



Wilton Park



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Event report

Commonwealth Dialogue: countering diversion of SALW and their ammunition

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The Commonwealth



small
arms
survey

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Executive summary

Despite international focus on weapons of mass destruction (such as chemical or nuclear weapons), small arms and light weapons – SALW – are responsible for more human rights violations than any other type of weapon. The illicit trade of SALW presents a complex policy challenge, involving dozens of different types of actors operating in nearly every region of the world. The diversion of SALW anywhere impacts security and development everywhere.

One of the difficulties in tackling the misuse and diversion of SALW is the wide variety of stakeholders involved in SALW production, trade, and regulation. Each stakeholder has different objectives, interests, and responsibilities when it comes to preventing SALW diversion. Comparing stakeholders' perspectives across jurisdictions and sectors is an important step towards broadening, strengthening, and increasing the efficiency of the SALW control regime. Three key themes formed the spine of the Commonwealth dialogue on countering SALW diversion at Wilton Park:

- **Despite differences, there are common challenges:** Many stakeholders, regardless of perspective, face similar challenges in their efforts to effectively combat the diversion of SALW. These shared issues range from legislative and bureaucratic difficulties, to inter-group coordination, to troubles implementing effective policies.
- **The best approach considers context:** There are many possible approaches to addressing the issue of SALW diversion, though some have proven more effective than others. In considering the 'best' approach, lawmakers must make decisions regarding the ways in which to combat SALW diversion, but also the level of granularity at which to regulate, and how to effectively work with multiple stakeholders.
- **The Commonwealth framework can strengthen anti-diversion efforts:** The Commonwealth is a unique and valuable resource, which until now had a limited role in the SALW control regime. The Commonwealth can augment, support, and inform anti-diversion policies of member countries, and a Commonwealth framework provides advantages in the form of strong inter-member bonds, common legal traditions, and existing initiatives.

1. Introduction

According to the Small Arms Survey (SAS), there exist more than 1 billion small arms and light weapons (SALW) worldwide, the overwhelming majority of which are held by civilians. Given the scope of their availability, the importance of countering SALW misuse and diversion can hardly be overstated. The Wilton Park dialogue on countering the diversion of SALW and their ammunition focused uniquely on the role of the Commonwealth in the global SALW control regime. The conference was convened with the intent of exploring how SALW diversion can be viewed through the lens of this unique network, and how the Commonwealth framework might provide new tools in tackling the problem of illicit SALW and their diversion. This report attempts to reflect the diverse perspectives expressed by diverse participants – including international organisations, secretariats, and monitoring agencies, non-governmental organisations (NGOs), industry professionals, and government and law enforcement officials.

2. SALW and the focus of anti-diversion efforts

- 2.1 The diversion of SALW occurs across a wide variety of jurisdictions and involves a great many actors – both licit and illicit. Anti-diversion measures must therefore engage stakeholders throughout the legal supply chain, address demand as well as supply, and be crafted according to context.
- 2.2 The diversion of SALW is not just a problem of illicit markets, but of licit markets as well. Most SALW start out as legal products, legally made, often then legally transferred to legal owners. Some SALW remain legal throughout the course of their lifespan; others become illicit at some point during this process – they are diverted. Those responsible for the diversion of SALW often operate legally as well as illegally, and have all the licenses and certifications necessary to engage in SALW trading. This reality makes it unusually difficult to combat diversion, and requires that states work with industry, international organisations, and each other in order to effectively monitor legal SALW manufacturing, brokering, and trading – and to recognize possible diversion points.
- 2.3 Beyond the issue of supply, combatting diversion requires understanding the demand for SALW. Various licit and illicit stakeholders produce demand for SALW, including state defence apparatuses, individual military commanders, non-state companies or groups, and the general public. The incentive to possess SALW varies from the individual purchasing of a handgun for personal security, to the status and capacity granted to armed commanders who control large stockpiles, to a state's need to effectively defend itself. Anti-diversion efforts require taking into account these very different demands.
- 2.4 As such, context is crucial to understanding and preventing the illicit movement and misuse of SALW. The 'diversion point' – the point at which SALW are diverted and become illicit – depends on context. Similarly, the method used to divert SALW depends in part on the ease of acquiring SALW, which varies place to place. In some states, it is easier for an average citizen to get a gun 'on the street' than legally; in other places, the opposite is true. The types of SALW available differ across countries as well: shotguns or antique weapons are more common in many countries with stricter regulations and limited supply, whereas in some countries, newly-manufactured handguns are readily available. The availability of SALW depends on legal restrictions, border security, and government capacity, as well as whether a place is afflicted by conflict. Understanding this context is crucial to understanding the nature of diversion of SALW in a given location – and how to combat it.

3. Stakeholders and existing incentive structures

- 3.1 The illicit diversion of SALW involves the interests of a multitude of different stakeholders, including governments, international organisations, and industry. The problem of SALW cannot be tackled in isolation by individual nations, sectors, or organisations. States must work effectively together, and with civil society, to combat this issue through an emphasis on cooperation and the sharing of expertise. Despite the vastly different roles various actors play, there is much common ground.
- 3.2 **States:** States are among the most important actors combatting the diversion of SALW. States act not only as regulators, but also as importers, exporters, and users of SALW. As such, the overarching institution of the state forms an essential building block of global SALW anti-diversion efforts. States are the primary unit responsible for enacting and enforcing anti-diversion legislation, as well as contributing insights to international conventions on the subject. Beyond their regulatory role, states are often the exporters, buyers, and users of SALW, which place them in a unique and challenging position. As traders, states are responsible for ensuring anti-diversion legislation is adhered to throughout the trading process, including through licensing, transport, and arrival. Whether exporter, importer, user or regulator, a state aims to protect its sovereignty, maintain its continued ability to sell or receive SALW, and ensure its role in the process stands up to international scrutiny. These are complex, multifaceted, and large-scale responsibilities and objectives: it is therefore unsurprising that states face a myriad of challenges in living up to this role. Capacity, procedural ineffectiveness, and corruption are common challenges faced by states in their anti-diversion efforts.
- 3.3 **NGOs:** Independent NGOs are crucial to combatting the diversion of SALW. NGOs can augment capacity and provide advice to national and international governmental organisations engaging in anti-diversion efforts. Many NGOs specifically aim to reduce SALW, and perform work in conjunction with host governments or international auditors to help detect, trace, or audit SALW. Many provide trainings to officials tasked with reducing the diversion of SALW, or education to the general public. Their unofficial role in the legislative process provides benefits, but also presents challenges. NGOs often require the cooperation of other actors with official mandates, such as states, in their anti-diversion efforts.
- 3.4 **International and regional organisations:** International and regional organisations and secretariats play a large role in the drafting and reviewing of SALW control agreements at the international level, as well as in providing aid to member-countries attempting to implement international agreements. In many ways, these agencies act as mediators between donor states and recipient states and reduce the complexity of requesting aid for implementation. However, the sheer scope and magnitude of the international arms control regime make it difficult for international organisations to effectively monitor progress, or to ensure that member-states have the capacity and willingness to effectively follow-through on promises made at an international level.
- 3.5 **Industry and arms brokers:** Manufacturers of SALW play a vital role in the SALW supply chain, and an equally vital role in preventing their misuse and diversion. Apart from reputational difficulties associated with being involved in diversion, manufacturers lose profit from illicit arms trading. Manufacturers do not exist in a vacuum, and must work within the established laws of the state – often multiple states – to effectively combat diversion. Industry is an important part of the cooperative security effort, and should be seen as both a strategic asset, and as a policy tool. Nevertheless, industry is often treated with suspicion by other stakeholders, a challenge that can be combatted only through open conversation and actively fostering trust.

4. Shared experiences and common issues

- 4.1 Despite their differences, stakeholders often share common experiences and face overlapping frustrations in combatting the diversion of SALW. These challenges exist at the systemic and individual level and include both incidental and overt failures. They span the technical, legislative, and law-enforcement dimensions of anti-diversion efforts. These shared experiences are important indicators of the health of global anti-diversion efforts, as well as a useful metric for determining future objectives.
- 4.2 **Capacity issues:** Many states lack the capacity to enact effective anti-diversion policy. Though a state may be signatory to international arms conventions, it may also be unable to implement key provisions these treaties recommend or require. Such conventions often set targets for combatting SALW diversion that are unrealistic for many lower-capacity signatories. Many of the most effective means of combatting SALW diversion are the most challenging and resource-intensive to implement; as such, these key provisions are often ignored in favour of lower-cost solutions, resulting in an ineffective and lopsided SALW control regime. Trouble implementing certain anti-diversion measures is not limited to developing nations; many provisions remain difficult to implement even for high-income countries such as the United Kingdom.
- 4.3 **Limited political will:** Anti-diversion efforts not only face limited political capacity, but also limited political will. These challenges are often interdependent; within many low-capacity Commonwealth countries, multiple national priorities compete for scarce resources, meaning that few available resources are dedicated to the fight against SALW diversion, often seen as a lower-priority objective. In some ways, this is to be expected; politicians are rarely part of the process of negotiation or ratification of international anti-diversion measures, and yet remain responsible for drafting domestic legislation and contributing precious resources to a fight they may not understand or sympathize with. This strategic lethargy in turn impacts operational execution: for example, the urgency to destroy weapons once they are collected is often limited. Beyond urgency, states do not always feel empowered to perform weapons destruction, since they feel it should wait for a regional intervention. There are also issues with outright corruption, or deliberately poor enforcement of anti-diversion measures. The incentive structure is not currently built to incentivize the halting of SALW diversion by actors which place value on stockpile holdings, or receive profits from illicit diversion.
- 4.4 **Procedural hurdles and ineffective legislation:** Even if the political will exists, procedural hurdles often make anti-diversion efforts inefficient. One problem is the multitude of laws, treaties, and regulations that govern the anti-diversion environment. Domesticating each individually often results in overlapping and even conflicting legislation, leaving many countries with the task of independently drafting overarching policies to combat SALW diversion. Some countries in the Commonwealth struggle with outdated legislation, dating back decades. Even when legislation is successfully proposed, it takes a very long time to revise and enact. Timeliness is a crucial issue in enforcement as well as enactment: the processes for handling exemption requests or approving licensing agreements are often sluggish. This is in part due to institutional gaps, where it is unclear which department oversees a particular step of the anti-diversion process. This in turn can lead to interagency rivalry.
- 4.5 **Security concerns:** Recordkeeping is recognized as one of the most important anti-diversion tools available, but it comes with unique technical and security challenges, even beyond the capacity of the state to keep up detailed and precise records. Many countries have no systematic ability to estimate SALW holdings within the state, and it is difficult to know how stakeholders can make decisions without estimates of the full challenges faced. Poor record keeping encourages a steady drip of diversion,

while national stocks continue to steadily deteriorate and escape. Existing programs to estimate stockpile extent tend to focus on 'official' stockpiles, which are well-guarded and easily counted and maintained. Other, less-official stockpiles - the more elusive and therefore dangerous threat - are far less well-documented or understood. Issues of capacity, as well as political will, plague this aspect of SALW legislation. Technical issues, including the ability to maintain a database, and concerns over the security of such a database, are also paramount obstacles in these efforts.

- 4.6 **The 'untouchable' stages:** Some of the most common problems leading to SALW diversion are not easily dealt with through legislation. Artisanal manufacturing and other non-traditional means of supplying SALW prove a particular challenge in this regard. On the manufacturing and transportation side, mid-shipment diversion is an extremely important problem that has proven difficult to address, as it requires the cooperation of multiple countries with different regulations, political contexts, and interests. Other efforts – such as post-shipment inspections – remain unpopular with importing states, as the locations and types of weapons in national stockpiles is strategic knowledge they aim to keep hidden.
- 4.7 Despite the common difficulties between multiple Commonwealth and non-Commonwealth countries in combatting SALW, it is important to note that context is a crucial indicator of the challenges different states face.

5. What works: ongoing efforts and existing resources

- 5.1 Many existing conventions, most prominently the Arms Trade Treaty (ATT), require that member-states make efforts to combat the misuse and diversion of SALW. Key requirements include keeping records of and tracing SALW, banning the illicit transfer of SALW and their ammunition, developing a defined penal regime, conducting appropriate stockpile management, and dedicating resources to the creation of a national commission. However, these conventions usually do not specify how states should go about fulfilling these requirements. Individual states – in conjunction with other stakeholders – are responsible for devising effective means of combatting diversion, meaning that different states have developed different approaches.
- 5.2 **Grappling with the supply of SALW:** The majority of SALW are in the hands of civilians, not the state. Regulating the availability of SALW to the general public is therefore crucial to an effective SALW control regime. Some countries have found that decreasing SALW availability reduces the lethality that results from SALW misuse. Others have found that regulations limiting the availability of SALW have made it more difficult to regulate their use and trading. Stringent licensing laws mean that actors who would ordinarily use legal means to obtain SALW turn instead to the black market. The reduction of availability – supply – may reduce demand, but it does make demand harder to track. While national firearms legislation has been shown to be one of the more common and effective mechanisms for SALW management, difficulty of access often translates to difficulty in tracking these weapons, creating second-order challenges.
- 5.3 **Recordkeeping and keeping track:** It is widely accepted that recordkeeping and auditing are among the most powerful ways to maintain a successful SALW control regime. Marking weapons is one of the most straightforward ways to ensure these weapons are traceable, though there is not necessarily common consensus on who should do the marking. Some believe that import marking is the easiest, while others believe that the exporting state, or even the exporting manufacturer, should mark the weapons. Regardless of how a weapon is marked, keeping track of these marked weapons is a crucial second step. Some countries maintain national firearms licensing databases or databases on seized firearms, which can aid in tracing SALW used illicitly. Several databases – including Interpol's iARMS – exist at the international level, allowing not only for effective tracing within countries, but across borders. Indeed, recordkeeping is not enough to prevent diversion, and data-sharing

– not only between departments, but between stakeholders – is also necessary.

5.4 Dealing with existing stockpiles: While recordkeeping improves a state's ability to estimate existing stockpiles, it does not help reduce them. Altering the incentive structures facing those who control SALW stockpiles is crucial to reducing the number of SALW currently available for diversion and illicit use. Rewarding or supporting the destruction of SALW might be a good way to alter financial incentive structures that encourage the proliferation and diversion of SALW. In some areas, police in charge of seized SALW reserves are legally allowed to sell the metal and the wood that make up these SALW, providing financial reward for the destruction of these reserves. Presenting this as a trading relationship is crucial; building up a degree of confidence between stockpile-holders and regulators is the only way to efficiently and effectively reduce the diversion of SALW.

5.5 Writing and passing meaningful legislation: Encouraging the passage of legislation enshrining effective anti-diversion policies is an overarching challenge across the Commonwealth. Including national legislators in the international negotiating process will help allow these legislators to see the value of anti-diversion efforts, and encourage them to prioritize domestication. Framing the problem of SALW in terms of the cost of not putting in place effective anti-diversion techniques might advance legislators' self-interest in pursuing anti-diversion efforts.

5.6 Cooperation is crucial: The broader context of international relationships is also important to consider. Diplomatic and economic cooperation, as well as robust economic and security policy, are needed to maintain stakeholder relationships, guarantee political stability, and reduce both the supply and demand of illicit SALW. Discussion between regional blocs is a particularly fruitful space for anti-diversion cooperation, in part because similar challenges and experiences exist at the regional level. Cooperation is the most important tool in the toolbox when it comes to combatting diversion of SALW.

5.7 Combining existing resources: There are a number of existing regional and international resources intended to build capacity, provide aid, and generally assist in enacting anti-diversion provisions. Allowing countries to utilize these resources in a complementary manner, as well as improving their ability to navigate what is offered, is a promising way of improving existing efforts to combat SALW diversion. The ATT Secretariat itself is an actor which provides resources and support to countries aiming to enact ATT provisions, particularly through the Voluntary Trust Fund (VTF). The European Union (EU) also has several roles in the global anti-diversion regime, as a donor, legislator, platform for a common policy, and platform for regional strategy development. Finally, a recent initiative from the Commonwealth offers supplementary support and information to member-states interested in pursuing the capacity-building necessary to improve anti-diversion efforts. This project has significant high-level political support, despite its foray into new territory, and includes partnerships with SAS and the Foreign Commonwealth Office (FCO).

6. The Commonwealth advantage

6.1 The Commonwealth, while not traditionally involved in countering SALW diversion, has several distinct advantages as an anti-diversion body. The scope of the network, its many similarities and close connections, and its diversity all present unique opportunities to provide added value to the current global SALW control regime.

6.2 A vast network: Its sheer scope means that anti-diversion cooperation and support from the Commonwealth – a collection of 53 countries comprising 41% of the world's population – would have the ability to positively impact much of the international community. Four Commonwealth countries are in the top 25 SALW exporters annually, and 15% of Commonwealth countries are significant arms exporters. Seven Commonwealth countries are in the top 40 SALW importers globally. The Commonwealth and its member-states are therefore relevant and significant

stakeholders in the fight against SALW diversion.

6.3 A close network: Commonwealth countries share a common legal heritage, which includes comparable regulatory approaches across its diverse set of members. The Commonwealth, while not traditionally an agent of technical support, has a long tradition of aiding members in addressing judicial and legal matters. Existing Commonwealth efforts in the criminal justice space – including initiatives such as the Commonwealth Network of Contact Persons (CNCP) – provide groundwork which will aid in the Commonwealth's anti-diversion energies. Commonwealth member-states generally have a legal framework for combatting diversion of SALW: in particular, the manufacture, import, export, and possession of SALW are very well-regulated across the Commonwealth. Legal gaps instead exist in regulating transit and in brokering – meaning a common initial set of challenges exists across member-countries.

6.4 A diverse network: Commonwealth countries are diverse in their level of development, their population, and their approach to and relationship with SALW. While only a dozen countries in the Commonwealth have licit domestic manufacturing of weapons, many have artisanal manufacturing industries. 16 of the 26 countries in the Commonwealth that are subject to the ATT have never submitted their national report, while 11 have never submitted their program of action (POA). This diversity in capacity and challenges faced ensures a breadth of experience which, combined with the many similarities across the Commonwealth, foster insight and have the potential to improve anti-diversion efforts.

7. Conclusion

The SALW control regime is multifaceted, complex, and involves a wide variety of stakeholders with differing perspectives, objectives, and capacities. The coming together of these stakeholders to discuss common challenges, existing initiatives, and potential solutions, is an important first step in exploring the future of anti-diversion efforts. A multitude of approaches – both high-tech and low-cost – have proven effective at combatting the diverse set of challenges produced by the diversion of SALW. Exploring what works – and what doesn't – enables stakeholders to grasp the full spectrum of options available to combat the diversion of SALW. Additionally, there are many existing and complementary resources available to support countries seeking to strengthen their anti-diversion policies. Further efforts to harmonize these initiatives should be pursued, in part by the Commonwealth.

The Commonwealth initiative to combat SALW misuse and diversion aims to leverage the advantages of the Commonwealth in order to strengthen existing anti-diversion efforts. The initiative will reinforce the tools available to Commonwealth countries, as well as build consensus on priority areas for cooperation. The initiative is in its beginning stages, but aims to provide briefings, guides, and a facilitating role in asking for additional technical assistance from other initiatives. Such efforts are promising ways to harmonize, strengthen, and augment existing anti-diversion efforts, and therefore reduce the harm caused by SALW diversion.

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Appendices

Appendix 1. Table of acronyms

ATT	Arms Trade Treaty
AU	African Union
CNCP	Commonwealth Network of Contact Persons
EU	European Union
FCO	Foreign Commonwealth Office
NGO	Non-governmental organisation
POA	Program of Action
SALW	Small arms and light weapons
SAS	Small Arms Survey
VTF	Voluntary Trust Fund

Appendix 2. Definition of SALW

From International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapon.” <http://www.unodc.org/documents/organized-crime/Firearms/ITI.pdf>. United Nations Office on Drugs and Crime. 25 February 2013:

4. For the purpose of this instrument, “small arms and light weapons” will mean any man-portable lethal weapon that expels or launches, is designed to expel or launch, or may be readily converted to expel or launch a shot, bullet or projectile by the action of an explosive, excluding antique small arms and light weapons or their replicas. Antique small arms and light weapons and their replicas will be defined in accordance with domestic law. In no case will antique small arms and light weapons include those manufactured after 1899:

- a) “Small arms” are, broadly speaking, weapons designed for individual use. They include, inter alia, revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine guns;
- b) “Light weapons” are, broadly speaking, weapons designed for use by two or three persons serving as a crew, although some may be carried and used by a single person. They include, inter alia, heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of a calibre of less than 100 millimetres.

Appendix 3: Countries in the Commonwealth

Antigua and Barbuda
Asia
Australia
Bangladesh
Barbados
Belize
Botswana
Brunei Darussalam
Cameroon
Canada
Cyprus
Dominica
Fiji
Ghana
Grenada
Guyana
India
Jamaica
Kenya
Kingdom of eSwatini

Kiribati
Lesotho
Malawi
Malaysia
Malta
Mauritius
Mozambique
Namibia
Nauru
New Zealand
Nigeria
Pakistan
Papua New Guinea
Rwanda
Saint Lucia
Samoa
Seychelles
Sierra Leone
Singapore
Solomon Islands

South Africa
Sri Lanka
St Kitts and Nevis
St Vincent and The Grenadines
The Bahamas
The Gambia
Tonga
Trinidad and Tobago
Tuvalu
Uganda
United Kingdom
United Republic of Tanzania
Vanuatu
Zambia