Overview of the South African Conventional Arms Control System

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BRIEF

Requested to provide an overview of the South African Conventional Arms Control System with particular reference to risk assessment and licensing processes.
• Political transition

• Previous political system: secrecy, closed society and generally unaccountable.
  
  o Arms transfers governed by the Arms Procurement Act of 1968

• Current system: accountability, transparency and responsibility.
  
  o Arms transfers governed by the National Conventional Arms Control Act of 2002 (as amended in 2012)
IMPERATIVES GUIDING ARMS CONTROL

• International obligations on arms control.

• International consensus on:
  
  o the sensitivity of defence industry products and services.
  o requirement for effective Arms Control.

• Domestic consensus on Responsible Trade, Regularity and Accountability.

• South Africa to be a Responsible Player in global market.

• Promotion of Certainty, Predictability, Responsibility, Accountability, Regularity and Objectivity.

• Authorization of arms transfer is ultimately a Political Decision.
CONVENTIONS AND AGREEMENTS

South Africa is party to the following conventional arms conventions and agreements:

• ATT – Arms Trade Treaty
• APMBC – Anti-Personnel Mine Ban Convention
• CCW – Certain Conventional Weapons
• CCM – Convention on Cluster Munitions
• WA – Wassenaar Arrangement
PILLARS OF SOUTH AFRICAN ARMS CONTROL

RSA GOVERNMENT

Conventional

NCAC ACT

DOD

WMD

NON PROLIFERATION ACT

DTI

Commercial Firearms

FIRE ARMS CONTROL ACT & EXPLOSIVES ACT

SAPS
LEGISLATIVE FRAMEWORK

• The Conventional Arms Control System in South Africa is governed by the NCAC Act (41 of 2002 as amended).

• The Act establishes the institutional framework and confers functions and responsibilities.

• The Act regulates the development, manufacture, possession, trade and transfer of conventional arms in South Africa.

• In addition to the primary legislation, there is secondary legislation in the form of:
  
  o Regulations
  o Control List
THE ARMS CONTROL SYSTEM

- CABINET COMMITTEE
- SCRUTINY COMMITTEE
- SECRETARIAT
- INSPECTORATE
- DEFENCE INDUSTRY
THE CABINET COMMITTEE

• The President appoints all members to the Committee.

• The Committee consists of 8 Ministers and 4 Deputies.

• Consists of: Foreign Affairs; Defence, Police, Trade & Industry, State Security; Finance
THE SCRUTINY COMMITTEE

Inter-Agency Coordination

Defence

Foreign Affairs

Trade and Industry

Police

State Security

Public Enterprises
THE SECRETARIAT

• Directorate for Conventional Arms Control is the primary nodal point for conventional arms control.

• Established in terms of s8 of the Act.

• Serves as the Secretariat of the National Authority for Licencing.

• Nodal Point for interface with Defence Industry and other Stakeholders.
ARMS CONTROL PROCESS

Application

• Submissions

Consideration

• Review
• Risk Assessment
• Risk Mitigation

Decision

• Approve
• Hold
• Denial

Execution

• Delivery
ASSESSMENT CRITERIA

• Decision making on arms transfers occurs against a predetermined value system reflecting all relevant aspects.

• Section 15 of the Act sets the Guiding Principles and Criteria to be applied in the arms transfer consideration process. Factors to be considered include the following:
  
  o Assess each application on a case to case basis.
  
  o Safeguard national security interest.
  
  o Avoid transfers that contribute to internal repression including systematic violation and suppression of HRs and fundamental freedoms.
ASSESSMENT CRITERIA

- Avoid transfers that will contribute to escalation of regional conflicts and endanger peace by introducing destabilizing capabilities.

- Adhere to international law, norms and practices and the international obligations and commitments of the Republic, including UNSC arms embargoes.

- Take account of calls for reduced military expenditure in the interests of development and human security.

- Avoid contributing to terrorism and crime.
SOURCES OF INFORMATION - RISKS ASSESSMENT

• Publicly available information

• Government processed information from line function departments.

• Diplomatic missions.

• Information from bilateral and regional cooperation arrangements.

• Information from multilateral institutions.
ASSURANCES AND VERIFICATION

• Assurances:
  • EUCs
  • Further assurances and commitments
  • Cooperation arrangement

• Verification:
  • Authentication process for End User Certificates
  • Post Delivery Verification
EXCHANGE ASSURANCE

RSA

TRANSFER OF GOODS/SERVICES

A

OTHER COUNTRY

PROVISION OF EUC

B
TYPES OF PERMITS AND PROCESS

- Registration Certificate
- Marketing
- Contracting
- Import
- Export
- Transit
- Domestic Transfer
PROCESS FLOW AND RISK MANAGEMENT

RISK GATES AND MANAGEMENT

REGISTRATION

MARKETING

CONTRACTING

IMPORT

TRANSIT

TRANSSHIPMENT

BROKERING

EXPORT
RECORD KEEPING

• Established IT system facilitates processing of applications and issuance of licences.

• Records kept in both electronic and manual (file) forms.

• Live records kept for five years and archived thereafter.

• Secretariat is the custodian of records.

• Legal adjustment required for period of retention of records.

• Maintained database (and additional information from other depts) essential for meeting reporting obligations (national and international).
ACCOUNTING AND REPORTING

• Parliament of South Africa

• United Nations (UNROCA)

• Other organisations: WA, UNPOA and Others

• Auditor-General of South Africa
END

Question and Answers