

Improving Supply Chain Accountability for Arms Exports

Conference Report

13 & 14 May 2024

T.M.C. Asser Instituut
R.J. Schimmelpennincklaan 20-22,
2517 JN, the Hague, the Netherlands

Conference report

Improving Supply Chain Accountability for Arms Exports

The international conference on Improving Supply Chain Accountability for Arms Exports was held in person on May 13 and 14, 2024 at the Asser Institute for International and European Law in The Hague. Over the course of the conference, 90 individuals participated, including representatives of civil society organizations, government officials, members of the diplomatic corps, and academia. The conference comprised one high-level policy roundtable and three substantive panels featuring eleven panelists and four moderators, from ten countries: Argentina, Belgium, Colombia, Germany, Guatemala, Italy, Mexico, Poland, the United Kingdom and the United States.

The presentations were delivered under the Chatham House rule meaning that nothing the panelists said during the conference can be attributable to them or their organization. All panelists spoke in their personal capacity on the basis of their expertise and lived experience. The anonymized summaries in this conference report, as well as the key takeaways it identifies, have been collected from the overall discussion and cannot be attributed to any one of the panelists.

The event was organized by the Asser Institute for International and European Law, Global Rights Compliance and the Center for Advanced Defense Studies in partnership with Guatemalan civil society organizations Diálogos and Fundación Myrna Mack, in the context of their joint project on enabling civil society in Guatemala to address the misuse, diversion and abuse of firearms exports.

Key takeaways

1. States and businesses should implement human rights due diligence across the weapons supply chain to identify, prevent, address, and monitor actual and potential violations of international humanitarian law, international human rights law and diversion risks.
2. Gender-responsive policies should be mainstreamed in the regulatory frameworks of arms importing and exporting States to account for the disproportionate impact of the arms trade on women and girls.
3. The establishment of subsidiaries abroad and the development of new technologies such as modular and 3D printed guns should not allow companies to circumvent national export controls.
4. Greater transparency, reporting and information sharing is necessary to prevent and mitigate the risk of weapons diversion.

High-level policy roundtable on supply chain accountability for arms exports



Christian Espinoza,
Guatemala Secretary of
Strategic Intelligence



U.S. Ambassador
Tina Kaidanow



León Castellanos-
Jankiewicz
Moderator

Panelists

- Ambassador Tina Kaidanow, U.S. Special Representative for Guantánamo Affairs, formerly U.S. Acting Assistant Secretary of State for Political-Military Affairs.
- Christian Espinoza, Secretary of Strategic Intelligence, Government of Guatemala.
- Dr León Castellanos-Jankiewicz, Senior Researcher, Asser Institute for International and European Law, The Hague (moderator).

Summary

The discussion in the high-level policy roundtable addressed challenges in ensuring responsible arms exports during a time of global rearmament. The panel acknowledged that ensuring legitimate arms sales and transfers is only the beginning of the due diligence process: it is important to consider the entire life cycle of weapons and ammunition.

Transparency in the export and transfer process and obligatory licensing for all weapons sales provide a good starting point to ensure supply chain due diligence. Transparency and information sharing also enable exporting states to assist importing countries with stockpile management and the development of methodologies that prevent misuse.

Panelists highlighted that arms trafficking and diversion increase the threat of organized crime, exacerbate armed violence and external threats. Keeping victims and broader accountability in mind, the panel discussed ways to think innovatively about the import and export of firearms, including through the suspension of export licenses to countries with poor human rights records, the reduction of timeframes of export license authorizations and promoting ownership within the arms industry towards responsible trade practices and self-regulation.

From manufacture to crime scene: how to improve arms tracing?



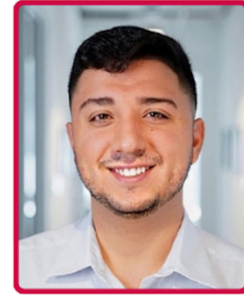
Dr. Simone Wisotzki
Peace Research
Institute, Frankfurt



Dr. Andrei Serbin Pont
CRIES, Buenos Aires



Daniel Núñez
Diálogos,
Guatemala



Alexander St. Leger
Center for Advanced
Defence Studies,
Washington D.C.

Panelists

- Dr Simone Wisotzki, Senior Researcher, Peace Research Institute, Frankfurt.
- Dr Andrei Serbin Pont, President, Coordinadora Regional de Investigaciones Económicas y Sociales, Buenos Aires.
- Dr Daniel Núñez, Academic Director, Diálogos, Guatemala.
- Alexander St. Leger, Russia Analyst, Center for Advanced Defence Studies, Washington D.C. (moderator).

Summary

This panel addressed the challenges of tracing diverted or trafficked firearms in legal and illicit markets which have been used in human rights violations. The threat of diversion is especially acute in the case of small arms: there is a significantly higher number of firearms being produced than those being destroyed. Moreover, new technologies including polymer frames, modular and 3D-printed firearms are seriously testing the tracing capabilities of States to counter diversion. The diversion of stocks towards non-state actors, particularly in Latin America, is yet another challenge.

Adapting legislation to cover loopholes in tracking and tracing is paramount for modular systems because in most jurisdictions these products are not defined as weapons. Instead, they are defined as firearm parts and are therefore not within the scope of legislation applicable to the sale, export, import and transfer of weapons or obligations relating to registration or tracking.

Other challenges for traceability include obliterated serial numbers, fake markings, lack of weapons registration systems, illicit craft manufacturing and privately manufactured small arms. To improve traceability efforts, panelists highlighted the primary responsibility of governments to conduct regular end-user controls and extend post-shipment controls to include the recipient's stock facility. Furthermore, industry actors should be incentivized to track their own products across the supply and value chains, including end use. Finally, panelists noted that the smallest companies—modular producers, for instance—should be sufficiently incentivized to improve tracing.

Human rights due diligence in the arms industry?



Giovanna Maletta
SIPRI, Stockholm



Rosa Rosanelli
Patria Group, Helsinki



Dr. Diederik Cops
Flemish Peace
Institute, Brussels



Jowita Mieszkowska
Global Rights
Compliance, the
Hague

Panelists

- Giovanna Maletta, Senior Researcher, Stockholm International Peace Research Institute.
- Rosa Rosanelli, Vice President and Head of Compliance, Patria Group, Helsinki.
- Dr Diederik Cops, Senior Researcher, Flemish Peace Institute, Brussels.
- Jowita Mieszkowska, Legal Adviser, Global Rights Compliance, The Hague (moderator).

Summary

This panel focussed on the challenges and opportunities in implementing human rights due diligence (HRDD) in the arms industry and the identification of best practices. Conceptually, HRDD includes a wide array of tools available to states and corporations which protect human rights but also address other areas such as labour standards and anti-corruption measures. HRDD is thus context-specific and its requirements will vary across industries. The size and nature of stakeholders is also relevant, since small arms dealers, resellers and brokers behave differently to larger industry actors who have extensive government contracts and relationships.

Panelists agreed that any conversation about HRDD in the arms industry needs to acknowledge the unique and complex relationship between commercial actors and governments. This is especially the case when States have a significant stake in company assets. At the same time, companies could benefit from intelligence information that is only available to licensing authorities, to have a greater understanding that would benefit their risk assessments. Greater collaboration between states and companies is encouraged in this regard.

Finally, sanctions have changed the way in which due diligence is conducted: the full structure of the company is included in these assessments as opposed to individual shipments. The way that companies conduct due diligence in relation to sanctions could be partially replicated within HRDD. The panel also noted the increased relevance and challenges related to performing heightened HRDD in conflict-affected and high-risk areas.

Access to remedies for negligent exports



Miguel Reyes Moncayo
Mexican Foreign
Ministry



Lissette Vázquez
Fundación Myrna
Mack, Guatemala



Janet H. Anderson,
Asymmetrical
Haircuts Podcast,
the Hague



Antonio Guzmán Mutis
Asser Institute, the
Hague

Panelists

- Miguel Reyes Moncayo, Deputy Legal Advisor, Mexican Foreign Ministry, Mexico City.
- Lissette Vázquez, Executive Director, Fundación Myrna Mack, Guatemala.
- Janet H. Anderson, Journalist and Host, Asymmetrical Haircuts Podcast, The Hague.
- Antonio Guzmán Mutis, Junior Researcher, Asser Institute for International and European Law, The Hague (moderator).

Summary

This discussion addressed victim-centred approaches to remedies and accountability for negligent arms exports. Panelists focussed on Latin America, which registers a disproportionate share of gun violence when compared to global figures: the average homicide rate in Latin America is 3 times the global average.


Gun violence in Latin America enables criminal activity and migration in addition to hindering economic and human development. Panelists outlined the differentiated ways in which gun violence affects the Latin American region, with trafficking—a transborder phenomenon—being prominent in some areas, whereas diversion, understood as the unauthorized transfer of weapons within the same jurisdiction, remains a challenge in others. Industry actors should take action when they are on notice that their products can end up in the wrong hands.

Strategic litigation and visibility strategies such as journalistic work are increasingly relevant to begin new conversations around pressing issues such as corporate responsibility and HRDD. However, there are structural impediments for communities to become empowered and benefit from strategic litigation. These cases often happen very far from where victims and communities are located, in addition to being conducted in different languages and legal traditions. More work on de-centralising international justice and bringing rights to affected communities is necessary.

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