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Working Paper No. 4

Proposed Language on Conventional Weapons Transfers, Maritime Domains, and Volatile Border-Adjacent Settings

I. Purpose

This working paper proposes language for possible inclusion in the outcome document of the Twelfth Conference of States Parties to the Arms Trade Treaty on conventional weapons transfers in maritime domains and volatile border-adjacent settings.

The central proposal is to connect maritime realities with existing work on Articles 6, 7, 9, and 11; national control list; enforcement arrangements; inter-agency cooperation; the role of logistical and transport actors; and international assistance. The paper introduces the operational phrase 'volatile border-adjacent settings' to focus attention on contextual risks that may be especially acute near land borders, maritime boundaries, conflict corridors and other sensitive zones.

This approach does not alter the scope of the Treaty, create new legal obligations, authorize interdiction beyond existing law, or take a position on sovereignty, maritime delimitation, or territorial claims.

II. Context

Maritime transfer chains bring together export-control authorities, customs, port and terminal authorities, coast guards, police, defence institutions, foreign affairs agencies, intelligence services, flag and ship registries, freight forwarders, ship agents, carriers and other logistical providers. Their mandates and access to information differ. A shipment may also pass through several jurisdictions and transport arrangements before delivery to the authorized recipient.

For archipelagic, coastal and small island developing States, these challenges are intensified by extensive coastlines, numerous ports and landing points, small-vessel traffic, limited inspection capacity, remote communities and the need to balance enforcement with lawful navigation and trade. Maritime risks can involve authorized transfers exposed to diversion, illicit trafficking outside an authorized transfer, or post-delivery movement from the declared end-user or end-use. These situations require different legal and operational responses.

This paper moves beyond a general call for ‘maritime security’. Instead, its value lies in identifying what information is needed, which authority can lawfully act, when States should communicate, and what assistance would make implementation feasible.

III. Treaty and legal framework

A. Scope of the ATT and broader national controls

The ATT regulates the international trade in the conventional arms covered by Article 2(1). Article 2(2) defines transfer activities as export, import, transit, transshipment and brokering. Articles 3 and 4 require export controls, and application of Articles 6 and 7 before export authorization, for covered ammunition/munitions and for parts and components exported in a form that provides the capability to assemble an Article 2(1) conventional arm.

Software, sensors, targeting systems and other enabling technologies may fall within a State Party’s national control list or another applicable control regime, but they are not automatically covered by the ATT as a single undifferentiated category. The Philippines can encourage States Parties, consistent with Article 5(3) and their national laws, to apply broader controls and to exchange practices on identifying items that materially enable the assembly or operational capability of covered conventional arms.

Movement, stockpiling or deployment is not, by itself, a transfer activity under the ATT. Article 2(3) also excludes the international movement of conventional arms by, or on behalf of, a State Party for its own use where the arms remain under that State Party’s ownership. Intended or reasonably foreseeable deployment, accumulation, integration or retransfer may nevertheless constitute relevant context for an export assessment, diversion assessment, end-use assurance, mitigation measure, or reassessment of an authorization.

B. Export assessment, diversion and new information

Articles 6 and 7 govern prohibitions and export assessment. Under Article 7(1), the exporting State Party assesses, among other matters, whether an export would contribute to or undermine peace and security and whether the arms or items could be used to commit or facilitate the specified serious violations or offences. Article 7(4) requires consideration of the risk of serious acts of gender-based violence or serious acts of violence against women and children.

Diversion risk should be anchored directly in Article 11(2), which requires the exporting State Party to assess the risk of diversion and consider mitigation measures. Article 11(3) provides for cooperation and information exchange among

exporting, importing, transit and trans-shipment States Parties, pursuant to national laws and where appropriate and feasible. Article 7(7) is relevant where new information arises after authorization, including a material change in route, recipient, end-use, operating environment or diversion risk.

C. Maritime jurisdiction and relevant international law

Article 9 requires appropriate regulation, where necessary and feasible, of transit or trans-shipment under a State Party's jurisdiction through its territory and in accordance with relevant international law. Port and internal-waters controls, territorial-sea jurisdiction, transit passage, archipelagic sea-lanes passage, the exclusive economic zone, high-seas freedoms and flag-State jurisdiction do not provide identical powers. Proposed ATT practices should therefore distinguish port, coastal, flag, exporting, importing and transit-State roles.

References to inspection, interdiction or enforcement should always be qualified by national jurisdiction and applicable international law. The Philippine proposal concerns lawful control measures, cooperation and information exchange; it does not imply a general authority to stop or inspect vessels in every maritime zone.

IV. Philippine framing: volatile border-adjacent settings

For purposes of this working paper, 'volatile border-adjacent settings' is an operational, context-specific descriptor for areas proximate to land borders or maritime boundaries, conflict corridors, or otherwise sensitive zones, and routes or facilities serving them, where prevailing conditions may heighten foreseeable risks of diversion, illicit trafficking, escalation, miscalculation or civilian harm.

The phrase is not proposed as a new legal category. Its use is without prejudice to sovereignty, jurisdiction, maritime entitlements, delimitation, navigational rights, the legal status of any maritime feature, or the positions of States concerning territorial or maritime disputes.

In an ATT assessment, location alone should never determine an outcome. Relevant factors may include the nature and quantity of the arms or items, the declared end-user and end-use, the security of the transport and storage chain, the reliability of parties and service providers, the recipient's control capacity, prior diversion patterns, conflict dynamics, foreseeable retransfer or integration, and potential consequences under Articles 6 and 7.

A capability-chain perspective may be useful where several transfers, possibly from different exporting States, collectively provide the capability to assemble, deploy, target or sustain a covered conventional arm. This should be advanced as a risk-assessment good practice, applied case by case and consistent with the Treaty's scope, national control lists and available information, rather than as an assertion of a new ATT obligation.

V. Philippine Position

The Philippines emphasizes that maritime domains require greater attention in arms transfer risk assessment, diversion prevention, and international cooperation. Conventional weapons, ammunition, parts, components, and enabling technologies moved through, deployed in, or assembled within maritime spaces may create risks for peace and security, especially when transported to or accumulated in volatile border-adjacent settings.

The Philippines support language encouraging States Parties to strengthen controls over the transfer, transit, transshipment, brokering, and diversion of conventional weapons, ammunition, parts, components, and enabling technologies in maritime contexts. This should include cooperation among customs, coast guard, port authorities, law enforcement, defense, and foreign affairs agencies.

The Philippines further emphasizes that national risk assessment should consider cases where exported parts, components, software, sensors, munitions, or other enabling items may be integrated into weapons systems in or near maritime domains. Such items may contribute to the operational functionality, deployment, targeting capacity, or lethality of weapons in volatile border-adjacent settings.

The Philippines further encourages the sharing of national and regional practices on maritime interdiction, port controls, vessel inspection, information sharing, and cooperation against illicit trafficking and diversion.

VI. Practical areas for national and WGETI consideration

1. Identify the lead authority and the roles of licensing bodies, customs, ports, coast guards, police, defence and foreign affairs institutions, intelligence services, ATT national points of contact, and relevant registries. Establish procedures for routine coordination and urgent diversion alerts.
2. Apply route- and actor-sensitive risk assessment. Where relevant and legally available, consider the intended route and trans-shipment points, cargo and authorization documents, carrier and intermediaries, flag and registry information, beneficial ownership, security of transport arrangements, declared end-user and end-use, stockpile controls, re-export assurances, and previous diversion concerns.
3. Consider cumulative capability. For covered parts and components, ammunition/munitions, and items on national control lists, assess whether the proposed export is intended or reasonably foreseeable to be integrated with other items in a manner that materially contributes to the assembly, operational functionality or lethality of a covered conventional arm.

4. Strengthen proportionate information exchange. Develop secure channels and agreed contact points for sharing appropriate information on authorizations, routes, suspicious documentation, material deviations, lost or stolen consignments, detected diversion and effective mitigation, subject to national law and the protection of classified, personal and commercially sensitive information.
5. Engage transport and logistical actors for defined purposes. Include carriers, freight forwarders, ship agents, terminal operators, customs brokers, port facility security personnel, flag and ship registries, insurers and other relevant actors when their operational knowledge is needed. Clarify reporting expectations, confidentiality, liability and the distinction between logistical services and regulated brokering conduct.
6. Protect civilian maritime communities. Consult fisherfolk, seafarers, women's organizations, and indigenous peoples and coastal communities on the impacts and local patterns of weapons flows, with appropriate safeguarding. Community participation should inform prevention and assistance without turning civilians into unprotected extensions of enforcement or surveillance.
7. Target international assistance. Under Article 16, support archipelagic, coastal and small island developing States with legal and institutional review, control-list development, customs classification, port and cargo-risk systems, inter-agency protocols, secure information exchange, training, and end-use and post-delivery cooperation.

VII. Proposed Language for CSP12 Outcome Document

The Philippines proposes the following language for possible inclusion in CSP12 conclusions or for use as a basis for WGETI follow-up:

1. "States Parties recognize the practical importance of addressing maritime dimensions across relevant ATT implementation discussions, where applicable and appropriate, including work on Articles 6, 7, 9 and 11, national control systems and control lists, enforcement arrangements, inter-agency cooperation, logistical and transport actors, and international assistance."
2. "States Parties reaffirm that measures concerning maritime transit, trans-shipment, diversion detection, inspection and enforcement must be undertaken within national jurisdiction and in accordance with applicable international law, including relevant law-of-the-sea obligations and navigational rights."
3. "States Parties encourage exporting States Parties, in applying Articles 6 and 7 and assessing diversion risk under Article 11(2), to consider, where relevant, the intended transport route and trans-shipment points, parties and service providers involved, security of transport arrangements, declared end-user and end-use, foreseeable retransfer or integration, recipient control capacity, prior diversion

patterns, and material contextual risks associated with volatile border-adjacent settings.”

4. “States Parties recognize the importance of effective controls under Articles 3 and 4 and encourage exchanges of national practice on parts, components, ammunition/munitions and other items included in national control lists, including case-by-case assessment of whether multiple items may collectively provide or materially enhance the capability to assemble or operate conventional arms covered by Article 2(1).”
5. “States Parties encourage timely and secure cooperation and information exchange, pursuant to national laws and where appropriate and feasible, on authorizations, end-use and end-user documentation, significant route or recipient changes, suspicious or falsified documents, lost or stolen consignments, detected diversion, and effective mitigation measures, while protecting classified, personal and commercially sensitive information.”
6. “States Parties request the WGETI, within its existing programme of work, to undertake a case-based exchange on maritime transit, port trans-shipment and diversion; clarify the respective roles of port, coastal, flag, exporting, importing and transit States; and involve relevant maritime transport actors, competent international organizations and civil society where their participation adds defined practical value.”
7. “States Parties encourage international assistance under Article 16 for archipelagic, coastal and small island developing States, including assistance for customs and port controls, advanced commodity classification and identification of controlled items, the development of inter-agency mechanisms, secure information systems, end-use and post-delivery cooperation, and the prevention and detection of diversion through maritime routes and facilities.”
8. “States Parties recognize that civilian maritime communities may experience the security, humanitarian, livelihood and gendered consequences of illicit arms flows and diversion, and encourage their safe and meaningful inclusion in relevant national assessment, prevention and assistance processes.”