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)
Do you know or do you have grounds for suspecting that the items are, or may be intended, in part or in their entirety, for use in connection with nuclear, chemical or biological weapons or their means of delivery?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)
If the items have been previously imported from another country/ jurisdiction, have you complied with the terms of any end-use and/ or re-export restrictions imposed by the original exporting authority?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other (please give details)
Please provide a detailed description of the end-use of the items including, where applicable, details of products manufactured, maintained or repaired using the goods to be exported.	

Section 6: Details of consignee(s)
(please provide details of all consignees separately)

Name of consignee	
Type of consignee	<input type="checkbox"/> Government <input type="checkbox"/> Commercial <input type="checkbox"/> Private <input type="checkbox"/> Other (please give details)
Type of business (<i>please give details</i>)	
Address	
Telephone	
Website	

Section 7: Details of ultimate end-user(s)
(please provide details of all end-users separately)

Name of end-user	
Type of end-user	<input type="checkbox"/> Government <input type="checkbox"/> Commercial <input type="checkbox"/> Private <input type="checkbox"/> Other (please give details)
Type of business (<i>please give details</i>)	
Address	
Telephone	
Website	
Address where items will be kept (<i>if different from end-user address</i>)	

Section 8: Details of other third parties (please provide details of all intermediaries – including agents, brokers, distributors etc.)

Name of intermediary	
Type of intermediary	<input type="checkbox"/> Government <input type="checkbox"/> Commercial <input type="checkbox"/> Private <input type="checkbox"/> Other (please give details)
Type of business (<i>please give details</i>)	
Nature of role in transaction/export (<i>please give details</i>)	
Address	
Telephone	
Website	

Section 9: Transportation of items

How are the goods to be transported to their destination? (please tick all that apply)	<input type="checkbox"/> By Air <input type="checkbox"/> By Road <input type="checkbox"/> By Rail <input type="checkbox"/> By Sea <input type="checkbox"/> Other (please give details)
Please provide details of any individuals or entities involved in the transportation of the goods (when known)	Name
	Address
	Telephone
	Email address
	Website
	Nature of business
Please provide details of the transportation route (when known)	
Please provide details of relevant transit authorisations (when known)	

Section 10: Supporting documentation

Please provide the following documentary information either electronically or in hard copy form:

- A copy of the contract between exporter and consignee/end-user
- Information detailing the technical specification of the items
- End-user documentation relating to the export of the items in question
- Any transit authorisations that are obtained

ANNEX VIII**Sample End-Use Certificate (EUC)**

[To be completed and printed on official headed paper of the end-user]

In accordance with the regulations of [insert name of government authorising the export] which state that granting of an individual export licence is dependent on the presentation of an EUC, we/I certify that the items detailed as follows:

Description of items:
Quantity/weight of items:
Value of items:

which have been supplied by

Name and address of supplier:

EITHER
will remain in

Name of end-user country:

AND
will only be used for

Description of end-use of items:

OR
consistent with the issued authorisation, will only be re-exported (after integration) to

Name of country of final destination:

We/I further certify that:

- Name of country of final destination: we/I will not, temporarily or permanently, re-export, sell, lease out, lend or donate the above-listed items, whether in whole or in part, to any third party without the prior written consent of the export authority of [insert name of government authorising the export]
- the above-listed items will not be used in the commission of serious violations of international human rights law or of international humanitarian law or in connection with the manufacture, possession transfer, or use of weapons of mass destruction or their means of delivery
- we/I will provide to the export authority of [insert name of government authorising the export] evidence of the correct delivery of the above-listed items
- the authorities of [insert name of government authorising the export] have the right to verify the location and end-use the above-listed items at any time of their choosing.

Place:	Date:
Signed:	
Title, name and position/rank of signer in block capital letters:	
Company stamp/official seal	

Sierra Leone National Commission on Small Arms

The Sierra Leone National Commission on Small Arms (SLeNCSA) was established by an Act of Parliament in 2010 to Control the proliferation, illicit possession and use of small arms and light weapons (SALW) in Sierra Leone, in compliance with Article 24 of the ECOWAS convention on Small Arms and Light Weapons, Their Ammunition and Other Related Materials.

SLeNCSA is an independent and apolitical body with the mandate to regulate and supervise the manufacture, sale, transfer, possession and use of SALW within the borders of Sierra Leone. The Commission is the sole focal point for all matters relating to firearms and the adviser to the Government of Sierra Leone on the formulation of policies and strategies for control of the illicit proliferation and circulation of small arms in Sierra Leone.

Saferworld

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. Saferworld works with people affected by conflict to improve their safety and sense of security, and conducts wider research and analysis. This evidence and learning is used to improve local, national and international policies and practices that can help build lasting peace.

Saferworld is a not-for-profit organisation working in countries and territories across Africa, the Middle East, Asia and Europe.

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