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Applying conventional arms control in the context of United Nations arms embargoes

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List of acronyms and abbreviations

ADN	Advance Delivery Notification
AMISOM	African Union Mission in Somalia
BINUCA	United Nations Integrated Peacebuilding Office in the Central African Republic
CAR	Central African Republic
COMNAT-ALPC	National Commission on Small Arms and Light Weapons
CME	Captured Military Equipment
DDR	Disarmament, Demobilization and Reintegration
ECOWAS	Economic Community of West African States
EUC	End-User Certificate
FSG	Federal Government of Somalia
GNA	Government of National Accord of Libya
GoE	Group of Experts
IAN	Implementation Assistance Notice
JVT	Joint Verification Team
MANPADS	Man-Portable Air-Defence System
MENA	Middle East and North Africa
MINUSCA	United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic
MISCA	African-led International Support Mission in the Central African Republic
NTC	National Transitional Council of Libya
PDC	Post-Delivery Confirmation
PDN	Post-Distribution Notification
PoE	Panel of Experts
PSSM	Physical Security and Stockpile Management
SALW	Small Arms and Light Weapons
SCAD	Security Council Affairs Division
SEMG	Somalia and Eritrea Monitoring Group
SSR	Security Sector Reform
UNMAS	United Nations Mine Action Service
UNMIL	United Nations Mission in Liberia
UNOCI	United Nations Operation in Côte d'Ivoire
UNSMIL	United Nations Support Mission in Libya
WAM	Weapons and Ammunition Management

1 Key findings

Processes and practices related to modifications of arms embargoes

- There are no formal processes at the Security Council level to reassess and modify sanctions regimes.
- The imposition, modification and termination of embargoes by the Security Council members are primarily political considerations, giving some the impression that decisions may not always be evidence-based, particularly when adjustments, or the lack thereof, are at odds with the security situation on the ground.
- Some elected Security Council members¹ note that they are not able to influence decision-making as much as they would like as their sanctions expertise may be limited compared to that of the Permanent Members, which are often the primary actors drafting resolutions and designing adjustments.
- Cross-regime analysis of adjustments of United Nations arms embargoes indicates that they are in fact rarely random and, most of the time, reflect the achievement of security and political milestones on the ground, or on the contrary, serious deterioration of the situation, and are in line with analysis from the Panel of Experts and other United Nations sanctions monitoring actors.

Sources of information to assess arms embargoes

- From the wide range of information sources at the disposal of Committee members, Panel of Experts' reports are considered the most informative. They are regarded as particularly crucial by elected Security Council members which may not all have diplomatic representation in States under sanctions and have limited intelligence-gathering capabilities in conflict-affected areas.
- Security Council members are constantly looking for innovative ideas to reinforce the implementation of arms embargoes, which spurs the development of new practices.
- Security Council members, particularly those that have been elected, have expressed a strong interest in receiving independent complementary analysis from specialized entities within and beyond the United Nations system in the form of briefings or reports, particularly on the weapon and ammunition management capacity of embargoed authorities.

Arms control obligations

- The Security Council has increasingly used arms control obligations when easing arms embargoes to support national authorities in managing adjustments and preventing exempted transfers from fueling insecurity.
- This reflects the development of stronger weapon and ammunition management expertise among wider United Nations sanctions actors, as well as increased sensitization to the development of global arms control instruments and guidelines.
- Arms control obligations observed from existing and past arms embargo regimes primarily focus on national stockpile management, legal frameworks and the safeguarding of exempted transfers.

¹ The term "elected members" refers to non-permanent members of the Security Council that have been elected for a defined period of time. The term "elected members" is used interchangeably with the term "non-permanent members" in this report.

- Pre-delivery control obligations of exempted materiel see greater levels of compliance than post-delivery obligations, reflecting a developing trend, the provisions and implementation of which need reinforcing.
- Innovative ideas cross-fertilize across regimes, with the Libya and Somalia regimes being among the primary cases with observed new approaches.
- While ammunition and explosives are covered under the phrase “arms and related materiel”, there are limited dedicated obligations for ammunition and explosive management in the regimes reviewed for this study.
- While most Security Council members are not in favour of establishing transitional monitoring or oversight obligations for arms transfers in post-lifting stage, many acknowledged the value and the need to support the State’s efforts in building weapon and ammunition management capacity, and to track illicit arms trafficking developments after the lifting of the arms embargo. Other suggestions for post-lifting measures included cooperation with neighbouring States and regional organizations to address illicit proliferation of arms, with particular focus placed on addressing regionally manufactured and/or trafficked arms.

Benchmarks to assess arms embargoes

- Benchmarks are generally established at the outset of regimes, aligning with their overall objectives, and apply to all sanctions measures, including arms embargoes.
- Several Security Council members, as well as Member States currently or formerly under embargo, believe that, on a case-by-case basis, development of complementary arms embargo-focused benchmarks—including measures related to weapon and ammunition management at the national level—would be useful to support the assessment of arms embargoes. Such exercises would be appropriate for those national authorities willing to cooperate with the Security Council to effectively implement the arms embargo and its related arms control obligations.
- In recent years, the Security Council has considered a wider range of options to assess arms embargoes, including by requesting the United Nations Secretary-General to conduct specialized assessments focused on arms management, as well as to identify benchmarks relevant to arms embargoes. This practice has generally been well received by Security Council members and target States and is increasingly being adopted across regimes.
- Development of arms embargo related benchmarks could be examined in the context of contributing to broader objectives applicable to the target State, including support to security sector reform processes, advancement of political processes, building capacity of national authorities to manage arms and related materiel, and addressing illicit proliferation of arms.
- While technical benchmarks should not drive reassessments of embargoes, they can play an essential role in supporting them by providing a basis for dialogue among Security Council members, as well as between the Security Council and the target States². The establishment of an adaptable and flexible benchmarking system is generally supported by several Security Council members.

² The term “target State” refers to those States that are under United Nations sanctions. Target State is used interchangeably with the terms “embargoed authorities” and “national authorities under arms embargo” in this report.

- The institutional and technical capacity of national authorities in target States to manage weapons throughout its supply chain—from the point of entry, distribution, storage to eventual disposal—is closely linked to their ability to effectively implement arms embargoes. As such, the weapon and ammunition management capacity of the target State should be an essential benchmark for supporting the assessment and modification of measures related to arms embargoes.

2 Introduction

The past decade has witnessed the highest number of United Nations arms embargoes running concurrently across the globe. However, to date, the process to reassess or adjust arms embargoes, as well as to terminate them, has not received enough attention from academic or United Nations research bodies. This study is therefore timely: two new arms embargoes were recently adopted (Central African Republic in 2014 and Yemen in 2015), two were reassessed and fully lifted (Liberia and Côte d'Ivoire, 2016), and a fifth was reassessed and partially suspended (Somalia, 2013). This provides an opportunity to examine the processes involved, identify lessons learned, and suggest ways to further support the Security Council in assessing the extent to which arms control could help to inform the modification and or termination of arms embargoes.

Sanctions regimes are, for the most part, adopted in conflict or peacekeeping contexts—that is, in contexts where the weapons and ammunition management (WAM) capacity of State actors has been significantly degraded or depleted; diversions are routine; pre-crisis procurement procedures and management tools have been abandoned; volumes and types of materiel held in state arsenals are not known; and boundaries between formal security agencies and non-State actors are often blurred. Transfers of military materiel into these settings present high security risks.

Nevertheless, many of the existing sanctions regimes are in place to support national authorities in their stabilization and post-conflict reconstruction efforts, including the completion of disarmament, demobilization and reintegration (DDR) and security sector reform (SSR) being standard benchmarks by which to assess and ultimately lift sanctions, and a key part of the mandate of many United Nations missions. Such sanction regimes also recognize the need to train and equip national forces adequately to fulfil both public security and defence requirements in environments plagued by significant levels of criminality, armed non-State actors and, increasingly, terrorism. However, an influx of new exempted materiel, without adequate control and oversight mechanisms in place, may fuel onward proliferation and serious human rights violations, and be counterproductive to the objectives of the sanctions regime and the broader stabilization of the country. In Libya, for example, Panels of Experts reported that deliveries of materiel that complied with the eased provisions of the arms embargoes had nonetheless been diverted to illicit markets and armed groups, hence fueling instability (see Libya case study).

2.1 Structure

This report first presents the scope and methodology used for this study. Following this, the report provides a brief overview of the evolution of the use of arms embargo measures throughout United Nations sanctions history. It then examines some of the challenges related to benchmarking and other processes used to reassess and adjust sanctions regimes and offers a comprehensive overview of sources of information used by Member States to inform these processes, as well as an analysis of the increasing use of arms control obligations that accompany these adjustments. Finally, the report introduces preliminary observations for potential approaches to more systematically integrate the analysis of national WAM capacities into assessments of arms embargoes, and a more robust use of arms control obligations to support the objectives of embargoes and sanctions regimes.

The report provides five case studies of previous and ongoing arms embargoes, including analyses of processes, benchmarks, reassessments and adjustments of provisions, and justifications. In summary:

- **Central African Republic (CAR):** This case of a relatively young sanctions regime (adopted in 2014) provides insight into the national authorities' repeated plea for the lifting of the arms embargo despite regular violations reported by the CAR Sanctions Committee's Panel of Experts, which led to a request by the Security Council for the Secretariat to identify benchmarks to support the assessment of the embargo.
- **Côte d'Ivoire:** Lifted in 2016 as part of the total removal of the sanctions regime and termination of the United Nations Operation in Côte d'Ivoire's mandate, this case is widely regarded within the United Nations system as a "success story" and provides details of innovative approaches to the WAM efforts implemented by the national authorities.
- **Liberia:** This long-running sanctions regime (1992–2016) included three separate rounds of arms embargoes. It therefore constitutes a highly informative case regarding the evolution of the design of arms embargoes and the related arms control obligations in a country where the national authorities did not actively seek for the embargo to be lifted, and where WAM capacity remains a challenge.
- **Libya:** The arms embargo against Libya is an interesting case on multiple levels. Not only does the embargo apply to materiel both coming in and going out of the country—unlike most other cases—but the lack of national control over substantial stockpiles has resulted in multiple violations of the regime and contributed to the destabilization of the region. Despite the absence of a formal security sector and the presence of armed actors operating autonomously, in 2011 the Security Council decided to ease the arms embargo for several years, which, despite its requests for stricter arms control obligations, contributed to the transfer, diversion and misuse of significant amounts of materiel.
- **Somalia:** The partial lifting of the Somali arms embargo in 2013 is an interesting case given the imposition by the Security Council of a number of innovative arms control obligations in parallel, which were subsequently reinforced on the recommendations of an in-country mission set up at the request of the Security Council to assess the national authorities' capacity for WAM. The evolution of the Somali arms embargo and related arms control obligations has set a precedent and influenced provisions of several other sanctions regimes.

2.2 Scope and methodology

Comprehensive assessments of United Nations arms embargoes require analysis of multiple, often complex national and international parameters, and go beyond the scope of this report. This study primarily explores assessments and adjustments of United Nations arms embargoes from the perspective of the arms management capacities of the target authorities.

Five case studies—CAR, Côte d'Ivoire, Liberia, Libya and Somalia—are set out to identify common trends, including the identification of the processes that sit behind the adoption and evolution of different arms embargoes, as well as the different triggers that enable the easing or strengthening of the provisions and the arms control obligations related to them. This report focuses on United Nations arms embargoes related to conventional arms control, adopted in Africa and the Middle East and North Africa (MENA) region. The report excludes "non-proliferation regimes", including the Democratic People's Republic of Korea and Iran, where conventional arms embargoes have been adopted primarily to apply pressure on other sectors, and where monitoring approaches and benchmarks differ significantly.

The case studies are based on a review of resolutions, Sanctions Committee-related documents, including reports by United Nations Panels of Experts responsible for monitoring sanctions regimes, United Nations Secretary-General reports, and statements made in various United Nations forums, as well as exchanges with current and former members of Panels of Experts, representatives of the Security Council members, and other key practitioners. This approach allowed for wide-ranging analysis that ultimately defined the scope of the study, and the development of focused research tools, including a questionnaire and a protocol for informal consultations with Member States.

A team from UNIDIR organized a series of informal consultations in New York in September 2017 with sanctions specialists from two Permanent Members and five elected Security Council members, as well as two States formerly or currently under embargo, both of which are also the subject of case studies. A bilateral consultation was held with a third Permanent Member following the informal consultations in New York. Two States provided written responses based on their experience in the Security Council, in 2015-2016 and on the present Council respectively. Consultations were also organized with the Security Council Affairs Division (SCAD) of the United Nations Department of Political Affairs and representatives of other relevant United Nations agencies, including the Counter-Terrorism Committee Executive Directorate, the DDR section of the Department of Peacekeeping Operations, the United Nations Mine Action Service and the United Nations Office for Disarmament Affairs.

The purpose of these consultative sessions was to identify relevant sources of information for Security Council members, identify processes and tools available to support assessment processes, as well as needs and shortcomings, and gather innovative ideas from Security Council members and relevant United Nations bodies to inform and make the arms embargoes and arms control related obligations more effective.

3 United Nations sanctions and arms embargoes

3.1 Sanctions regimes and arms embargoes

In order to maintain and restore international peace and security, the Security Council has adopted 30 sanctions regimes since 1966.³ These regimes have included different types of sanctions with varying goals, including supporting peaceful transition and protecting human rights, and have, over time, become increasingly targeted.

Sanctions regimes have increasingly been used in conjunction with other Security Council “tools”, including peacekeeping operations, which render such regimes more effective. In the history of United Nations sanctions, arms embargoes have been adopted in nearly 90 per cent of cases, with 9 sanctions regimes currently including arms embargo provisions.⁴ Arms embargoes have been deployed as a stand-alone measure (in 9 cases); however, this practice was deemed ineffective⁵ and they have increasingly—and now systematically—been adopted in conjunction with other sanctions. The most common combination includes an arms embargo, a travel ban and an asset freeze (50 per cent of cases), and occasionally a commodities ban. Nevertheless, all effective cases of United Nations sanctions regimes have included an arms embargo, thus: “they appear to be a necessary, but not a sufficient condition for effectiveness [if used on their own]”.⁶

The language used to set the terms of arms embargoes in United Nations resolutions has become increasingly detailed: “15 years ago, the arms embargo section was a very small paragraph”,⁷ while these days more comprehensive guidance is provided about implementation and exceptions.

3.2 Scope of arms embargo restrictions

There are various levels of restrictions regarding the targeted territory (full territory/specific regions), actors (all armed actors, non-State actors only), types of materiel, and the possibilities of exemptions. Based on an analysis of the evolution of the arms embargo provisions as set out in the five case studies presented here, the most common incremental levels of arms embargo restrictions that the Security Council has imposed on national authorities are identified as:

³ See list of sanctions regimes at <https://www.un.org/sc/suborg/en/sanctions/information>.

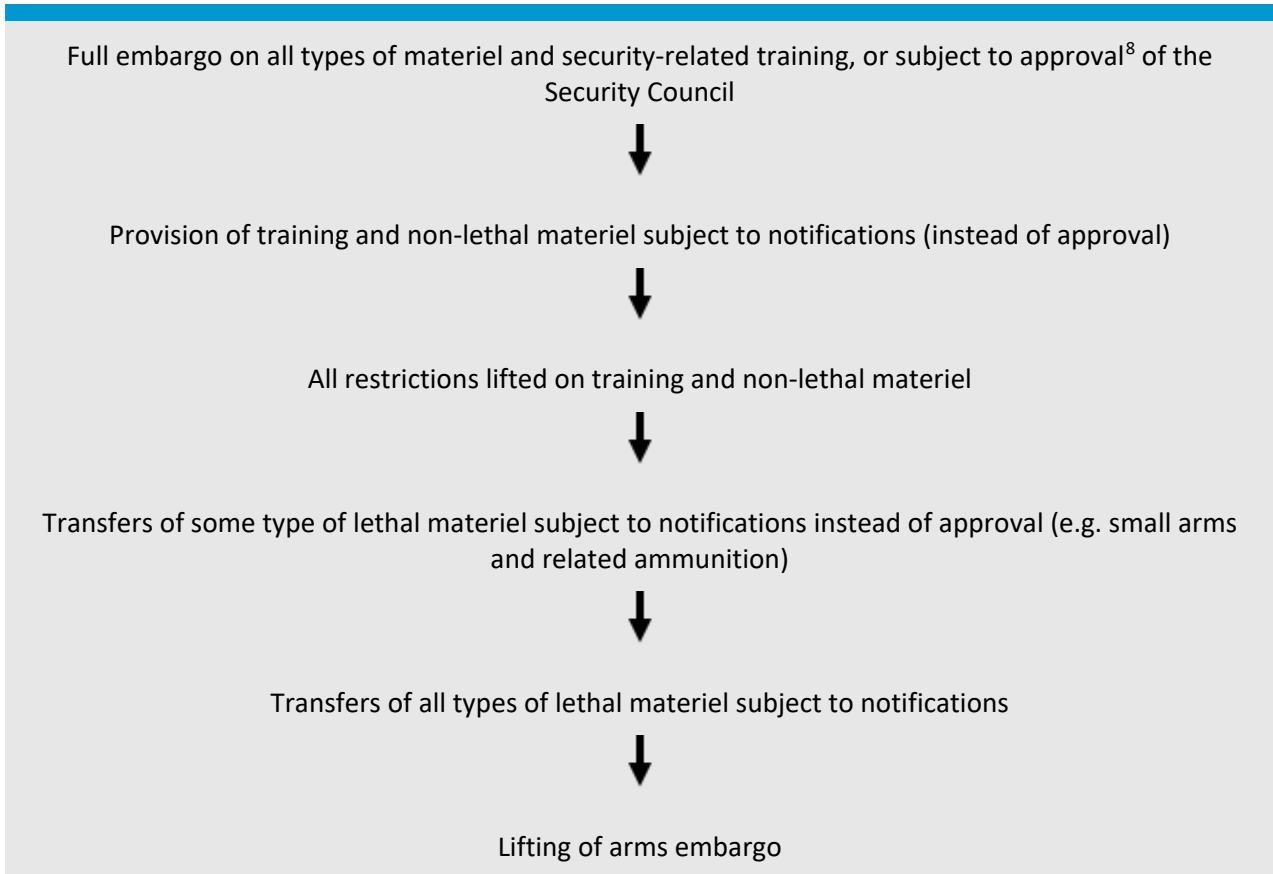
⁴ While most embargoes apply to territories or specific individuals or entities on a given territory, some sanctions regimes, including those applicable to the Islamic State in Iraq and the Levant (ISIL, or Daesh) and to Al-Qaida, as well as to the Taliban regimes, include targeted embargo measures applied to individuals and entities without territorial limitations; T. Biersteker et al., *The effectiveness of United Nations Targeted Sanctions*, The Graduate Institute, 2013, p. 8; See list of sanctions regimes at <https://www.un.org/sc/suborg/en/sanctions/information>.

⁵ T. Biersteker, *Types of UN Targeted Sanctions and their Effectiveness: Research Note*, 23 July 2014, pg. 2.

⁶ T. Biersteker, *Types of UN Targeted Sanctions and their Effectiveness: Research Note*, 23 July 2014, pg. 4.

⁷ Consultation with a representative of a Council member, New York, August 2017.

BOX 1: LEVELS OF ARMS EMBARGO RESTRICTIONS



⁸ Where approval is required, transfers may proceed only after the Sanctions Committee has given explicit approval; where notification is required, a transfer may proceed only in the absence of a negative decision by the Sanctions Committee within a given period after such a notification, generally five working days. Practices by Sanctions Committees may differ.

4 Benchmarks⁹ to assess and modify sanctions regimes

4.1 General benchmarks

Arms embargoes across the sanctions regimes do not have the same objectives—it is therefore understandable that there is no universal mechanism to ease or lift embargoes, or a list of preconditions to do so. In Côte d'Ivoire, the arms embargo was adopted to prevent the rehabilitation of the capacity of the Air Force (2004; see case study). In the Sudan and Libya (2001; see case study), the embargoes were originally adopted to stop the governments' policies of repression towards certain populations. In Iran and the Democratic People's Republic of Korea, arms embargoes were imposed mainly to apply pressure on sectors that are not linked to conventional armament but to the development of weapons of mass destruction.

For most regimes, the Security Council sets general benchmarks for the review of provisions in line with the objectives of the sanctions; these include:

- stabilization (CAR, Mali);
- evolution of the situation/developments (Libya, Yemen, Somalia);
- progress on post-conflict reconstruction: DDR, SSR, elections (Côte d'Ivoire, Liberia, Somalia); and
- compliance with sanctions measures (CAR, Libya, Mali, Somalia).

These benchmarks are generally set up at the outset of the sanctions regimes and apply to all components. For instance, in its resolution setting the most recent regime in Mali (2017)—which does not include an arms embargo—the Security Council stipulates that it is prepared to review all measures “at any time in light of the progress achieved in the stabilization of the country and [the] compliance with this resolution”.¹⁰

4.2 Benchmarks specific to the reassessment of arms embargoes

Resolutions setting up sanctions regimes including arms embargoes rarely stipulate specific benchmarks for the assessment, adjustments or lifting of those embargoes. Embargoes are considered alongside other components of multifaceted regimes with their impact assessed collectively.

However, practice has evolved and following requests over the past few years from several Member States under embargo to lift restrictions on their arms imports, the Security Council has expressly requested the assessment of their national WAM capacities and requirements to identify options or to create benchmarks to better support the reassessment process (see CAR and Somalia case studies). The Security Council has also imposed additional reporting requirements on several national authorities under arms embargoes, mainly in relation to the structure of their armed forces, as well as arms control obligations regarding exempted transfers of materiel and the management of their stockpiles. In 2014, following repeated pleas from the Somali authorities to lift the arms embargo provisions against them, the Security Council requested an in-country assessment be conducted by the Secretariat in order to provide Security Council members with options and

⁹ For this study, the term “benchmark” refers to the points of reference explicitly mentioned by the Security Council in resolutions against which it will review and potentially adjust sanctions measures, including arms embargo provisions.

¹⁰ See Security Council, UN document S/RES/2374, 5 September 2017, para. 20.

recommendations for the provision of technical assistance to the Government to support them in complying with the embargo requirements and reinforcing its WAM capacity. This assessment supported the Security Council in establishing specific arms embargo-related benchmarks (see Somalia case study).

Member States currently or formerly under embargo interviewed for this study expressed concern about the absence of specific WAM benchmarks for review, or the lack of a clear roadmap to enable restrictions on transfers imposed on national authorities to be lifted. This view was also shared by a few Security Council members. One said: “There is a need for the [Security] Council to indicate clear prerequisites that a [State] under embargo should implement”.¹¹ However, a number of other Security Council members, while acknowledging the usefulness of technical benchmarks in supporting reassessments, highlighted that they should not drive the process.

¹¹ Consultation with a representative of a Council member, New York, August 2017.

5 Processes and practices related to arms embargo modifications

According to current and former Security Council members contacted, there are no formal Security Council processes for setting or adjusting arms embargoes. Adjustments are seen by Security Council members as decisions primarily based on political considerations. Several Security Council members however, expressed concern about the ad hoc nature of certain modification processes, with one noting, “We sometimes witness the blind technical rollover of sanctions regimes while the situation on the ground has evolved”.¹²

Consultations indicate that Permanent Members, and penholders¹³ in particular, have a significant amount of influence on the modification processes of sanctions regimes. In principle, the penholders possess strong subject matter expertise on sanctions-related issues and act as the primary focal point on drafting language for resolutions. Consultations also reveal that the level of cooperation among Security Council members on modification processes differ by sanctions regimes and issues, with one noting, “Some penholders share resolutions with us [elected Security Council members prior to their official circulation] as a courtesy, but the level of cooperation in the drafting process is inversely proportional to the political significance of the issue”.¹⁴

In the absence of specific benchmarks and processes related to their modifications, the review of sanction regimes undertaken for this report indicates that arms embargoes have often been imposed, adjusted or lifted with limited technical assessments of target States’ capacity to manage transfers of military materiel. However, the case studies also suggest that adjustments and lifting of embargoes are in fact rarely ad hoc. Across the board, easing of arms embargoes has often been in response to perceived improvements in a situation (often political or security), achievements of milestones (elections, setting of transitional authorities, etc.) or as a way for Security Council members to send a positive message to national authorities. Easing of arms embargo provisions related to training and non-lethal materiel¹⁵ are, for instance, likely to take into account needs to manage the relationship with the target State by indicating that the evolution of the regime is moving in a positive direction, particularly when the authorities are calling for the lifting or easing of the measures. Strengthening of arms embargoes generally reflects an acute deterioration of the situation on the ground (see Libya case study), or a realization on the part of the Security Council that national authorities have struggled to adequately manage imported exemption materiel as part of a partial lifting of the embargo since arms control measures at the national level remain underdeveloped.

Justifications provided in resolutions easing embargoes include the following, which often respond to benchmarks set by the Security Council in resolutions (see previous section):

- progress towards stabilization and improvement of security situation (Côte d’Ivoire, Liberia, Libya);

¹² Consultation with a representative of a Council member, New York, August 2017.

¹³ “Penholders” are those Security Council members responsible for drafting resolutions.

¹⁴ Consultation with a representative of a Council member, New York, August 2017.

¹⁵ The distinction between lethal and non-lethal materiel is not always consistent across regimes; transfers of non-lethal materiel are often incorrectly assessed as having a minimal impact on security in settings that are not yet ready for transfers of lethal materiel. As an example, non-armed military vehicles can currently be transferred to the Libyan authorities despite significant diversions of these items in a context where they can provide critical strategic advantage to any armed actor in the country.

- SSR needs and capacity-building of national forces—for instance, in Côte d’Ivoire the need to equip security forces with adequate crowd control equipment and vehicles, including to monitor arms trafficking, or in Somalia to tackle security challenges and terrorism (see case studies); and
- repeated requests from the national authorities to lift the ban on their imports (Côte d’Ivoire, Libya, Somalia).

In several of the cases studied in this report, the incremental easing or lifting of the arms embargo provisions was aligned with the analysis of both the Secretary-General and the group of experts’ reports regarding the situation on the ground, and the needs of national authorities in providing security (see Côte d’Ivoire case study, for instance). However, easing, or the absence of reinforcement of provisions, has sometimes been adopted at odds with the situation on the ground. This can sometimes reflect the lack of consensus among Security Council members, which see the use of sanctions differently or have competing agendas regarding the State under sanctions. An elected Security Council member noted how political deadlock in the Security Council would inhibit several Committees’ abilities to formally assess and strengthen the provisions of arms embargoes. In other instances, premature easing was a result of the fact that the Security Council either did not have the appropriate monitoring mechanisms in place or that the political and economic considerations were prioritized over evidence of significant security challenges on the ground such as arms proliferation concerns.

6 Sources of information supporting the assessment and modification of arms embargoes

6.1 Monitoring the implementation of arms embargoes

In addition to the multiple stakeholders that are mandated by the Security Council to monitor and report on the implementation of sanctions, Security Council members also have access to a wide range of information-providers that can potentially support evidence-based decision-making processes in relation to assessments and reviews of sanctions regimes, including arms embargoes in particular.

6.1.1 Sanctions Committees

When imposing a sanctions regime, it is now standard practice for the Security Council to create a Sanctions Committee to administer the regime, including monitoring the implementation of sanctions, taking action in case of non-compliance, and establishing and issuing guidelines to facilitate the implementation of control measures.

To monitor the implementation of arms embargoes, these Committees have a variety of tools at their disposal:

- **Panels of Experts:** “the eyes and ears” of Committees, responsible for gathering and analysing information on their behalf;
- **notes verbales:** which the Committee can send to Member States to request information on specific issues;
- **implementation reports:** Member States are required to report back to Sanctions Committees on the steps they have taken to effectively implement control measures. These generally focus on the relevant national legal frameworks in place;
- **inspection reports:** In some cases, Member States are required to provide information on any specific violations of arms embargoes they may have detected (see the Libya case study, for example, where the sanctions regime obliges Member States to send detailed inspection reports to the Committee in the event they discover embargoed materiel);
- **Committee meetings:** These take several forms: a) meetings to which the Committee can either invite the target State or other interested Member States (particularly those in the region) to discuss the implementation of control measures, b) meetings to exchange with relevant Panels of Experts about their workplans and findings, and c) meetings to which other subject matter experts are invited to provide briefings to the Committee on specific issues. For example, the United Nations Mine Action Service has been invited to brief several Committees on weapons contamination and WAM challenges in States under embargoes; and
- **in-country visits:** Chairs or Committee members can visit target and regional Member States to collect information, build relationships with key stakeholders, provide guidance and assess the situation directly.

6.1.2 Panels of Experts¹⁶

At the outset of most regimes, the Security Council generally requests the Secretary-General to establish a Panel of Experts to support the work of Sanctions Committees. Panels are small groups of independent consultants responsible for monitoring the implementation of sanctions, collecting information on individuals and entities breaching the sanctions or meeting designation criteria, and advising the Committee. In the 16 years of their existence, these Panels have been deployed across the globe to monitor 13 sanctions regime.¹⁷

The Panels' reports were cited as a primary source of information regarding the implementation of arms embargoes by all Security Council members interviewed for this study. These reports provide essential support to elected Security Council members, which may have limited expertise in a given region, or limited intelligence-gathering capacity in conflict-affected areas.

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6.1.3 The Secretariat

The support of the Secretariat to the Security Council's assessment and potential adjustment of sanctions comes in two main forms: a) through SCAD, also referred to as the "Sanctions Branch", and b) in the form of reports and briefs from the Secretary-General on the situation in States under sanctions and on United Nations peacekeeping missions, as well as those resulting from specific assessments requested by the Security Council. In the past, in the absence of dedicated monitoring teams (see Liberia case study, for example) and, more recently, prior to the establishment of Panels of Experts (see Côte d'Ivoire case study), the Secretary-General was singularly responsible for reporting back to the Security Council on the implementation of the arms embargo.

In 2014, the Security Council requested the Secretary-General to conduct two assessment missions: one into the partial lifting of the arms embargo against Somalia, and a second into the termination of sanctions in Liberia. The Secretary-General's conclusions from these missions were regarded by Security Council members as having provided useful insight into the effectiveness of the embargoes and the capacity of embargoed States to manage transfers of military materiel and provided Security Council members with evidence for pursuing (or not) adjustments. In 2017, the Security Council requested the Secretariat to provide options for the elaboration of benchmarks to assess the arms embargo measures in CAR.¹⁸ In doing so, the United Nations Secretariat identified UNIDIR, among other relevant actors, as one of the key actors to support this exercise.¹⁹

SCAD has, over the past few years, strengthened its analytical capacity; as one Security Council member commented, "SCAD is [now] stronger and has, along with the Panels [of Experts, which SCAD oversees administratively], become something of an ideas factory".²⁰ Through its Secretaries on each of the Sanctions Committees, the Secretariat provides guidance and facilitates the sharing of good and innovative practice across Committees.

¹⁶ Also called "Group of Experts" or "Monitoring Teams".

¹⁷ See Security Council, UN document S/2017/534, 2017, pg. 15.

¹⁸ See Security Council, UN document S/2017/2339, para. 29.

¹⁹ See Security Council, UN document S/2017/597, 2017.

²⁰ Consultation with a representative of a Council member, New York, August 2017.

6.1.4 United Nations missions

The mandates of a number of United Nations missions include implementation support for arms embargoes. Specifically, this may include monitoring implementation (e.g. United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic—MINUSCA, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo—MONUSCO, African Union—United Nations Hybrid Operation in Darfur—UNAMID, and United Nations Operation in Côte d’Ivoire—UNOCI), supporting national authorities in navigating the exemptions (e.g. UNOCI), or cooperating with Panels of Experts by providing information, as required (e.g. MINUSCA and United Nations Support Mission in Libya—UNSMIL).

UNOCI was the first mission to set up a dedicated arms embargo cell in August 2006, at the suggestion of the Panel of Experts, in order to fulfil the operation’s monitoring mandate, including inspections of national stockpiles. Similar mechanisms were created in United Nations Mission in Liberia (UNMIL, 2006) and in MONUSCO (2016), where the cells are mandated to gather information related to illicit arms trafficking and to conduct outreach regarding the provisions of the embargo. More recently, following a request from the Security Council and based on the recommendations of the CAR Panel of Experts, the Secretary-General provided options for the establishment of a MINUSCA arms embargo working group, further developing the prerogatives of a mission-specific embargo monitoring mechanism.²¹ In concept, the working group would coordinate MINUSCA’s efforts to implement its embargo responsibilities, including through collecting and managing information on arms trafficking (through the development of standard operating procedures and training of MINUSCA staff); sharing information with the Panel of Experts; reporting to the Committee on inspections, seizures and the disposal of materiel, as well as breaches of the embargo; assisting national authorities with exemption requests; and coordinating other capacity-building assistance in support of implementation of the arms embargo. In January 2018 the Security Council through Resolution 2399 welcomed the establishment of the arms embargo working group within the MINUSCA and encouraged it to “to serve as a channel for information-sharing on arms trafficking and for recommendations on the control activities to be carried out...”.²²

6.1.5 Additional sources of information

During consultations held as part of this study, Security Council members also cited other sources of information that support them in assessing the implementation and effectiveness of arms embargoes, including their diplomatic representations in States under sanctions, if any. Elected Security Council members also cited information provided by Security Council members with strong sanctions expertise and intelligence gathering capacity—primarily from Permanent Members—as particularly valuable.

Several elected Security Council members also commented that they would welcome additional independent analysis from specialized research entities, such as UNIDIR, through the circulation of reports or briefings during informal Committee meetings upon request.

6.2 Assessing national WAM capacity

Panels of Experts are generally not expressly mandated to provide an analysis of national WAM capacity (for example on the target State’s capacity to manage imported materiel). However, given their work in support of Committees in monitoring arms embargoes and making recommendations for improvement, Panel reports often include information relevant to WAM. In addition to

²¹ See Security Council, UN document S/2017/597, 2017.

²² See Security Council, UN document S/RES/2399, 2018, para. 5.

highlighting shortcomings in national WAM capacity and providing evidence on related progress, Panel reports also identify specific challenges related to exempted transfers (see Libya case study, for example), and provide recommendations for the inclusion of additional arms control obligations, as well as updates on the implementation of those specified in the relevant resolution (see Côte d'Ivoire, Libya and Somalia case studies). Furthermore, the Security Council can also request Panels to report on progress by national authorities related to WAM, such as on issues pertinent to post-distribution of imported materiel, stockpile management measures, and training requirements, as in the case of the Somalia sanctions regime.²³

Panel of Experts reports, alongside those produced by the Secretary-General on United Nations missions with a mandate to reinforce WAM capacity, are the first source of information cited by elected Security Council members for WAM. However, Panel reports often do not provide detailed evidence-based research regarding the exact state of WAM and potential processes to improve the situation in embargoed States, since this is generally not in their mandate. The Security Council has therefore requested the Secretary-General to conduct specific, targeted missions to conduct WAM capacity and needs assessments, and to suggest practicable benchmarks or options for regime adjustment (see Somalia and CAR case studies as well as section 8 of this report).

Finally, specialized United Nations entities that have mandates related to WAM in embargoed States, such as the United Nations Mine Action Service, have increasingly been invited by Committees to share their views regarding WAM in the context of sanctions regimes. Consultations conducted as part of this study indicate that briefings carried out by the United Nations Mine Action Service so far have been well received and several current elected Security Council members have expressed their interest in receiving additional, independent technical WAM assessments to inform their analysis on arms embargoes. This is particularly relevant in cases where the host State has expressed interest to work cooperatively with the Security Council to design a process for assessing the arms embargo.

²³ See Security Council, UN document S/RES/2093, 2013, para. 41.

7 Evolution of embargo-related arms control obligations

Most arms embargoes target both national authorities and non-State actors at the outset of the regime, with provisions placed on the authorities usually eased over time (see section 3). The Security Council has increasingly introduced arms control obligations for national authorities to support them in their management of arms as part of the gradual easing of arms embargoes, and to avoid exempted materiel fueling further insecurity and frustrating the core objectives of the sanctions regime. Consultations conducted as part of this study reveal that the recent trends to better utilize arms control measures to support the implementation of arms embargoes are well received by select Security Council members. This is because such trends promote a tailored approach that is reflective of the needs and situation on the ground. However, others advised caution on widening the scope of arms embargo obligations, in particular in the area of post-shipment controls, as this may have implications on the capacity of the Security Council to monitor such provisions closely.

Analysis of the evolution of arms control obligations and embargo implementation guidance tools included in resolutions shows a healthy flexibility: innovative approaches implemented by one sanctions regime have been transferred to others, either at the suggestion of Panels of Experts, the Committee Secretary, the Committee Chair, or the penholder. Security Council members that have a cross-cutting sanctions team, rather than single diplomats responsible for specific Committees, generally have greater awareness of practices across the board, which facilitates the process of encouraging and spreading good practice, and enabling the development of innovative ideas.²⁴ For instance, in 2013, the Somalia arms embargo was partially lifted while the transfer of some particularly sensitive categories of materiel, including man-portable air-defence systems (MANPADS) for example, still required the Security Council's prior approval (see Somalia case study). A year later, the Security Council adopted the same approach for Côte d'Ivoire (see case study).

In terms of guidance, more broadly, an increasing number of Sanctions Committees have been issuing Implementation Assistance Notices (IANs) to support Member States in implementing their obligations and navigating sanctions, including when the language of resolutions is not clear or does not provide adequate detail. The first IAN was issued in 2009 by the Iran Sanctions Committee and related to the reporting of non-compliance regarding the transfer of arms-related materiel. This tool has since been used by several other Committees—the Democratic People's Republic of Korea, Libya, Somalia and the Sudan—in relation to multiple kinds of sanctions, including arms embargoes. In the case of Libya, for example, IANs were issued to summarize embargo provisions that were spread over several resolutions, and to list the exact information required for exemption requests (Libya IAN 2), or report on the detection of violations (Libya IAN 3).²⁵

7.1 Arms control obligations related to United Nations arms embargoes

Over the past ten years, the Security Council has tightened its requirements regarding the management of national stockpiles. In addition, it has started to be more systematic across

²⁴ Consultation with a representative of a Council Member, New York, August 2017.

²⁵ See <https://www.un.org/sc/suborg/en/sanctions/1970/implementation-assistance>.

sanctions regimes, reflecting better arms control expertise from the United Nations sanctions stakeholders and significant development of global arms control instruments and norms.

Somalia and Libya are the two regimes where the arms control obligations relating to the management of stockpiles are central to their sanctions regimes, and therefore most elaborate and complex. This may be explained by a “high risk and low capacity” concept—that is, particularly low management capacity of the authorities to govern arms and ammunition (despite existence of imported exempt military materiel in country) and the risk of diversions or illicit proliferation of some of this materiel. Both States are also assessed as likely to procure large amounts of military materiel, including arms and ammunition, as a result of the support they are receiving from international partners in their fight against terrorism. Other possible explanations include the fact that the Panels of Experts in both countries have provided strong implementable recommendations on the matter, and that the resolutions for both regimes were drafted by the same penholder, facilitating cross-regime fertilization.

According to the five case studies presented here (see table 1), the most common WAM requirements set by the Security Council at the post-delivery stages are the registration of arms and ammunition (Côte d’Ivoire, Liberia, Somalia), marking of weapons (Côte d’Ivoire, Liberia, Somalia), and the establishment of safe and secure storage infrastructure, including procedures for physical security and stockpile management (CAR, Libya, Somalia). Additionally, Somalia was requested to complete a stocktaking against the needs of the armed forces, as well as to verify stocks against records of distributed materiel imported as part of the partial lifting of the arms embargo. Further, Libya was requested to establish a transparent procurement system with a single point of contact and approval. Finally, the Security Council requested CAR, Libya and Somalia to document, register or dispose of captured or seized illicit arms and ammunition.²⁶

Interestingly, while the Security Council and its monitoring bodies recognized the threat posed by unsafe and insecure ammunition (for example in the Libya case)—and while ammunition is often understood to be included in the term “arms and related materiel”—review of the sanctions regimes undertaken as part of this study revealed that none of the five arms embargo regimes included arms control obligations specifically dedicated to establishing or implementing ammunition or explosives management. In this regard, the arms embargo provisions assumed that an arms control obligation (such as physical security and stockpile management) applied to both arms and ammunition, or, where an explicit reference was made to ammunition, it was grouped with arms (that is, arms and ammunition), thereby not being reflective of the specific control considerations that are often needed to implement safe and secure management of ammunition and explosives.

The table below presents a cross-regime list of arms control obligations set as part of United Nations arms embargoes. The following subsections highlight and elaborate some of the key arms control-related measures utilized by the Security Council as part of arms embargoes.

²⁶ Similar obligations existed in Côte d’Ivoire and Liberia, with the responsibilities placed on UNOCI and UNMIL respectively.

TABLE 1: LIST OF ARMS CONTROL PROVISIONS APPLICABLE TO THE EMBARGOED STATE SET BY UNITED NATIONS ARMS EMBARGOES²⁷

List of Conventional Arms Control Measures	Somalia	Libya	Côte d'Ivoire	Liberia	CAR
Institutional Capacity					
National legal (legislation /regulation) framework for arms and related materiel				X ²⁸	
Reporting on the structure / composition of armed forces	X ²⁹	X ³⁰	X ³¹		
Establishment of point of contact / focal point related to arms embargo or WAM	X ³²	X ³³			
Ratification and implementation of relevant international conventions, agreements and instruments	X ³⁴	X ³⁵	X ³⁶		
DDR related provisions as part of the arms embargo			X ³⁷	X ³⁸	X ³⁹
SSR related provisions as part of the arms embargo	X ⁴⁰		X ⁴¹	X ⁴²	X ⁴³

²⁷ This table is non-exhaustive, non-exclusive and for illustrative purposes only. The table references the resolution that first introduced the applicable provision.

²⁸ Security Council, UN document S/RES/2128, 2013, para. 11.

²⁹ Security Council, UN document S/RES/2093, 2013, para. 39.

³⁰ Security Council, UN document S/RES/2278, 2016, para. 6.

³¹ Security Council, UN document S/RES/158, 2005, para. 8.

³² Security Council, UN document S/RES/2244, 2015, para 9.

³³ Security Council, UN document S/RES/2278, 2016, para. 6.

³⁴ Security Council, UN document S/RES/1343, 2001, para. 17.

³⁵ Security Council, UN document S/RES/2009, 2001, para. 5(e).

³⁶ Security Council, UN document S/RES/1980, 2011, para. 4.

³⁷ Security Council, UN document S/RES/1584, 2005, para. 8.

³⁸ Security Council, UN document S/RES/1521, 2003, para 5.

³⁹ Security Council, UN document S/RES/2134, 2014, para. 9.

⁴⁰ Security Council, UN document S/RES/2111, 2013, para. 11(a).

⁴¹ Security Council, UN document S/RES/1980, 2011, para. 9.

⁴² Security Council, UN document S/RES/1521, 2003, para 5.

⁴³ Security Council, UN document S/RES/2134, 2014, para. 9.

List of Conventional Arms Control Measures	Somalia	Libya	Côte d'Ivoire	Liberia	CAR
Transfer Controls					
Established transparent procurement system		X ⁴⁴			
Advanced approval for military items (including exemptions requests)	X ⁴⁵	X ⁴⁶	X ⁴⁷	X ⁴⁸	X ⁴⁹
Advanced notification on military items	X ⁵⁰	X ⁵¹	X ⁵²	X ⁵³	
Advanced approval for non-lethal items	X ⁵⁴	X ⁵⁵	X ⁵⁶	X ⁵⁷	X ⁵⁸
Advanced notification for non-lethal items	X ⁵⁹	X ⁶⁰	X ⁶¹	X ⁶²	X ⁶³
End use/r restrictions on transferred items, including clauses related to end use, end user	X ⁶⁴	X ⁶⁵	X ⁶⁶	X ⁶⁷	
Measures to regulate export and/or re-export of materiel from the embargoed State		X ⁶⁸			
Transit controls, including measures to inspect/interdict shipments suspected of violating the embargo prior to their delivery	X ⁶⁹	X ⁷⁰			
Post-delivery confirmation	X ⁷¹	X ⁷²			
Post-distribution notification	X ⁷³				

⁴⁴ Security Council, UN document S/RES/197, 2011, para. 10.

⁴⁵ Security Council, UN document S/RES/733, 1992, para. 5.

⁴⁶ Security Council, UN document S/RES/1970, 2011, para. 9(c).

⁴⁷ Security Council, UN document S/RES/1572, 2004, para. 8.

⁴⁸ Security Council, UN document S/RES/788, 1992, para. 8.

⁴⁹ Security Council, UN document S/RES/2127, 2013, para. 54(a).

⁵⁰ Security Council, UN document S/RES/2093, 2013, para. 38.

⁵¹ Security Council, UN document S/RES/1970, 2011, para. 9.

⁵² Security Council, UN document S/RES/2045, 2012, para. 3.

⁵³ Security Council, UN document S/RES/1903, 2009, para. 6.

⁵⁴ Security Council, UN document S/RES/2111, 2013, para. 7.

⁵⁵ Security Council, UN document S/RES/1970, 2011, para. 9 (a).

⁵⁶ Security Council, UN document S/RES/1572, 2004, para. 8.

⁵⁷ Security Council, UN document S/RES/1343, 2001, para. 5.

⁵⁸ Security Council, UN document S/RES/2127, 2013, para. 54(b).

⁵⁹ Security Council, UN document S/RES/2111, 2013, para. 15.

⁶⁰ Security Council, UN document S/RES/2095, 2013, para. 10.

⁶¹ Security Council, UN document S/RES/1572, 2004, para. 8.

⁶² Security Council, UN document S/RES/1731, 2006, para. 1(b).

⁶³ Security Council, UN document S/RES/2262, 2016, para 1(a).

⁶⁴ Security Council, UN document S/RES/2093, 2013, para. 34.

⁶⁵ Security Council, UN document S/RES/2095, 2013, para. 11.

⁶⁶ Security Council, UN document S/RES/2045, 2012, para. 4.

⁶⁷ Security Council, UN document S/RES/1903, 2009, para. 6.

⁶⁸ Security Council, UN document S/RES/1970, 2011, para. 10.

⁶⁹ Security Council, UN document S/RES/2182, 2014, para 15 (ii) and (iii).

⁷⁰ Security Council, UN document S/RES/2174, 2014, para 9, 10. See also Security Council, UN document S/RES/2292, 2016, para 3.

⁷¹ Security Council, UN document S/RES/2142, 2014, para. 6.

⁷² Implementation Assistance Notice 2, see https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/1970_ian2.pdf.

⁷³ Security Council, UN document S/RES/2142, 2014, para. 7.

List of Conventional Arms Control Measures	Somalia	Libya	Côte d'Ivoire	Liberia	CAR
Post Delivery Controls					
Requirement to establish physical security and stockpile management system		χ ⁷⁴			χ ⁷⁵
Requirement to establish ammunition and explosive management system					
Reporting on infrastructure and/or procedures related to physical security and stockpile management	χ ⁷⁶	χ ⁷⁷			
Marking of state-owned weapons, including for existing weapons and/or newly imports	χ ⁷⁸		χ ⁷⁹	χ ⁸⁰	
Establishment of recordkeeping system, e.g. maintenance and oversight of records and stocks, also issue / receipt procedures	χ ⁸¹		χ ⁸²	χ ⁸³	
Verification of distributed arms and related materiel	χ ⁸⁴				
Development of standard operational procedures (SOPs)	χ ⁸⁵				
Cooperating on inspection of imported arms / related materiel		χ ⁸⁶	χ ⁸⁷	χ ⁸⁸	
Baseline inventory / Stock-taking against needs of armed forces	χ ⁸⁹				
Cooperation with relevant monitoring/panel of expert teams	χ ⁹⁰	χ ⁹¹	χ ⁹²	χ ⁹³	χ ⁹⁴
Cooperation with relevant UN Mission, including in the area of capacity building with specialized entities such as arms embargo cells and/or inspection teams	χ ⁹⁵		χ ⁹⁶	χ ⁹⁷	χ ⁹⁸
Adherence to voluntary international standards / guidelines					χ ⁹⁹

⁷⁴ Security Council, UN document S/RES/2278, 2016, para 6.

⁷⁵ Security Council, UN document S/RES/2134, 2014, para. 9.

⁷⁶ Security Council, UN document S/RES/2093, 2013, para. 39.

⁷⁷ Security Council, UN document S/RES/2278, 2016, para. 6.

⁷⁸ Security Council, UN document S/RES/2182, 2014, para. 4.

⁷⁹ Security Council, UN document S/RES/2045, 2012, para. 5.

⁸⁰ Security Council, UN document S/RES/1683, 2006, para. 3.

⁸¹ Security Council, UN document S/RES/2142, 2014, para. 9(c).

⁸² Security Council, UN document S/RES/2045, 2012, para. 5.

⁸³ Security Council, UN document S/RES/1683, 2006, para. 3.

⁸⁴ Security Council, UN document S/RES/2142, 2014, para. 9(c).

⁸⁵ Security Council, UN document S/RES/2317, 2016, para. 5.

⁸⁶ Security Council, UN document S/RES/1970, 2011, para. 13.

⁸⁷ Security Council, UN document S/RES/1980, 2011, para. 5.

⁸⁸ Security Council, UN document S/RES/1683, 2006, para. 4.

⁸⁹ Security Council, UN document S/RES/2244, 2015, para. 6.

⁹⁰ Security Council, UN document S/RES/2142, 2014, para. 11.

⁹¹ Security Council, UN document S/RES/1970, 2011, para. 13.

⁹² Security Council, UN document S/RES/1584, 2005, para. 7.

⁹³ Security Council, UN document S/RES/1343, 2001, para. 14(a).

⁹⁴ Security Council, UN document S/RES/2196, 2015, para. 21.

⁹⁵ Security Council, UN document S/RES/2244, 2015, para. 10.

⁹⁶ Security Council, UN document S/RES/1584, 2005, para. 2.

⁹⁷ Security Council, UN document S/RES/1343, 2001, para. 12.

⁹⁸ Security Council, UN document S/RES/2196, 2015, para 3.

⁹⁹ Security Council, UN document S/RES/2262, 2016, para 4.

List of Conventional Arms Control Measures	Somalia	Libya	Côte d'Ivoire	Liberia	CAR
Controls Against Illicit Proliferation					
Documentation, Registration, and/or disposal of captured and/or seized illicit arms and ammunition	X ¹⁰⁰	X ¹⁰¹			X ¹⁰²
Destruction of surplus and unserviceable arms and ammunition					X ¹⁰³
Cooperation with neighbouring States					X ¹⁰⁴

¹⁰⁰ Security Council, UN document S/RES/2182, 2014, para. 6.

¹⁰¹ Security Council, UN document S/RES/1970, 2011, para. 12.

¹⁰² Security Council, UN document S/RES/2127, 2013, para. 55.

¹⁰³ Security Council, UN document S/RES/2134, 2014, para 9.

¹⁰⁴ Security Council, UN document S/RES/2196, 2015, para. 20.

7.2 Specific arms control obligations related to transfers of exempted materiel

7.2.1 Pre-transfer approval requests and notifications

The practice of prior approval or notification on transfer of exempted materiel is the most common and traditional arms control practice in the framework of United Nations arms embargoes. In this regard, pre-transfer authorization or notification measures are key to monitoring and assessing compliance of the supplying and target States (and in some cases United Nations and other peacekeeping missions) with the arms embargoes. Analysis across sanctions regimes on this arms control measure indicates a great deal of similarity in provision language, as well as obligations placed on supplying and target States. Notifications and exemption requests can generally be submitted to Committees by the receiving or supplying State. They must include specific details, including the following, which are common to the five case studies: end-user; exact types and quantities of materiel; shipment itinerary; and intended date and place of delivery. In some regimes (Somalia and Côte d'Ivoire), the Security Council has maintained prior approval requirements for select military items deemed to be high risk (such as MANPADS), while easing provisions related to non-lethal items and other military equipment, such as small arms and light weapons intended to strengthen the national security forces. Such practice may be deemed useful for regimes where the security forces of the target State rapidly need to be equipped to provide security while diversion risks persist and proliferation is of concern.

The Somalia sanctions regime further requires the name of the supplier and the manufacturer(s), as well as the intended place of storage. In Libya, where diversions of national materiel have been frequently reported—even at point of delivery—and the security sector comprises mainly autonomous armed actors, the national authorities are also required to provide assurance that an End-User Certificate has been signed. The End-User Certificate should include, among other details, information on the procurement authority (in order to validate the procurement channels), and the exact unit that will control the materiel. While such detailed obligations on end-user control processes are not as common across existing or past regimes, large number of supplying States have in place an adequate end-user control system, which would include a comprehensive process of risk assessment for export licenses. In this regard, the means to support the verification of end users and to authenticate end-user documentation in contexts where proliferation is of high concern could be considered a recommended practice to prevent diversion. That is, implementation of end-user verification and end-use(r) document authentication by the supplying State could be a useful arms control measure to inform compliance by the target State with regards to end-user control obligations.

7.2.2 Post-delivery controls

In a more recent practice, in 2014, the Libya and Somalia sanctions regimes introduced post-delivery confirmation (PDC). Transfers to the Libyan authorities, for example, require the supplying Member State to confirm the transfer to the Sanctions Committee upon delivery, and to provide the exact quantity of items delivered, place(s) of delivery and exact recipient of the shipment. No later than one month after delivery, the Libyan authorities should inform the Committee about the exact location at which the materiel is being stored. PDCs have, however, very rarely been implemented by the supplying States or Libya.

In Somalia, the authorities are required to provide the serial/lot number of the arms and ammunition delivered. In addition, the Somalia sanctions regime has also introduced a series of additional innovative post-transfer controls, including a post-distribution notification, and the

establishment of a Joint Verification Team (JVT), the role of which is to inspect stockpiles, including materiel delivered, inventory records and supply chains of military materiel. Somalia continues to implement its PDC obligations, while challenges have been expressed by the national authorities on its obligations on post-distribution notification due to administrative difficulties to implement this measure (see case study).

With regard to the practice of post-delivery confirmation, while not yet a customary practice in sanctions regimes, it is a common measure requested by supplying States of recipient States in conventional arms transfers globally. In this regard, such arms control measures should not be regarded as stringent or imposing measures for target States under arms embargoes. In particular, for those embargoed States in “high risk and low capacity” environments, compliance with PDCs could be considered a viable arms control measure to inform consideration pertinent to reassessment of arms embargoes.

With regard to the JVT, this is a new, innovative arms control measure formed as part of the arms embargo in Somalia, which places the responsibility on the national authority to establish an accountability system to manage its materiel down the supply chain. It provides the State with an opportunity to build capacity in the area of record-keeping, monitoring of distributed materiel, and stockpile management, which promotes a lifecycle management approach to arms embargo implementation. In Somalia, such a system has just been set up in Mogadishu, and its implementation is yet to be evaluated. As such, the potential applicability of the JVT model in other sanctions regimes is yet to be examined. Further, successful implementation of such a comprehensive arms control measure requires high level of commitment from the target State and, more importantly, resources and international assistance to implement effectively—that is, the ability of the State to implement this obligation is not entirely down to the level of national commitment, but rather the level of technical and financial support available to institute a system (see Somalia case). As such, in considering this arms control mechanism, on the one hand, successful implementation of a JVT concept would entail strong capacity of the target State to manage military materiel imported as part of exemptions. However, on the other hand, its success depends on effective implementation of multiple arms control measures at the national level, which may be only achievable over a longer term.

7.3 Reporting as part of arms embargoes

In addition to implementing arms control obligations, the Security Council has requested several authorities to identify a single point of contact for arms embargo-related issues, and to report back on the structure of their armed forces (Côte d’Ivoire, Libya and Somalia), as well as on their weapons and ammunition storage infrastructure, and their physical security and stockpile management (PSSM) efforts (Libya, Somalia). Reporting obligations as part of arms embargoes may be deemed useful in all regimes, but in particular for those where information may be lacking on holders of arms or systems, and on procedures in place at the national level to manage imported exemption materiel. As such, compliance with reporting obligations could be considered a viable arms control measure to inform the reassessment of the arms embargo. Additionally, the embargoed States’ participation in reporting to multilateral conventional arms control instruments may also provide a useful indicator for supporting the assessment of arms embargoes.¹⁰⁵ That said, reporting

¹⁰⁵ The Security Council could also draw upon, where relevant, national reports submitted by the embargoed State to multilateral conventional arms instruments, such as the United Nations Programme of Action on Small Arms, as well as the United Nations Register of Convention Arms, to support the assessment of arms embargo.

obligations often lack guidance for target States on structure, format and, critically, detail related to arms control measures, thus placing a rather heavy burden on the State.

7.4 Legal, regulatory and procedural framework

The Security Council has called upon several States under embargo to either draft and pass national weapons control legislation (Liberia), or ratify and implement relevant international instruments and voluntary global guidelines (Côte d'Ivoire, Liberia, Libya, Somalia). Consultations and research conducted as part of this study does not reveal sufficiently how the Security Council considers progress made by the target State in legal, regulatory or procedural frameworks on WAM to inform the reassessment or modification process in existing regimes. There are three key considerations on this matter. First, while establishment of legal frameworks is a cornerstone requirement for a successful arms control framework at the national level, the implementation of the legal and regulatory provisions at the national level is not adequately reported and analysed by the Security Council's monitoring bodies in existing and past regimes. This limits the understanding of its utility for reassessment or modification processes.¹⁰⁶ Second, while target States acceding to international and regional conventional arms agreements and instruments is an essential measure to build international confidence, demonstrate national commitment, and promote transparency in arms control, it is not clear to what extent the Security Council draws on information provided by the target State under existing multilateral arms control processes. In turn, this means it is difficult to assess the utility of data generated through these means in the context of arms embargo implementation. Third, while establishing an effective regulatory and procedural framework on arms control requires a great amount of national coordination and planning, existing and past regimes have placed very limited focus on monitoring institutional capacity to coordinate strategic and operational plans and programmes at the national level.¹⁰⁷ In this regard, assessing how target States have established systems and implemented measures in line with regional and international instruments may provide further insight into the capacity of the State to effectively implement an arms embargo.

¹⁰⁶ Liberia presents an exception to this observation as adoption of a national law on firearms control was closely monitored by the Security Council in the latter stages of the arms embargo regime. In another regime, the Security Council has taken note of the adoption of national or regional instruments, as witnessed in the case of Côte d'Ivoire with regards to the ECOWAS Convention and the Arms Trade Treaty.

¹⁰⁷ CAR represents an exception to this observation as the Security Council has followed the creation of a national commission on small arms and called for its operationalization in resolution 2399.

8 Observations

This section presents observations regarding the potential role and applicability of arms control in supporting the Security Council in its effort to reassess and modify United Nations arms embargoes. The list below reflects inputs and feedback received from current and past Security Council members, embargoed States, specialized entities, and individuals, such as former members of Panels of Experts. These preliminary observations are intended to highlight potential options and serve as a useful basis for further dialogue and consideration by the Security Council on the applicability of arms control in supporting the reassessment or modification of United Nations arms embargoes.

8.1 Conducting assessment on WAM capacity at the national level

Since 2014, the Security Council has mandated the Secretary-General to conduct a series of missions to assess the implementation of sanctions regimes or specific measures, including in Liberia (2014), Somalia (2014) and Guinea-Bissau (2015 and 2016). This developing practice has generally been well received by States under sanctions and Security Council members and has proved useful in supporting dialogue and analysis by the Security Council to inform the adjustments of sanctions regimes. In particular, consultations conducted as part of this study revealed that most Security Council members welcome initiatives—such as in-country assessments—that help to increase the cooperation between the Security Council and the embargoed States to more effectively implement the arms embargoes.

While the Guinea-Bissau sanctions regime does not include an arms embargo, the Liberian and the Somali regimes do. Assessments by the Secretary-General of the latter two were conducted using different approaches with the Somalia assessment regarded as providing a more in-depth and sound analysis of the situation. Not only did the Somalia assessment focus squarely on arms embargo-related issues, it also included a field visit—unlike the Liberia assessment—allowing for a more thorough engagement with the national authorities and other stakeholders operating on the ground and the collection of first-hand information. Furthermore, the assessment team included members with relevant arms expertise drawn from multiple United Nations agencies, including the Panel of Experts.

Stakeholders consulted as part of this study also suggested that in-country assessments could be conducted more systematically across sanctions regimes, with a flexible “toolbox” including various levels of resources, types of indicators, objectives and methods, depending on the requirements of Security Council members and the particular phase of the sanctions regime (adjustment, termination, etc.). Several arms experts emphasized the importance of including experienced technical and sanctions experts in these assessments, and one suggested that the Secretariat should have a roster of arms experts on call.

8.2 Potential development of benchmarks to assess arms embargoes

Security Council members explained that technical benchmarks should not drive the process of adjusting sanctions regimes. However, several Security Council members support the idea to explore, on a case-by-case basis, development of a flexible benchmarking system tailored for specific regimes to help assess the arms embargo, including examination of national WAM capabilities. The development of arms embargo related benchmarks could be examined in the context of contributing to broader objectives applicable to a target State. This may include support to security sector reform processes, advancement of political processes, building capacity of

national authorities to manage arms and related materiel, and addressing illicit proliferation of arms.

According to the same Security Council members, assessing progress towards set benchmarks over time would facilitate an evaluation of the impact of the new provisions and enable the building of necessary capacity to manage arms and ammunition. In this regard, established benchmarks could be supplemented by an operational plan that further clarifies targets that are measurable and time-bound to support implementation. The Security Council and the target State could review and revise such a plan periodically against the set of benchmarks based on the developments and progress on the ground.

The benchmark method could also support embargoed authorities in establishing a baseline, prioritizing the most relevant arms control measures and assessing their own progress. Such an approach is also likely to support the design of capacity-building programming for international partners, including United Nations missions.

The Security Council is currently exploring such a benchmarking approach. In 2017, the Security Council asked the Secretary-General to present options for the establishment of benchmarks to reassess the CAR arms embargo. In July 2017, based on the findings of an assessment team led by the Department of Peacekeeping Operations and the Department of Political Affairs, to which MINUSCA, UNIDIR and the CAR Panel of Experts also contributed, the Secretary-General provided the Security Council with three potential approaches to develop these benchmarks: 1) a headquarters-based desk review, 2) a desk review with headquarters-based remote consultations with the field, and 3) a desk review with headquarters-based remote consultations and field-based assessment mission. In January 2018, the Security Council, through resolution 2399, made a follow-on request to the Secretariat to provide concrete benchmarks to assess the arms embargo in CAR on the basis of option 3 above.¹⁰⁸ Representatives of several Security Council members, as well as States currently or formerly under embargo, highlighted that an in-country assessment is key to enable on-site observations, and to involve national experts to foster a cooperative approach to identifying possible benchmarks.

8.3 Promoting a cooperative approach with national authorities, including development of a roadmap

Most embargoed countries seek to have sanctions lifted; as one former embargoed State representative noted:

It was very important for our authorities to have the regime, and the arms embargo in particular, lifted as soon as possible. Sanctions prolong the feeling of being in a “crisis”—they damage the image of the country and therefore have a detrimental impact on investments We perceive sanctions as a punishment We would have liked a more positive and trustful approach from the Sanctions Committee and to be provided with more precise objectives and a clear roadmap regarding the expectations of the Security Council to lift the sanctions.¹⁰⁹

Several elected Security Council members, as well as the two States currently and formerly under sanctions, emphasized the importance of engaging and collaborating further with embargoed States, particularly with regard to arms embargo assessments, and taking their recommendations and expertise into account. Depending on the context, this could take the form of informal Committee meetings where the Permanent Representative of the target State is invited, possibly coupled with in-country visits by the Chair. The former generally have a positive impact on the

¹⁰⁸ See Security Council, UN document S/RES/2399, 2018, para. 43.

¹⁰⁹ Informal consultation with a formerly embargoed State, August 2017.

relationship and willingness of the embargoed State to cooperate. In-country visits would give the Chair or the Committee members the opportunity to meet with relevant national experts based in the country and obtain first-hand information. Outreach on arms embargo provisions is key as they are often misunderstood, particularly when it comes to possible exemptions which would allow most embargoed authorities to procure materiel for SSR-related purposes.

With the support of the penholder of a sanctions regime, one State under embargo is currently exploring the opportunity to develop an innovative, cooperative roadmap towards the incremental easing of its arms embargo. This idea has been well received by some Security Council members. One Security Council member, however, said that such a roadmap approach would need to consider certain (pre-)conditions: first, that the embargoed State would need to demonstrate its willingness to cooperate with the Security Council to comply with the provisions of the arms embargo; and second, that such a roadmap exercise may be more applicable in the advanced stages of the arms embargo implementation, when the Security Council has expressed its willingness to consider potential easing of the embargo in response to notable progress made by the embargoed State. Nonetheless, some Security Council members expressed interest in the collaborative aspect of the roadmap, and the concrete actions this could generate. Finally, a roadmap could also encourage embargoed States to be more compliant with arms embargo provisions and related arms control obligations as it could help to set common and clear objectives for the Security Council and the embargoed State.

8.4 Strengthening and tailoring the design and use of arms control obligations

A range of arms control obligations have increasingly been used by the Security Council. However, these are primarily introduced in resolutions that seek to ease arms embargoes, or those that follow when Security Council members note that easing comes with significant security challenges and that authorities have difficulty managing the adjustment and the related transfers of materiel (for example Libya, Somalia). According to several Security Council members interviewed, the capacity of a State to govern and manage arms and ammunition should be assessed before the easing or lifting of an embargo. Thus, some arms control obligations should be requested ahead of adjusting an arms embargo, as an assessment of implementation would give Security Council members insight into the readiness of national authorities to manage the procurement of new arms and ammunition.

Arms control obligations currently in use by the Security Council include general WAM measures to be applied to national stockpiles, legal framework requirements, reporting obligations regarding the security sector and PSSM, as well as specific safeguards related to exempted transfers (see section 7). Most recommendations are provided by Panels of Experts in their reports, which also put forward suggested draft IANs to the Committee; the Security Council may not take all of their recommendations on board. Some Security Council members suggested that other relevant obligations could include marking of exempted weapons by supplying States prior to transfer, the establishment of a national institutional framework to coordinate arms control, or the destruction of surplus/unserviceable/hazardous arms and ammunition in national stockpiles to prevent diversions. Additionally, specialized organizations consulted as part of this study recommended for consideration measures related to cooperation with neighboring States, United Nations Missions and regional organizations to address locally and/or subregionally manufactured and/or trafficked weapons, including craft weapons in tackling the cross-border nature of arms proliferation.

Post-delivery control obligations are the most recent trend to have been observed, which several Security Council members consider highly significant. However, embargoed authorities and the supplying States continue to face shortfalls in complying with pre-delivery provisions. Finding ways to increase incentives for respecting these transfer controls is key. As one Security Council member

explained: “We are looking for innovative ways to strengthen post-delivery verifications and we are open to ideas for better [arms embargo] implementation”.¹¹⁰

Arms control obligations must therefore be realistic and tailored to locally addressable shortcomings, and in line with the existing or potential future capabilities of the national authorities. For example, with adequate technical support, the stocktaking of national arsenals may be an easier first step than requesting the marking of all State-owned weapons, which demands technology and training, and is very time-consuming. Reports of stocktaking by national authorities can also provide crucial baseline information regarding the actual needs of national forces for military equipment, and guide Committee members in their decisions related to any related exemption requests.

Any arms control obligations that are imposed should also be accompanied by adequate technical arms management support and be reflected in the mandate of the United Nations mission. This would facilitate the development and implementation of WAM programming by relevant United Nations agencies, such as the Mine Action Service, in collaboration with the national authorities.

8.5 Ensuring safeguards after lifting of sanctions/arms embargoes

Once sanctions are lifted from a State, a large number of safeguards, monitoring tools and actors also disappear, including the Committee, the Panel of Experts, the United Nations Mission, and the sensitization and awareness of Member States towards transfers of arms to this specific country.

While most Security Council members are not in favour of transitional monitoring or oversight mechanisms of arms transfers in post-lifting stages, many also argue that a dedicated body in country (such as the United Nations country team) could be requested to continue to support the State to build WAM capacity, and to track security and illicit arms trafficking developments. One Security Council member also suggested means be explored to enhance regional cooperation by supporting States emerging from arms embargoes and encouraging them to actively participate in regional conventional arms control instruments and agreements.

As for formerly embargoed States, in its last renewal of the regime the Security Council could request the implementation of a strong national legal framework regarding arms control and the implementation of international instruments, as well as reporting details of imports and exports of arms to the United Nations Register of Conventional Arms to increase transparency on its procurement activities and thus to increase confidence.

8.6 Supporting Security Council members in building their knowledge and understanding of the technical aspects of arms embargoes

Most Security Council members that participated in this study commented on the need to find ways to build the knowledge and capacity of incoming Security Council members around processes and technical aspects of managing arms embargoes. Elected Security Council members mentioned the difficulty of developing enough expertise in such a short time frame (two years), compared to Permanent Members, as well as a lack of intelligence-gathering capability in conflict areas.

Several elected Security Council members suggested that newly elected members could receive a specific induction related to arms control and arms embargoes when they join the Security Council, as well as targeted training and briefing sessions. One Security Council member suggested the organization of a dedicated session of the Informal Working Group on General Issues of Sanctions, with a core focus on arms embargoes. Limited elected Security Council members referenced the

¹¹⁰ Consultation with a representative of a Council member, New York, August 2017.

training sessions offered by SCAD to incoming members on each sanctions regime, possibly reflecting the general lack of awareness among States about this resource—keeping in mind the competing priorities of the newly elected members during the intense initial period when they first join the Security Council.

Finally, in terms of informing the analysis of arms embargoes, and specifically of WAM and governance issues related to particular sanctions regimes, several elected and Permanent Members confirmed the added value of briefings and reports from a wide range of expert entities. This was also a recommendation made during the High Level Review of United Nations Sanctions:¹¹¹ “The work of expert panels and their reports are an important source of information However, there is a need for sanctions committees to hear from a broader range of [United Nations] and other actors to ensure they receive a full range of information and perspectives before adjusting sanctions regimes.”¹¹²

¹¹¹ See <http://www.hlr-unsanctions.org/>.

¹¹² See United Nations Interagency Working Group on Sanctions, Report for the High Level Review of United Nations Sanctions, 2014, p. 20, [http://comcapint.com/pdfs/UN_IAWG_inputs_on_HLR_Sanctions_FINAL\(20Oct14\).pdf](http://comcapint.com/pdfs/UN_IAWG_inputs_on_HLR_Sanctions_FINAL(20Oct14).pdf).

Case Studies

Annex 1: Evolution of the arms embargo in Central African Republic¹¹³

1 Key findings

1.1 Adoption and evolution of arms embargo measures

- Despite the establishment of an arms embargo in December 2013, in-country circulation of small arms and light weapons (SALW) and illicit trafficking of weapons and ammunition into the Central African Republic (CAR) have continued.
- National weapon and ammunition management (WAM) capacity of CAR authorities is limited, but focus is placed on the operationalization of WAM with support of international partners.

1.2 Benchmarks

- The Security Council requests the Secretariat to provide benchmarks to assess the arms embargo measures according to the progress of the SSR, including FACA and internal security forces and their needs on the basis of option 3 of the letter of the Secretary-General.¹¹⁴

1.3 Arms embargo obligations

- Obligations include disarmament, demobilization and reintegration (DDR) and security sector reform (SSR)-related provisions as well as provisions related to stockpile management systems and the documentation, registration, or disposal of captured or seized illicit arms and ammunition.
- Exemptions to the arms embargo include supplies intended for the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), the African Union Regional Task Force, and the European Union missions and French forces deployed in CAR (subject to advance approval) as well as non-lethal equipment for use in the SSR process (subject to advance notification).
- Sanctionable criteria reflect developments on the ground and, since January 2017, include sexual and gender-based violence.
- The Security Council calls on the CAR authorities to fully operationalize the National Commission on Small Arms and Light Weapons (COMNAT-ALPC) to address the illicit proliferation of arms.
- The Security Council also encourages neighbouring States to cooperate with CAR authorities to address the illicit flow of arms into CAR, in particular for sub-regionally manufactured and trafficked arms.

¹¹³ This case study is based on the analysis of relevant Security Council resolutions, CAR Sanctions Committee documents, records of Security Council meetings and other United Nations documents. Additionally, the study reflects inputs received through in-country informal consultations with national authorities, as well as with representatives of the United Nations Panel of Experts. This case study examines relevant information and documentation up to January 2018. Any changes, or new developments, that take place after this date are not captured in the case study.

¹¹⁴ See Security Council, UN document S/2017/597, 2017.

2 Introduction

The Security Council first imposed sanctions on the CAR on 5 December 2013 with the adoption of resolution 2127, following violent clashes and a coup that ousted President Francois Bozizé. As of October 2017, the sanctions regime has been extended four times.¹¹⁵ The CAR Sanctions Committee and a Panel of Experts were established pursuant to resolution 2127 and oversee the sanctions measures imposed by the Security Council. Box 2 presents an overview of the sanctions regime applicable to CAR.

BOX 2: OVERVIEW OF THE CENTRAL AFRICAN REPUBLIC SANCTIONS

Duration: 5 December 2013 – present

Penholder: France

Objectives: cessation of hostilities, stabilization, peace enforcement, security sector reform

Sanctions types: individual targeted sanctions (asset freeze and travel ban, as designated by the CAR sanctions Committee) and sectoral sanctions (arms embargo, including technical assistance, training, financial and other assistance related to military activities, and provision of armed mercenary personnel); exemptions include United Nations forces and government forces undergoing SSR, with Committee approval.

Arms embargo: Exemptions to the arms embargo, established in December 2013, include MINUSCA, the African Union Regional Task Force, and the European Union missions and French forces deployed in CAR (subject to advance approval) as well as non-lethal equipment for use in the SSR process (subject to advance notification). Some of the measures have been shifted from prior approval to prior notification over time. Increasingly, the focus has shifted to strengthening national WAM capacity and the development of benchmarks to assess progress.

Other sanctions: European Union, African Union (travel restriction and asset freeze in 2013), and unilateral sanctions (e.g. the United States); the Kimberley Process suspended CAR from trading in diamonds in 2013 (the export of rough diamonds from CAR has resumed).

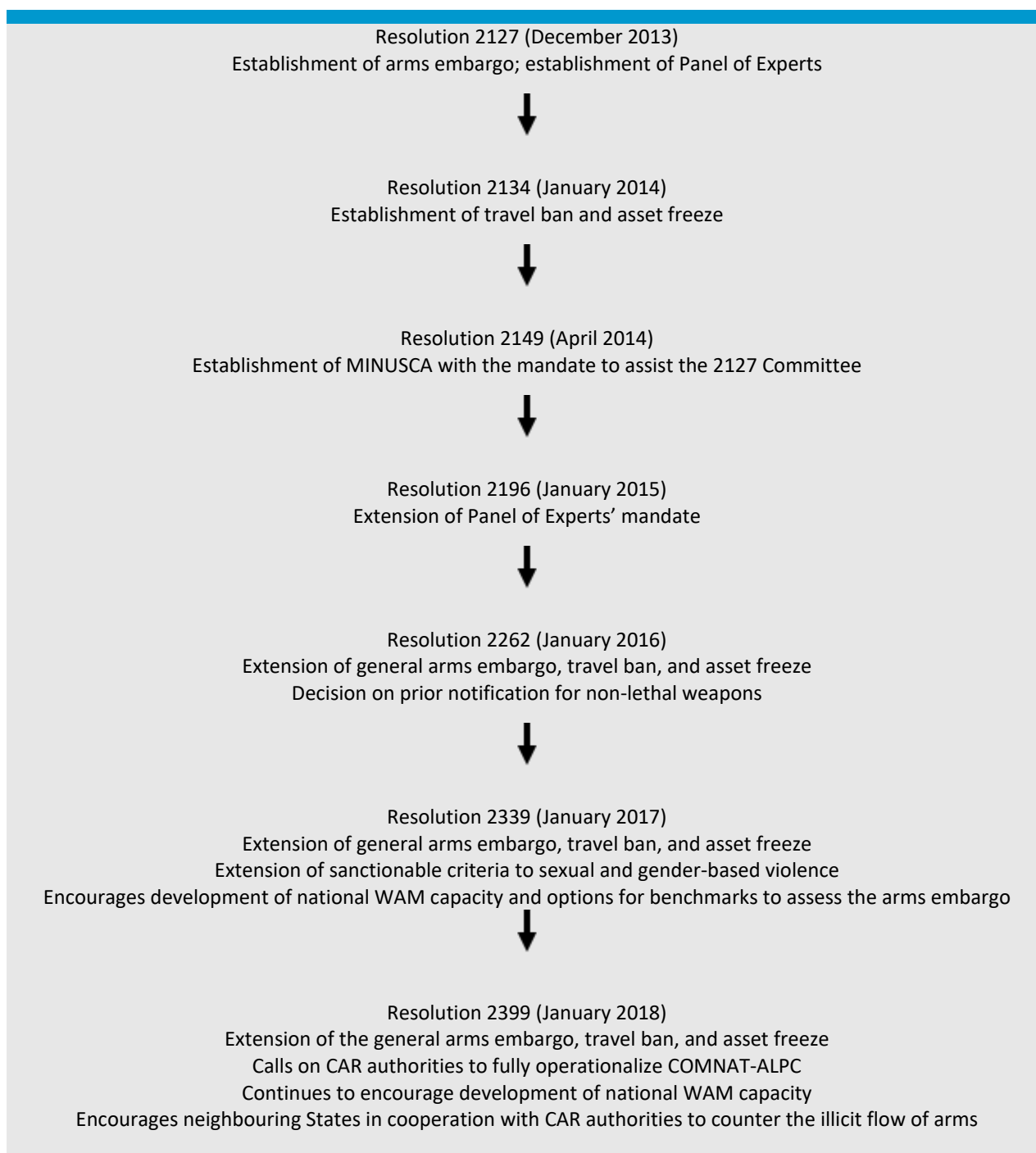
In the following sections the evolution of the arms embargo in CAR will be delineated, highlighting the key adjustments as well as the factors that may be behind them. The case study will also discuss benchmarks, where applicable, established by Security Council resolutions.

¹¹⁵ See Security Council, UN document S/RES/2134, 2014; Security Council, UN document S/RES/2196, 2015; Security Council, UN document S/RES/2262, 2016; and Security Council, UN document S/RES/2339, 2017.

3 Evolution of the arms embargo in Central African Republic

This section provides a detailed overview of the key adjustments, the contributing factors that led to their adoption, and the evolution of the related arms control stipulations, as well as additional guidance provided by the Security Council and its Committee to facilitate compliance with the arms embargo provisions. Box 3 provides an overview of the key modifications made to the arms embargo in CAR.

BOX 3: KEY MODIFICATIONS TO THE ARMS EMBARGO IN CENTRAL AFRICAN REPUBLIC



3.1 December 2013: Establishment of arms embargo and Sanctions Committee (resolution 2127)

Following violent clashes and the ousting of President Francois Bozizé in the beginning of 2013, the situation in CAR was described as a “continuing deterioration of the security situation in the CAR, characterized by a total breakdown in law and order, the absence of the rule of law, intersectorian tensions...”.¹¹⁶ After the adoption of resolution 2121,¹¹⁷ which reinforced the United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA) and supported the deployment of an African-led International Support Mission in the Central African Republic, the Security Council unanimously adopted resolution 2127 on 5 December 2013.

This resolution, which also authorized the deployment of the African-led International Support Mission to CAR (MISCA),¹¹⁸ included provisions on the arms embargo, future measures, and the establishment of the Sanctions Committee. The resolution imposed an arms embargo on the supply of arms and related materiel, but also stated that exemptions included United Nations-authorized international military forces¹¹⁹ and CAR security forces, intended solely for support of or use in the CAR process of SSR, as approved in advanced by the CAR Sanctions Committee.¹²⁰ Further exemptions included non-lethal military equipment intended solely for humanitarian or protective use, pending prior approval by the CAR Sanctions Committee, as well as small arms and related equipment intended solely for use in international patrols against poaching and smuggling.¹²¹ In the resolution, the Security Council also authorized all Member States to “seize, register, and dispose [of] items the supply, sale, transfer or export of which is prohibited...”.¹²²

The resolution also established the Sanctions Committee to monitor implementation and review information, and called upon all Member States to report on steps taken to effectively implement the arms embargo.¹²³ Furthermore, under the direction of the Sanctions Committee, a five-person Panel of Experts was established, tasked with assisting the Committee in carrying out its mandate, as well as gathering information from States, relevant United Nations bodies, regional organizations and other interested parties regarding implementation.¹²⁴

3.1.1 Why was resolution 2127 adopted?

In the months leading up to the adoption of resolution 2127, the United Nations and the Security Council had expressed deep concern with the security situation in CAR, including in the area of weapons proliferation. In his report on the situation in CAR, the Secretary-General noted that, “the proliferation of weapons and the impunity with which armed actors operate continued to cause widespread fear among the people, preventing large numbers of internally displaced persons from returning to their homes”.¹²⁵ Importantly, the Secretary-General in this report called on the Security

¹¹⁶ See Security Council, UN document S/RES/2127, 2013.

¹¹⁷ See Security Council, UN document S/RES/2121, 2013.

¹¹⁸ Resolution 2127 already took note that MISCA might eventually be transformed into a peacekeeping mission (see para. 46).

¹¹⁹ This includes Mission for the Consolidation of Peace in the Central African Republic (MICOPAX), MISCA, BINUCA and its guard unit, the African Union Regional Task Force, and the French forces deployed in CAR; see Security Council, UN document S/RES/2127, 2013, para. 54(a).

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Ibid, para. 55.

¹²³ Ibid, para. 54.

¹²⁴ Ibid, para. 59(a) and (b).

¹²⁵ See Security Council, UN document S/2013/470, 2013, para. 42.

Council “to consider appropriate options, including the adoption of sanctions or the establishment of a panel of experts”.¹²⁶

Following the release of the Secretary-General’s report in August 2013, a briefing on the situation in CAR was held by the Security Council, where members of the Security Council stressed that the armed conflict in CAR posed a serious threat to the stability of CAR and the region, and expressed grave concerns about the significant deterioration of the humanitarian situation as well as violations of international humanitarian law and reports of widespread human rights violations.¹²⁷

In August 2013 the United Nations expressed concern over weapons proliferation and armed groups, and noted the need to support CAR authorities in SSR and DDR processes.¹²⁸ The Security Council in October 2013 expressed grave concerns about the threat to peace and security in CAR arising from the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons, and expressed “its readiness to consider appropriate responses in this regard”.¹²⁹

3.2 January 2014: The Security Council extends the arms embargo, specifies exemptions, and links arms control to SSR and DDR (resolution 2134)

Prior to the adoption of resolution 2134, a two-week mission was deployed by the United Nations Mine Action Service (UNMAS) “to assess the status of unsafe stored ammunition causing an immediate threat to civilians as well as to United Nations personnel.”¹³⁰ The mission found that since the last technical assessment conducted in December 2012, 82 per cent of the obsolete ammunition and 98 per cent of small arms ammunition has been looted.¹³¹ The report noted that the UNMAS team will “return to Bangui to establish an effective coordination mechanism, provide risk education sessions and destroy remaining unsafe stockpiles.”¹³²

Against the background of the deteriorating security situation in CAR, resolution 2134 was adopted on 28 January 2014. The resolution extended BINUCA’s mandate and authorized a travel ban and asset freeze for all funds, other financial assets and economic resources of individuals and entities designated by the Committee.¹³³ The resolution extended the arms embargo by a year, but also delineated exemptions, which include supply to European Union operations that are authorized in the same resolution.¹³⁴ In addition, the Security Council:

[c]alls upon the Transitional Authorities, with the assistance of BINUCA and international partners, to address the illicit transfer, destabilizing accumulation, and misuse of small arms and light weapons in the CAR and to ensure the safe and effective management, storage and security of their stockpiles of small arms and light weapons, and the collection and/or destruction of surplus, seized, unmarked, or illicitly held weapons and ammunition, and further stresses the importance of incorporating such elements into SSR and DDR/R[epatriation] programs.¹³⁵

¹²⁶ See *ibid.*, para. 56.

¹²⁷ See Security Council, UN document SC/11093-AFR/2678, 2013; see also Security Council, UN document S/PV.7017, 2013.

¹²⁸ See Security Council, UN document S/PV.7017, 2013.

¹²⁹ See Security Council, UN document S/RES/2121, 2013, para. 18.

¹³⁰ Security Council, UN document S/2013/787, 2013, para. 71.

¹³¹ *Ibid.*

¹³² *Ibid.*

¹³³ This includes individuals and entities acting in violation of the arms embargo, those who commit international humanitarian law and international human rights law violations, recruit and use children in armed conflict, or support armed groups.

¹³⁴ See Security Council, UN document S/RES/2134, 2014, para. 40.

¹³⁵ *Ibid.*, para. 9.

The importance of linking DDR with SSR and stabilization was already underlined in the Secretary-General's report on the situation in CAR in December 2013.¹³⁶

3.3 April 2014: MINUSCA is established with the mandate to assist the 2127 committee (resolution 2149)

Three months later, resolution 2149 established MINUSCA. Acknowledging the “contribution of the Council-mandated arms embargo...to countering the illicit transfer of arms and related materiel in CAR and its region, and in supporting post-conflict peacebuilding, [DDR] and [SSR]”,¹³⁷ the resolution provided MINUSCA with the mandate to assist the 2127 Committee and the Panel of Experts, including by monitoring the implementation of sanctions measures. Resolution 2149 also decided that MINUSCA's mandate included “inspecting, as it deems necessary and when appropriate without notice, all arms and related materiel regardless of location” and acting to “seize and collect arms and any related materiel the transfer of which into the CAR violates the measures imposed by paragraph 54 of resolution 2127 (2013) and to record and dispose of such arms and related materiel as appropriate”.¹³⁸ In paragraph 31(e), the Security Council decided that MINUSCA's mandate would further include seizing, collecting, recording and disposing of arms and any related material the transfer of which violated the arms embargo.¹³⁹ Moreover, paragraph 33 recalls paragraph 9 of resolution 2134, namely the need:

to address the illicit transfer, destabilizing accumulation, and misuse of small arms and light weapons in the CAR, and to ensure the safe and effective management, storage and security of stockpiles of small arms and light weapons, and the collection and/or destruction of surplus, seized, unmarked, or illicitly held weapons and ammunition, and further stresses the importance of incorporating such elements into SSR and DDR/R[epatriation] programmes;¹⁴⁰

3.4 January 2015: Following the Panel of Experts stressing the lack of progress, the Security Council extends key arms embargo provisions and calls on transitional authorities to develop national WAM capacities (resolution 2196)

Prior to the adoption of resolution 2196, the CAR Panel of Experts presented its final report on 28 October 2014.¹⁴¹ In the report, the Panel of Experts underlines challenges regarding efforts to analyze and trace weapons and ammunition in circulation in CAR due to the limited information provided by Member States and arms manufacturers on weapons found or seized in the country.¹⁴² One of the main challenges the Panel of Experts highlighted was the illicit support and transfer of arms and ammunition to armed groups. The Panel identified weapons and ammunition, in several instances and in different parts of the country, that had been diverted from national stockpiles and had fallen into the hands of armed groups, which “use arms and ammunition in their possession as bargaining tools and to guarantee personal security”.¹⁴³ The Panel also stressed the lack of progress with regard to disarmament in the country and highlighted cases of non-compliance with the arms

¹³⁶ Security Council, UN document S/2013/787, 2013, p. 5.

¹³⁷ See Security Council, UN document S/RES/2149, 2014, p. 2.

¹³⁸ *Ibid.*, para. 31(d) and 31(e).

¹³⁹ *Ibid.*, para. 31(e).

¹⁴⁰ *Ibid.*, para. 33.

¹⁴¹ See Security Council, UN document S/2014/762, 2014.

¹⁴² *Ibid.*, para. 153.

¹⁴³ *Ibid.*, para. 172.

embargo in which “the police and the gendarmerie of the [CAR] received equipment without prior approval by the [2127 Committee].”¹⁴⁴

Against this background, resolution 2196 reiterated many arms control measures applied in previous resolutions, including on stockpile management, documentation, registration and disposal, and the linking of the arms embargo to MINUSCA’s peacebuilding, DDR and SSR efforts. In addition, the Security Council urged relevant actors to ensure cooperation with the Panel of Experts and the safety of its members.¹⁴⁵

The resolution extended the arms embargo, travel ban, as well as the work of the Committee and the Panel of Experts by another year. With regard to exemptions to the arms embargo, the resolution explicitly exempted “[s]upplies of arms and other related lethal equipment to the CAR security forces, intended solely for support of or use in the CAR process of SSR, as approved in advance by the Committee”.¹⁴⁶ Additionally, “supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee” were exempted.¹⁴⁷ This provision reflected paragraph 54 of resolution 2127.

With regard to national WAM capacity, the resolution:

reiterates its call upon the transitional authorities, with the assistance of MINUSCA and international partners, to address the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons in the CAR, and to ensure the safe and effective management, storage, and security of their stockpiles of small arms and light weapons and the collection and/or destruction of surplus, seized, unmarked, or illicitly held weapons and ammunition and further stresses the importance of incorporating such elements into SSR and [disarmament, demobilization, repatriation, resettlement and reintegration] programs;¹⁴⁸

Furthermore, resolution 2196 reiterated designation criteria for individuals and entities engaging in or providing support for acts that undermined the peace, stability or security of CAR.¹⁴⁹

3.5 January 2016: The Security Council extends arms embargo provisions, specifies exemptions and highlights the regional nature of arms proliferation (resolution 2262)

Resolution 2262 extended the general arms embargo, travel ban and asset freeze, as well as the work of the Committee and Panel of Experts by another year. Resolution 2262 reiterated many of the measures mentioned in resolution 2196 (2015) on stockpile management, documentation, registration and disposal of captured or seized illicit arms and ammunition, as well as exemption of imports for the Government of CAR through advance approval for military items.

Resolution 2262, however, eases the arms embargo measure applicable to CAR authorities on non-lethal equipment, an adjustment from “advance approval by” to “advance notification to” the Committee. The resolution noted that the embargo should not apply to:

Supplies of non-lethal equipment and provision of assistance, including operational and non-operational training to the CAR security forces, intended solely for support of or use in the CAR process of Security Sector

¹⁴⁴ Ibid., para. 179.

¹⁴⁵ See Security Council, UN document S/RES/2196, 2015, para. 21.

¹⁴⁶ Ibid., para. 1(f).

¹⁴⁷ Ibid., para. 1(c).

¹⁴⁸ Ibid., para. 3.

¹⁴⁹ Ibid., para. 11.

Reform (SSR), in coordination with MINUSCA, and as notified in advance to the Committee, and requests MINUSCA to report on the contribution to SSR of this exemption, as part of its regular reports to the Council.¹⁵⁰

Prior to the adoption of resolution 2262, in a letter from the President of the Security Council addressed to the Secretary-General, the Security Council expressed grave concerns regarding the threat posed by the illicit transfer, destabilizing accumulation and misuse of SALW and highlighted the important contribution of the Council-mandated arms embargo.¹⁵¹ Moreover, the Security Council considered the Panel of Experts' final report, which stressed that "[r]ecent seizures of arms indicate regional circulation, in particular from neighbouring countries."¹⁵² The report further noted that cross-border trafficking from a neighbouring country continued to represent one of the main sources of supply of hunting ammunition in CAR, and that in-country circulation of arms remained significant, where improper storage and failures of stockpile management in CAR also contributed to diversion and sources of trafficking.¹⁵³

The focus on cross-border trafficking, in-country circulation and failures of stockpile management is also reflected in resolution 2262. The paragraph on exemptions for example addresses:

[s]upplies brought into the CAR by Chadian or Sudanese forces solely for their use in international patrols of the tripartite force established on 23 May 2011 in Khartoum by the CAR, Chad and Sudan, to enhance security in the common border areas, in cooperation with MINUSCA, as approved in advance by the Committee;¹⁵⁴

With regard to the safety and security of stockpiles, the report of the Panel of Experts noted that only one armoury inspected complied with minimum safety requirements and several units did not have proper arms registries, leading to the diversion of arms and ammunition.¹⁵⁵ Consequently, in resolution 2262, the Security Council reiterated its call for proper WAM.¹⁵⁶

3.6 January 2017: The Council calls for the development of national WAM capacity and requests the Secretariat to propose options for the elaboration of benchmarks (resolution 2339)

Resolution 2339 explicitly addresses the development of national WAM capacity. The Security Council:

[r]eiterates its call upon the CAR authorities, with the assistance of MINUSCA and international partners, to address the illicit transfer, destabilizing accumulation and misuse of small arms and light weapons in the CAR, and to ensure the collection and/or destruction of surplus, seized, unmarked, or illicitly held weapons and ammunition and further stresses the importance of incorporating such elements into SSR and [disarmament, demobilization, repatriation and reintegration] programs;¹⁵⁷

[s]trongly encourages the CAR authorities to increase their capacity, with the support of MINUSCA, the United Nations Mine Action Service (UNMAS), and other international partners, to store and manage weapons and ammunition in their possession, including those transferred from MINUSCA stocks, according to international best practices and norms, while ensuring that the FACA and interior forces units receiving such weapons and ammunition are fully trained and vetted;¹⁵⁸

¹⁵⁰ Security Council, UN document S/RES/2262, 2016, para. 1(b).

¹⁵¹ Security Council, UN document S/2015/162, 2015, para. 18.

¹⁵² Security Council, UN document S/2015/936, 2015, p. 3.

¹⁵³ Ibid.

¹⁵⁴ Security Council, UN document S/RES/2262, 2016, para. 1(c).

¹⁵⁵ Security Council, UN document S/2015/936, 2015, para. 47.

¹⁵⁶ Security Council, UN document S/RES/2262, 2016, para. 4.

¹⁵⁷ Security Council, UN document S/RES/2339, paras. 3

¹⁵⁸ Ibid., para 4.

In resolution 2339, the Security Council also:

[e]ncourages all Member States, in particular neighboring States and Member States of the Economic Community of the Central African States (ECCAS) and of the Central African Economic and Monetary Community (CEMAC) to utilize the advance notification and exemption procedures pursuant to paragraph 1 of this resolution to return arms and related materiel of all types belonging to the [Central African Armed Forces], or to implement technical assistance, training or other assistance related to military activities by the Central African national security and defense forces, and in this regard requests the Panel of Experts to provide the necessary assistance as per paragraph 28 (b) of this resolution;¹⁵⁹

Prior to the consideration of resolution 2339, the Secretary-General noted the continued threat posed by the illicit trafficking of weapons and ammunition into CAR.¹⁶⁰ In the same letter, the Secretary-General underlined that the “national capacity of the [CAR] to prevent illicit arms trafficking is extremely limited”¹⁶¹ and noted the importance of operationalizing a “national legislative framework on weapons and ammunition management, which should be supported by the international community, including through the provision of technical expertise.”¹⁶² The signing of Presidential Decree 17.069 on the creation of the National Commission on Small Arms and Light Weapons was noted as an important first step towards this objective. Lastly, the letter noted that the arms embargo regime remained highly politicized in the country, despite the “fact that the Committee has never refused an exemption request by the Government”.¹⁶³ A full list of the current exemptions can be found on the 2127 Committee website.¹⁶⁴

In resolution 2339, the Security Council also requested the Secretariat to provide a list of options for the elaboration of benchmarks, in coordination with the European Union Military Training Mission and others active in the field of SSR, to “assess the arms embargo measures according to the progress of the SSR.”¹⁶⁵ Paragraph 29 also requested additional information on the “Panel of Experts’ recommended arms embargo working group to be potentially established within MINUSCA.”¹⁶⁶ The paragraph also explicitly referenced previous similar experiences in other United Nations peacekeeping missions.¹⁶⁷ According to the Secretary-General’s letter of 10 July 2017, an arms embargo working group “could be responsible for coordinating the Mission’s efforts in the implementation of its embargo responsibilities and assisting the national authorities in this regard.”¹⁶⁸ While the reasoning for the inclusion of such assessment by the Secretariat is not referenced directly in resolution 2339, informal consultations held as part of this study reveal that the continued request by CAR authorities to the Security Council to lift the embargo, in addition to the recognition of the need to strengthen the CAR security service, may have played a role in the Security Council’s consideration.

¹⁵⁹ Ibid., para. 21.

¹⁶⁰ See Security Council, UN document S/2017/597, 2017, p. 3.

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ Ibid., p. 4.

¹⁶⁴ See https://www.un.org/sc/suborg/en/sanctions/2127/exemptions_measures/arms-embargo.

¹⁶⁵ See Security Council, UN document S/RES/2339, 2017, para. 29.

¹⁶⁶ Ibid.

¹⁶⁷ The reference to previous experiences could be a reference to the arms embargo working group of the United Nations Operation in Côte d’Ivoire.

¹⁶⁸ Security Council, UN document S/2017/597, 2017, p. 4.

3.7 January 2018: Developments related to national commission on small arms and light weapons, cooperation with neighbouring states, MINUSCA’s arms embargo working group and identification of benchmarks to assess arms embargo (resolution 2399)

With the extension of the arms embargo for a period of 12 months, resolution 2399 includes four key developments that merit attention. First, the resolution recognizes the importance of an established national coordinating body to address the issue of illicit small arms and light weapons in CAR. Paragraph four of the resolution, “[w]elcomes in this regard the creation of the “Commission nationale de lutte contre la prolifération et la circulation illicite des armes légères et de petit calibre (COMNAT-ALPC)” and calls on CAR authorities to fully operationalize it”.¹⁶⁹

Second, the resolution brings to light the role of neighboring States to cooperate with CAR authorities in tackling the illicit flow of arms into CAR, which is a new reference under the arms embargo provisions.¹⁷⁰ In particular, the resolution places specific focus on addressing arms that are manufactured and trafficked in the subregion, calling on neighboring States and CAR to “ensure the traceability of the weapons and ammunition produced on their territories as required by the Kinshasa Convention...”.¹⁷¹

Third, the resolution welcomes the establishment of an arms embargo working group within MINUSCA and encourages the working group to support the implementation of the arms embargo. Further, the resolution encourages the arms embargo working group to “serve as a channel for information-sharing on arms trafficking and for recommendations on the control activities to be carried out including, when appropriate, the seizure of weapons, in pursuance of MINUSCA’s mandate as defined in paragraph 44 of resolution 2387 (2017)”.¹⁷²

Fourth, following the Secretary-General’s letter on options to elaborate on benchmarks to assess the arms embargo in 2017, the resolution makes a follow-on request to the Secretariat to provide such benchmarks to the Security Council within six months of the adoption of the resolution (see section 4 of this Annex for more information).¹⁷³

¹⁶⁹ Security Council, UN document S/RES/2399, 2018, para. 4.

¹⁷⁰ *Ibid.*, para. 7.

¹⁷¹ *Ibid.*, para. 7.

¹⁷² *Ibid.*, para. 5.

¹⁷³ *Ibid.*, para. 43.

4 Request to identify benchmarks to assess the arms embargo

In paragraph 61 of resolution 2127, the Security Council affirmed to:

keep the situation in the CAR under continuous review and that it shall be prepared to review the appropriateness of the measures contained in this resolution ... as may be needed at any time in light of the progress achieved in the stabilization of the country and compliance with this resolution,¹⁷⁴

Subsequent resolutions have reaffirmed this measure.¹⁷⁵ With regard to the development of specific benchmarks to reassess or adjust arms embargo measures, in operative paragraph 29 of resolution 2339, the Security Council:

[r]equests the Secretariat to provide to the Security Council, by 30 May 2017, options for the elaboration of benchmarks, in coordination with [the European Union Military Training Mission] and other active partners in the field of SSR and in consultation with the CAR Authorities, to assess the arms embargo measures according to the progress of the SSR, including [Central African Armed Forces] and Internal Security Forces and their needs¹⁷⁶

Requests for assessment support by the Security Council to the Secretariat have been increasingly observed in recent years, with the results of such assessments contributing to providing the Security Council with more comprehensive information on sanctions-related matters. For example, the Secretary-General's report on small arms noted how such assessment support in the past has supported the Security Council,¹⁷⁷ including to provide detailed information on:

- the status and relevance of sanctions measures and their impact on the security situation in the country;
- the measures and their contribution to the peace process, ceasefire regimes or the cessation of hostilities agreements;
- the identification of needs for cooperation and assistance to support WAM in-country;
- issues pertaining to border control and customs; and
- the implementation of DDR and SSR processes.

In the case of CAR, in pursuance of the request made in resolution 2339, the Secretariat, after consultations with relevant actors, including MINUSCA, the Panel of Experts and UNIDIR, provided the Security Council with possible options on the elaboration of benchmarks to assess implementation of the arms embargo in CAR. The Secretary-General's letter provided several options for developing benchmarks to assess the arms embargo:¹⁷⁸

- option 1: headquarters-based desk review;
- option 2: desk review with headquarters-based remote consultations with the field; and
- option 3: desk review with headquarters-based remote consultations and field-based assessment mission.

Subsequently, in 2018, the Security Council proceeded to request the Secretariat to provide concrete benchmarks to assess the arms embargo in CAR on the basis of option 3 above. This

¹⁷⁴ Security Council, UN document S/RES/2127, 2013, para. 61.

¹⁷⁵ For example, Security Council, UN document S/RES/2196, 2015, para. 24; S/RES/2399, 2018, para. 42.

¹⁷⁶ Security Council, UN document S/RES/2339, 2017, para. 29.

¹⁷⁷ See Security Council, UN document S/2017/1025, 2017, annex II, para. 15; see also Security Council, UN document S/2017/597, 2017.

¹⁷⁸ Security Council, UN document S/2017/597, 2017.

request provides a unique opportunity for the Security Council, the Government of CAR and the United Nations to cooperatively identify benchmarks—including measures related to weapon and ammunition management at the national level—that help to inform the assessment of the arms embargo.

Lastly, as part of national efforts to strengthen the management of arms and ammunition in CAR, UNIDIR, together with United Nations partners, supported the Government of CAR to develop a technical roadmap on WAM in September 2017. The findings report from this assessment mission was released with restricted circulation in early 2018.

5 Observations

In-country circulation of SALW and illicit trafficking of weapons and ammunition into CAR has continued despite the arms embargo imposed in December 2013.¹⁷⁹ Transnational weapons trafficking routes have led to an increasing emphasis of border control and regional cooperation. Given that CAR borders South Sudan and the Democratic Republic of the Congo—both of which have United Nations missions, one of which has a targeted arms embargo sanction (the Democratic Republic of the Congo), and the proliferation of SALW being a risk in the three States—inter-mission cooperation, in particular on information-sharing and record-keeping on captured weapons, would be beneficial.

The arms embargo in CAR is expected to continue to evolve in the coming years. The main developments over the past few years in the arms embargo include:

- Measures being shifted from requiring prior approval to prior notification, for example in the case of non-lethal equipment used for the SSR process and small arms and other related equipment intended for international patrols to defend against poaching and smuggling.
- The increasing emphasis of the operationalization, with the support of relevant international actors, of a national legislative framework on WAM. The creation of the National Commission on Small Arms and Light Weapons is an important first step towards the operationalization of this national legislative framework.
- The Security Council requesting the Secretariat to provide options for the elaboration of benchmarks to assess the arms embargo measures according to the progress of SSR.

It is noteworthy that the sanctionable criteria in the Security Council resolutions reflect developments on the ground in CAR. In January 2017, sexual and gender-based violence was added to the list of sanctionable criteria. From an arms control perspective, such criteria mirror those of the Arms Trade Treaty—of which CAR is a State Party—which require States Parties to take into account the risk of sexual and gender-based violence when conducting export control assessments.¹⁸⁰

Lastly, drawing from the main findings from the in-country baseline assessment on WAM undertaken by UNIDIR and the Government of CAR in September 2017, several key WAM requirements as related to the implementation of the arms embargoes at the national level can be highlighted:

- the need for a high-level steering body on WAM at the strategic, national decision-making level, inclusive of coordination on the implementation of the arms embargo, such as centralization of the procurement chain and records related to exemption requests;
- the need to centralize imported exemption materiel at the point of delivery/reception in Bangui to record and account for the materiel prior to distribution down the supply chain—entailing that a centralized storage site is needed, taking into account specialized storage needs for conventional ammunition, and that the National Commission on Small Arms and Light Weapons would need to establish a marking and record-keeping programme;

¹⁷⁹ Ibid., p. 3.

¹⁸⁰ See article 7 of the Arms Trade Treaty.

- the need for inventory inspection and verification capacity and mechanism at the national level, with support from international partners, in order to support good record-keeping practices as well as to provide oversight on disposal of captured or seized military equipment; and
- the need for the establishment of relevant operational procedures and training based on those documents in order to ensure application of WAM measures for weapons imports as part of the exemption process, as well as for those arms already in possession of the security forces.

Annex 2: Evolution and termination of the arms embargo in Côte d'Ivoire¹⁸¹

1 Key findings

1.1 Adoption and evolution of arms embargo measures

- Arms embargo provisions evolved mainly due to political considerations as well as the evolution of the security situation on the ground.
- Despite regular reports of non-compliance with the provisions of the arms embargo by the authorities and slow progress in the fields of security sector reform (SSR) and disarmament, demobilization and reintegration (DDR), from 2012 the provisions of the arms embargo were gradually eased towards eventual termination.

1.2 Monitoring of the arms embargo

- The Security Council mandated numerous actors to contribute to its assessment of the implementation of the embargo: the Committee, its Group of Experts, the Secretary-General, United Nations Operation in Côte d'Ivoire (UNOCI), the French military and United Nations Member States.

1.3 Benchmarks

- Benchmarks to adjust the arms embargo related to progress regarding peace and electoral processes, SSR, DDR, national reconciliation and fighting against impunity.
- Benchmarks take into account compliance with arms control requirements related to arms embargo provisions and weapons and ammunition management (WAM) capacity of the authorities at the national level.

1.4 Arms embargo obligations

- Obligations included pre- and post-delivery arms control provisions including inspection, marking and registration of weapons.
- Côte d'Ivoire authorities noted the significant progress made in the management of national stockpiles of arms and ammunition in the years leading up to the lifting of the sanctions regime as a critical contributing factor to the lifting of the arms embargo; however, it is not clear to what degree this factor played an influential role in the Security Council's consideration for the reassessment of the embargo.

¹⁸¹ This case study was built from the analysis of relevant Security Council resolutions, Côte d'Ivoire Sanctions Committee documents, Security Council meetings records and other United Nations documents as well as interviews and email exchanges with three former members of the Côte d'Ivoire Group of Experts and a representative of the Ivorian Small Arms and Light Weapons Commission. The author also used the Qualitative Database on United Nations Targeted Sanctions created by the Graduate Institute of International Studies. This case study examines relevant information and documentation up to November 2017. Any changes, or new developments, that take place after this date are not captured in the case study.

2 Introduction

The sanctions regime was adopted on 15 November 2004 in response to regular violations of a ceasefire and the deterioration of human rights in country. The establishment of a sanctions regime on Côte d'Ivoire was likely also prompted by an air attack by the Ivorian forces on a French military camp located in Bouake, Côte d'Ivoire, on 6 November 2004.¹⁸²

All Security Council resolutions related to the sanctions regime include benchmarks to consider the modification or termination of the regime.¹⁸³ These include progress in relation to the peace process, elections, stabilization, SSR, DDR, national reconciliation and the fight against impunity.

BOX 4: OVERVIEW OF THE CÔTE D'IVOIRE SANCTIONS REGIME

Duration: 15 November 2004 – 28 April 2016 (12 years)

Penholder: France

Objectives: stability of the country, peace enforcement, support peace building, democracy support

Sanctions types: individual sanctions (asset freeze, travel ban) and sectoral sanctions (arms embargo and diamond ban)

Arms embargo: A one-way United Nations arms embargo was imposed for 12 years between 2004 and 2016 covering transfers of arms and any related materiel to the whole territory of Côte d'Ivoire. The provisions adopted in 2004 were gradually eased from 2012 and they and all other sanctions imposed on the State were eventually lifted in their entirety in 2016. The embargo provisions always included possibilities of exceptions for international actors' operations in Côte d'Ivoire as well as for the government mainly to support its SSR strategy.

Other sanctions: European Union, African Union and unilateral sanctions, including the United Kingdom and United States

In an unusual deviation from the other sanctions regimes at that time, the Côte d'Ivoire resolutions listed a number of benchmarks which, though similar to those applying to the broader regime, related specifically to the adjustment of the arms embargo provisions. In resolution 2045, the first resolution to ease the arms embargo in Côte d'Ivoire, the Security Council decided to review the amended arms embargo provisions:

in light of the progress achieved in the stabilization throughout the country, by the end of the period mentioned [12 months] with a view to possibly further modifying all or part of the remaining measures of the sanctions regime, in accordance with progress achieved in relation to DDR and SSR, national reconciliation and the fight against impunity;¹⁸⁴

¹⁸² Security Council, UN document S/RES/1572, 2004, para. 1.

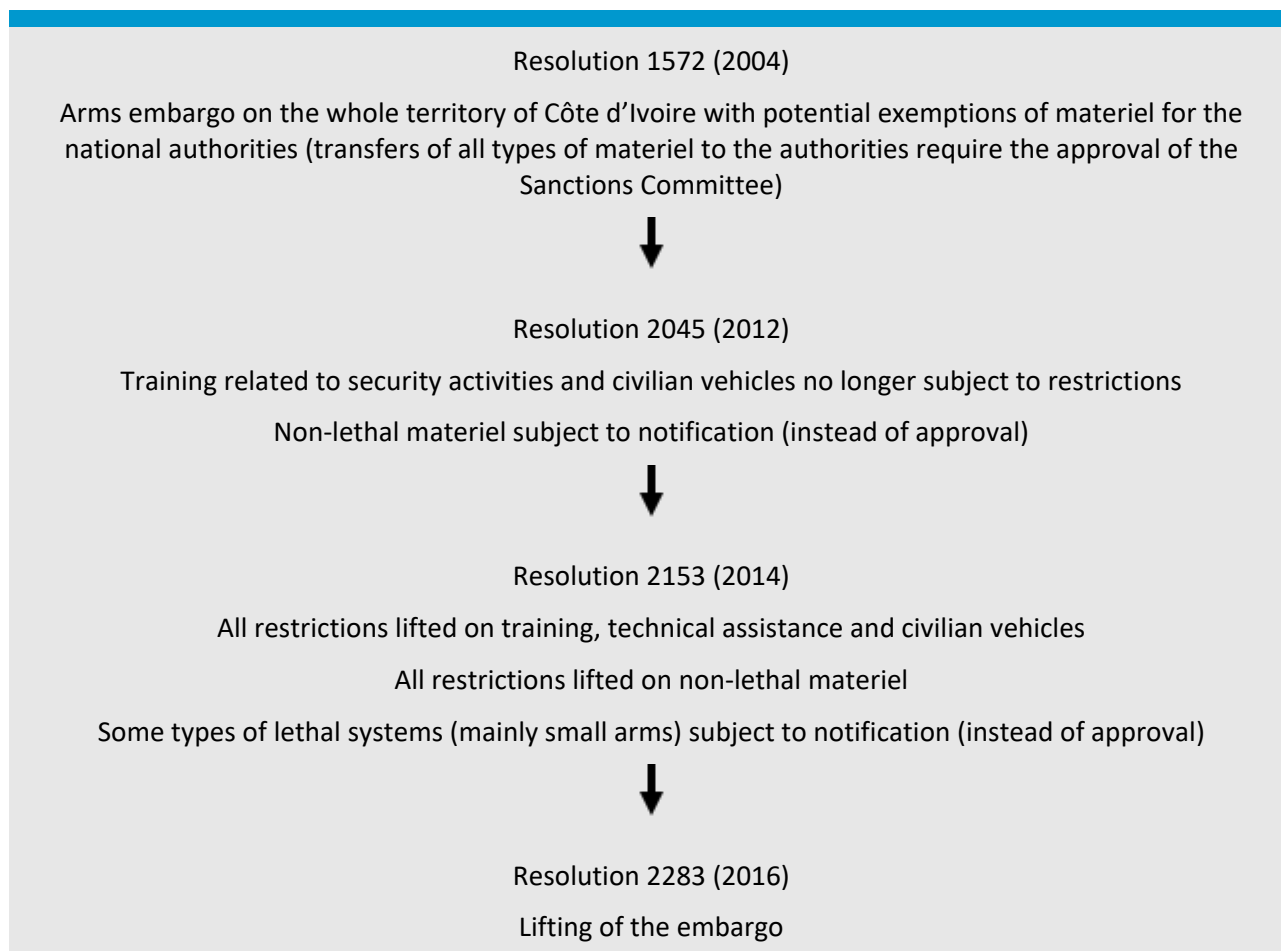
¹⁸³ See *ibid.*, para. 13; Security Council, UN document S/RES/1643, 2005, para. 8; Security Council, UN document S/RES/1727, 2006, para. 6; Security Council, UN document S/RES/1782, 2007, para. 2; Security Council, UN document S/RES/1842, 2008, para. 2; Security Council, UN document S/RES/1893, 2009, para. 2; Security Council, UN document S/RES/1946, 2010, para. 2; and Security Council, UN document S/RES/2045, 2012, para. 7.

¹⁸⁴ See Security Council, UN document S/RES/2045, 2012, para 7.

3 Evolution of the arms embargo in Côte d'Ivoire

Since 2011, successive resolutions note the steady progress made by Côte d'Ivoire towards the stabilization of the country and resolution of the security situation. However, the Security Council opted for an incremental lifting of the embargo, due to both the limited progress made in DDR and SSR and the regular reports of non-compliance, by the Government, with the provisions of the embargo.¹⁸⁵ Box 5 presents an overview of the key modifications made to the arms embargo in Côte d'Ivoire.

BOX 5: KEY MODIFICATIONS TO THE ARMS EMBARGO IN CÔTE D'IVOIRE



This section provides a detailed overview of the key adjustments, the contributing factors that led to their adoption, and the evolution of the related arms control stipulations.

3.1 2004 and 2015: Original arms embargo provisions (resolutions 1572 and 1584)

Resolution 1572 established the arms embargo to cover all territory and actors across Côte d'Ivoire. Exemptions included imports by foreign entities operating in Côte d'Ivoire, as well as for the Government.

¹⁸⁵ See interventions of the Council members in the Security Council after the adoption of resolution 2153 (2014); see Security Council, UN document S/PV.7163, 2014. In comparison, the other sectoral measure focusing on the export of diamonds was fully lifted in 2014.

Resolution 1572 established the monitoring framework and identified the primary actors to be involved by:

- establishing a Sanctions Committee to collect information on implementation of the measures, circulate guidelines to facilitate implementation, and present the Security Council with ways to strengthen the effectiveness of the measures;¹⁸⁶
- requesting Member States to report back to the Committee on actions taken to implement the measures and to supply information on possible violations;¹⁸⁷
- considering the establishment of a Panel of Experts;¹⁸⁸ and
- requesting the Secretary-General to submit a report to the Security Council on progress made towards the goals (benchmarks), including the peace and national reconciliation process.¹⁸⁹

Resolution 1584 (2005) established the mandate of the Group of Experts (GoE) responsible for gathering and analyzing information related to the implementation of the sanctions regime and reporting to the Security Council. The resolution also authorizes UNOCI and the French military to monitor the implementation of the arms embargo, in cooperation with the GoE, by conducting inspections and collecting and disposing of weapons and related materiel brought into Côte d'Ivoire in violation of the embargo.

In August 2006, following a recommendation from the GoE, UNOCI set up a dedicated arms embargo cell to conduct inspections of national stockpiles, create databases of materiel, assist the GoE and develop relationships with the national authorities in this area of work.¹⁹⁰

3.2 2010: The Security Council reaffirms the potential for exemptions for essential materiel (resolution 1946)

Though the precise scope of the embargo did not change, resolution 1946 (2010) reaffirmed the provisions for the national authorities to request approvals for the transfer of non-lethal equipment in support of policing work. The resolution noted:

in line with paragraph 27 of resolution 1933 (2010) and in addition to the provisions of paragraph 8 of resolution 1572 (2004), that the arms embargo shall not apply to the supplies of non-lethal equipment intended solely to enable the Ivorian security forces to use only appropriate and proportionate force while maintaining public order, as approved in advance by the Sanctions Committee;¹⁹¹

This decision was likely prompted by a recommendation from the Human Rights Division of UNOCI in a report on the violent repression of demonstrations by the opposition in Côte d'Ivoire in February 2010.¹⁹² This activity resulted in 13 dead and at least 76 injured, with the security forces primarily targeting the protesters.¹⁹³ This report recommended that exemption requests related to the import of crowd control equipment be positively examined in order to prevent the security forces from using lethal firearms and ammunition to maintain order.

¹⁸⁶ Security Council, UN document S/RES/1572, 2004, para. 14.

¹⁸⁷ *Ibid.*, paras. 15-16.

¹⁸⁸ *Ibid.*, para. 17.

¹⁸⁹ *Ibid.*, para. 18.

¹⁹⁰ Security Council, UN document S/2006/964, para. 32.

¹⁹¹ See Security Council, UN document S/RES/1946, 2010, para 5.

¹⁹² P. Wezeman and N. Kelly, "Multilateral arms embargoes, 2010", in *SIPRI Yearbook 2011*, Oxford University Press, 2011, p. 449, UNOCI, Human Rights Division, "Rapport sur les violations des droits de l'homme liées aux événements de février 2010", p. 21.

¹⁹³ UNOCI, Human Rights Division, "Rapport sur les violations des droits de l'homme liées aux événements de février 2010", p. ii and 6.

3.3 2011: The Security Council links arms embargo exemptions to SSR (resolution 1980)

In paragraph 9 of resolution 1980, the Security Council:

Decides that the exemption procedure set out in paragraph 8 (e) of resolution 1572 (2004) shall apply only to arms and related materiel, vehicles, and the provision of technical training and assistance in support of the Ivorian process of Security Sector Reform, pursuant to a formal request by the Ivorian Government and approved in advance by the Sanctions Committee[.]¹⁹⁴

While this did not change the provisions of the embargo per se, it meant that the exemptions procedure would now only apply to arms and related materiel, including vehicles and training assistance, related to supporting SSR (rather than restructuring defence and security forces pursuant to paragraph 3 of the Linas-Marcoussis Agreement). Paragraph 9 of the resolution also specified that the Government of Côte d'Ivoire would now be the designated actor responsible for submitting exemption requests to the Committee, a new measure introduced to ease the exemption process by allowing the Government to take the lead in this area.¹⁹⁵

3.4 2012: Partial lifting of arms embargo relating to security training and civilian vehicles, and easing of measures relating to non-lethal materiel (resolution 2045)

Paragraph 1 of resolution 2045 lifted the embargo on the “provision of training, advice and expertise related to security and military activities, as well as to the supplies of civilian vehicles to the Ivorian security forces”.¹⁹⁶

Meanwhile, paragraph 3(e) stated that the transfer of non-lethal law enforcement equipment would no longer be subject to the prior approval of the Committee but would require prior notification, thereby rendering the transfer of this group of materiel much easier for national authorities.

3.4.1 Why was resolution 2045 adopted?

Meeting of benchmarks

2045 welcomed “the steady progress and achievements Côte d'Ivoire has made in the past months in returning to stabilization”.¹⁹⁷ The documents reviewed and issues taken note of by the Security Council prior to adopting the resolution included the Secretary-General's report, the final report of the GoE, as well as the intervention of the Special Representative of the Secretary-General of the UNOCI during a meeting of the Security Council.¹⁹⁸ These documents and the intervention by the Special Representative all acknowledged that the security situation in Côte d'Ivoire was stabilizing despite some challenges that remained in the areas of DDR, SSR and national reconciliation.

¹⁹⁴ See Security Council, UN document S/RES/1980, 2011.

¹⁹⁵ See Security Council, UN document S/2012/196, annex 55. The Ivorian authorities had previously complained to the GoE that, due to the high chance that an exemption request would be rejected, exporters were being discouraged from launching the process so they would prefer to be the designated actor for submitting exemption requests to the Security Council; interview with former arms expert of the GoE, July 2017. In 2014, the Security Council decided that Member States delivering assistance may, as an alternative, submit notification of an approval request; Security Council, UN document S/RES/2153, 2014, para. 6.

¹⁹⁶ Security Council, UN document S/RES/2045, 2012.

¹⁹⁷ Ibid.

¹⁹⁸ See Security Council, UN Document S/2012/186; See Security Council, UN Document S/2012/196.

Furthermore, resolution 2045 provided benchmarks specifically for the revision of the arms embargo. By paragraph 7, the Security Council decided:

to review the [arms embargo measures] in light of the progress achieved in the stabilization throughout the country ... no later than 31 October 2012, with a view to possibly further modifying all or part of the remaining measures of the sanctions regime, in accordance with progress achieved in relation to DDR and SSR, national reconciliation and the fight against impunity;¹⁹⁹

Needs relating to support for SSR

- **Easing of measures regarding non-lethal materiel:** The resolution acknowledged “the urgent need for the Ivorian Government to train and equip its security forces, especially the police and gendarmerie with standard policing weapons and ammunition”²⁰⁰. This issue was also mentioned in previous as well as in subsequent resolutions.
- **Lifting of measures on civilian vehicles:** Paragraph 155 of the GoE report submitted on 11 April 2012 mentioned the crucial need for the gendarmerie and the police to be equipped with vehicles to enforce the arms embargo, “in order to address mobility problems at borders and prevent the possible introduction of weapons through neighbouring countries.”²⁰¹

The easing of arms embargo provisions related to training and non-lethal materiel likely reflects the Security Council’s consideration to manage the relationship with the Government of Côte d’Ivoire, providing an indication of positive developments in country, particularly at a time when the national authorities were calling for the lifting of the measures.²⁰² During the intervention of its representative at the Security Council meeting of 26 January 2012, Côte d’Ivoire informed the Security Council that the State would soon submit a formal request for a reconsideration of the sanctions regime with a view to the partial or full lifting of the embargo.²⁰³

WAM capacity

No information regarding the capacity of the police and gendarmerie to manage their weapons and ammunition appears to have been considered in resolution 2045.

Compliance with arms embargo provisions

While the resolution does not mention any specific lack of compliance with the arms embargo, in its report to the Security Council submitted prior to the adoption of the resolution, the GoE highlighted numerous violations of the arms embargo. Furthermore, it also reported that the GoE and UNOCI were both frequently prevented from conducting inspections to implement their mandates, and that this had “undoubtedly allowed parties to the conflict to import, store and distribute small arms and light weapons and related materiel”.²⁰⁴

¹⁹⁹ Ibid., para. 7.

²⁰⁰ Security Council, UN document S/RES/2045, 2012.

²⁰¹ See Security Council, UN document S/2012/196, para. 155.

²⁰² Interview with former arms expert of the GoE, 2017, and with former arms expert of the Libya Panel of Experts, 2017.

²⁰³ See Security Council Un document S/PV.6708, 2012.

²⁰⁴ See Security Council, UN document S/2012/196, para. 5.

3.4.2 Arms control obligations

- **Pre-delivery measures:** The resolution provided clarifications regarding exemption procedures that the Ivorian authorities are required to provide in notifications or requests for approval. This was likely prompted by a suggestion made in the GoE report to provide additional guidance to the national authorities on the exemption process, which included purpose of the use and end user, the technical specifications and quantity of the equipment to be shipped, the supplier, the proposed date of delivery, mode of transportation and itinerary of shipments.
- **Post-delivery measures:** The resolution urged the authorities to allow the GoE and UNOCI access to the exempted materiel at the time of import and before the transfer to the end user takes place. It also requested the Government to mark arms and related materiel when received, and to maintain a registry.
- **International instrument related to small arms and light weapons control:** The Security Council in this resolution called on the Ivorian authorities to ratify and implement the Economic Community of West African States Convention on Small Arms.

3.5 2014: Partial lifting of embargo relating to non-lethal material and easing of measures against lethal materiel (resolution 2153)

Paragraph 2 of resolution 2153 lifted all restrictions on non-lethal equipment, technical assistance, training and financial assistance to the Ivorian authorities.

In Paragraph 4(c), the Security Council decided that, while the transfer of most lethal weapons systems, including light and heavy systems listed in the resolution's annex, remained subject to the approval of the Committee, some systems were now subject to notification. The annex may have been inspired by resolution 2093 (2013) related to the Somalia sanctions regime.

3.5.1 Why was resolution 2153 adopted?

Meeting of benchmarks

Resolution 2153 welcomed the overall progress made towards restoring security, peace and stability in Côte d'Ivoire, and recognized the positive impact of the arms embargo, noting "the continued contribution the measures ... make to the stability of Côte d'Ivoire, including by countering the illicit transfer of small arms and light weapons in Côte d'Ivoire".²⁰⁵

While the benchmarks were not modified, during the Security Council meeting in which resolution 2153 was adopted, a Member State stated that "[i]f the arms embargo modifications in resolution 2153 (2014) have any negative repercussions on stability in Côte d'Ivoire, then the Council should be prepared to take appropriate action."²⁰⁶

WAM capacity

The resolution welcomed efforts made towards improving monitoring and management of weapons through the National Commission on Small Arms and Light Weapons with the support of UNOCI.

Compliance with arms embargo provisions

While the resolution does not mention notable progress in regard to compliance, the GoE's report submitted prior to the adoption of resolution 2153 highlighted the progress made by the Ivorian

²⁰⁵ Security Council, UN document S/RES/2153, 2014.

²⁰⁶ Security Council, UN document S/PV.7163, 2014.

authorities with regard to obligations towards the implementation of the sanctions regime and the notification of exceptions in particular.²⁰⁷ At the same time, the GoE continued to note the lack of compliance by the Ivorian authorities regarding post-delivery inspections of exempted materiel.²⁰⁸

3.5.2 Arms control obligations

The resolution reinforced monitoring measures, including by requesting the Ivorian authorities to submit biannual reports on progress achieved on DDR and SSR.²⁰⁹ The Security Council also provided additional guidelines for the implementation of the embargo by encouraging the Ivorian authorities to consult with UNOCI on exemption and notification requests.²¹⁰ In terms of the implementation of the provisions, the Security Council requested “the Government of Côte d’Ivoire to allow the Group of Experts and UNOCI access to the exempted arms and lethal materiel at the time of import and before the transfer to the end user takes place”.²¹¹

The resolution also restated the need for better WAM, stressing:

that the Government of Côte d’Ivoire shall mark the arms and related lethal materiel when received in the territory of Côte d’Ivoire, urges the Government of Côte d’Ivoire to maintain a registry of all arms and materials owned by national security forces, with a specific attention to small arms and light weapons, with a view of improving tracking and monitoring of their circulation;²¹²

In its report, the GoE recommended that the Ivorian government maintain a registry of weapons and related materiel imported since the imposition of sanctions measures in 2004, indicating the limited progress of the Ivorian authorities in this regard.²¹³

3.6 2016: Lifting of the arms embargo and entire sanctions regime (resolution 2283)

3.6.1 Why was resolution 2283 adopted?

Meeting of benchmarks

In resolution 2283, the Security Council welcomed the progress achieved regarding all benchmarks set up in previous resolutions as well as on WAM. The resolution welcomed:

the stabilization of Côte d’Ivoire, including in relation to [DDR] and [SSR], national reconciliation and the fight against impunity, as well as the successful conduct of the presidential election of 25 October 2015 and progress on the management of arms and related materiel as well as combatting the illicit trafficking of natural resources, while *stressing* the need that such improvements continue....²¹⁴

The Secretary-General’s report and the GoE report submitted prior to the adoption of the resolution noted positive progress made towards the benchmarks.²¹⁵ As one GoE members explained:

there were no reasons to keep the sanctions anymore: there was no conflict, and with a clear improvement of the security situation, the country was relatively stable with the successful conclusion of the 2015 election. So, despite some hesitations expressed by some States, why continue with the

²⁰⁷ Security Council, UN document S/2014/266, 2014, para. 6.

²⁰⁸ *Ibid.*, para. 31.

²⁰⁹ Security Council, UN document S/RES/2153, 2014, para. 8

²¹⁰ *Ibid.*, para. 10.

²¹¹ *Ibid.*, para. 10.

²¹² Security Council, UN document S/RES/2153, 2014, para. 10.

²¹³ Security Council, UN document S/2014/266, 2014, para. 320.

²¹⁴ Security Council, UN document S/RES/2283, 2016; emphasis in original.

²¹⁵ See Security Council, UN document S/2016/297, 2016; See Security Council, UN Document S/2016/254, 2016.

sanctions? Furthermore, the Government of [Côte d'Ivoire] had been asking for the sanctions to be lifted for quite some time.²¹⁶

In addition, despite notable improvements with respect to the situation on the ground, both the Secretary-General's report and the GoE report noted that significant challenges remained in relation to the completion of SSR and DDR.

WAM capacity

The two final reports of the GoE highlighted the significant progress made by the Ivorian authorities regarding WAM, specifically, the marking of weapons, the setting up of an electronic database to record materiel, and the rehabilitation of armouries.²¹⁷ Regarding international instruments relevant to small arms and light weapons control, in resolution 2219 (2015), the Security Council took note of the signature and ratification of the Arms Trade Treaty by the Government of Côte d'Ivoire.

Needs relating to support for SSR

The Secretary-General's report of March 2016 noted that most Government officials expressed the view that efforts to equip the army and law enforcement agencies appropriately were being hampered by the provisions of the arms embargo that remained in effect.²¹⁸

However, since the adoption of resolution 2153, the Government had successfully imported lethal and non-lethal materiel in compliance with the exemptions requirements. These notifications and requests for approval included types and quantities of materiel which were in line with the needs and size of the security forces, indicating progress in military planning and providing greater reassurance concerning the risk that the authorities might make inappropriate purchases once the embargo was lifted.²¹⁹

²¹⁶ Interview with a former member of the Côte d'Ivoire GoE, September 2017.

²¹⁷ See Security Council, UN Document S/2015/252, 2015; See Security Council, UN Document S/2016/254, 2015.

²¹⁸ Security Council, UN document S/2016/297, para. 35.

²¹⁹ Interview with a former expert of the Côte d'Ivoire GoE, September 2017.

4 Observations

In April 2016, despite terminating the sanctions regime, the Security Council renewed the mandate of UNOCI one last time and called upon the Ivorian government to continue to prioritize the implementation of SSR and to take forward reforms regarding, among others, improved monitoring and management of weapons, including through the registration of arms and related lethal materiel and the renovation of armouries.²²⁰

The Statement of the President of the Security Council of 30/06/17 on the termination of UNOCI stressed the importance of improving the monitoring and management of weapons by the national authorities in order to reduce the number of illicit weapons in circulation.²²¹

²²⁰ See Security Council, UN Document S/RES/2284, 2016, para. 14 and para. 4.

²²¹ See Security Council, UN Document S/PRST/2017/8, 2017.

BOX 6: ARMS EMBARGO AND WAM IN CÔTE D'IVOIRE FROM A NATIONAL PERSPECTIVE²²²

According to the National Commission on Small Arms and Light Weapons (COMNAT-ALPC)—a national coordinating body responsible for developing the national framework to prevent the illicit circulation of small arms and light weapons—the Ivorian government had initiated several reforms in the areas of security sector and arms management in order to respect the arms embargo and to contribute to its eventual lifting. These included several key measures, namely:

Structural measures

- creation of a National Security Council
- adoption of a SSR strategy
- creation of a National DDR Commission
- creation of the COMNAT-ALPC

Physical arms control measures

- creation of national standards regarding arms and ammunition storages in line with International Ammunition Technical Guidelines and the International Small Arms Control Standards
- rehabilitation and construction of armouries and ammunition depots

Improvement in weapons management and registration

- creation of a national handbook of WAM procedures
- building by each security agency of a record-keeping database
- inventory, marking and registering of weapons in databases (COMNAT-ALPC noted that 95 per cent of weapons of security forces are marked and registered)

Import control over materiel

- centralization of procurement process, with the National Security Council as the lead focal mechanism
- respect of procedures related to notifications and requests for approval for transfers of embargoed materiel
- marking of new materiel at the time of import

²²² The information provided in this box was collected during an interview with a representative of the COMNAT-ALPC (Bangui, 2017) as well as from a presentation given in Paris by the same individual, 24 January 2017.

Annex 3: Evolution and termination of the arms embargo in Liberia²²³

1 Key findings

1.1 Adoption and evolution of arms embargo measures

- The Liberian arms embargo was originally adopted as a single measure, a practice no longer employed by the Security Council.²²⁴
- While the Security Council previously often terminated arms embargos/Committee mandates and established new ones under the same resolution in response to significant developments in the country, current practice simply amends existing provisions.
- When the Security Council wanted to send a positive message regarding the evolution of the sanctions regime, it eased measures and afforded a more active role to the State by giving it the opportunity to request the Security Council to review the measures and to report on progress made towards the benchmarks.
- Liberia did not actively seek the lifting of the arms embargo, which is unusual since the majority of target States are generally keen to have sanctions lifted. Seeking to keep the arms embargo in place was a way for the Liberian authorities to maintain political advantage over other groups.

1.2 Monitoring of the arms embargo

- The Sanctions Committee (hereafter referred to as the 'Committee') was set up several years after the adoption of the arms embargo, reflecting the significant evolution of Security Council practice over the past 25 years.
- The Liberia Panel of Experts recommended that the United Nations Mission in Liberia (UNMIL) mandate be extended in relation to the monitoring of the arms embargo²²⁵; UNMIL subsequently became one of the first missions with an arms inspection responsibility.
- The relationship between the Panel of Experts and the UNMIL inspection team was, however, not always without conflict due to varying understandings of roles and responsibilities, reflecting the general challenges that panels of experts' experience in working with United Nations field missions.

²²³ This case study is based on analysis of relevant Security Council resolutions, Liberia Sanctions Committee documents, records of Security Council meetings and other United Nations documents, as well as an interview with a former member of the Liberia Panel of Experts. The author also used the Qualitative Database on United Nations Targeted Sanctions created by the Graduate Institute of International Studies, as well as Joelle El Sawalhi, *The UN Sanctions Regime and the Evolution of Arms Embargos: The Case of Liberia*, UNIDIR, 2017. This case study examines relevant information and documentation up to November 2017. Any changes, or new developments, that take place after this date are not captured in the case study.

²²⁴ Sanctions regimes that employ the use of arms embargos on their own have not proved to be as effective as regimes that employ a combination of measures; interview with Thomas Biersteker, July 2017.

²²⁵ Security Council, UN document S/2003/937, para. 10 (b).

1.3 Benchmarks

- Benchmarks set up by the Security Council have increasingly been refined overtime. The Security Council first requested the authorities to comply with the regime as a precondition in 2001, and subsequently set specific conditions, including the implementation of the Peace Agreement, disarmament, demobilization and reintegration (DDR) and security sector reform (SSR), in 2003. Finally, in 2006, the Security Council decided to review the measures at the request of the Liberian government—an unusual practice at that time—once it had reported on progress made towards meeting the conditions described above.

1.4 Arms embargo obligations

- The Security Council issued the first arms management requirements in 2006, 24 years after the adoption of the Liberia arms embargo.
- Requirements included the marking and registration of materiel, and notification by the Government to the Committee that these measures have been implemented.
- UNMIL was mandated to inspect materiel obtained by the authorities in compliance with the embargo, and to provide periodic reports to the Sanctions Committee.
- The adoption of national firearms control legislation was a key criterion for the Security Council to lift the arms embargo.

2 Introduction

Between 1992 and 2016, Liberia was subject to three consecutive arms embargoes, with incremental easing of measures adopted by the Security Council since 2006. The arms embargo was originally adopted in 1992 for the purposes of establishing peace and stability in Liberia until the Security Council decided otherwise.²²⁶ Box 7 presents an overview of the sanctions regime established by the Security Council.

BOX 7: OVERVIEW OF THE LIBERIA SANCTIONS REGIME

Duration: 1992–2016

Penholder: USA

Objectives: Cease hostilities, peace enforcement, support for democracy and judicial process, good governance

Sanctions types: Individual (asset freeze, travel ban), sectoral (arms embargo, diamond ban, timber ban)

Arms embargo: Arms imports embargo on all actors with progressive exceptions for the Government

Other sanctions: European Union, Economic Community of West African States and United States

In 2001, during the second arms embargo, the Security Council decided to review embargo measures based on Liberia's compliance with their demands.²²⁷ In 2003, with the adoption of the third and final arms embargo, the Security Council established conditions linked to respecting the ceasefire, completion of DDR and SSR, full implementation of the peace agreement, and progress in increasing the stability of the country and the subregion. In 2006, with the election of Ellen Johnson Sirleaf as President of Liberia, the Security Council decided to review the embargo measures at the request of the new Government once it had reported on the progress made towards meeting the conditions outlined above.

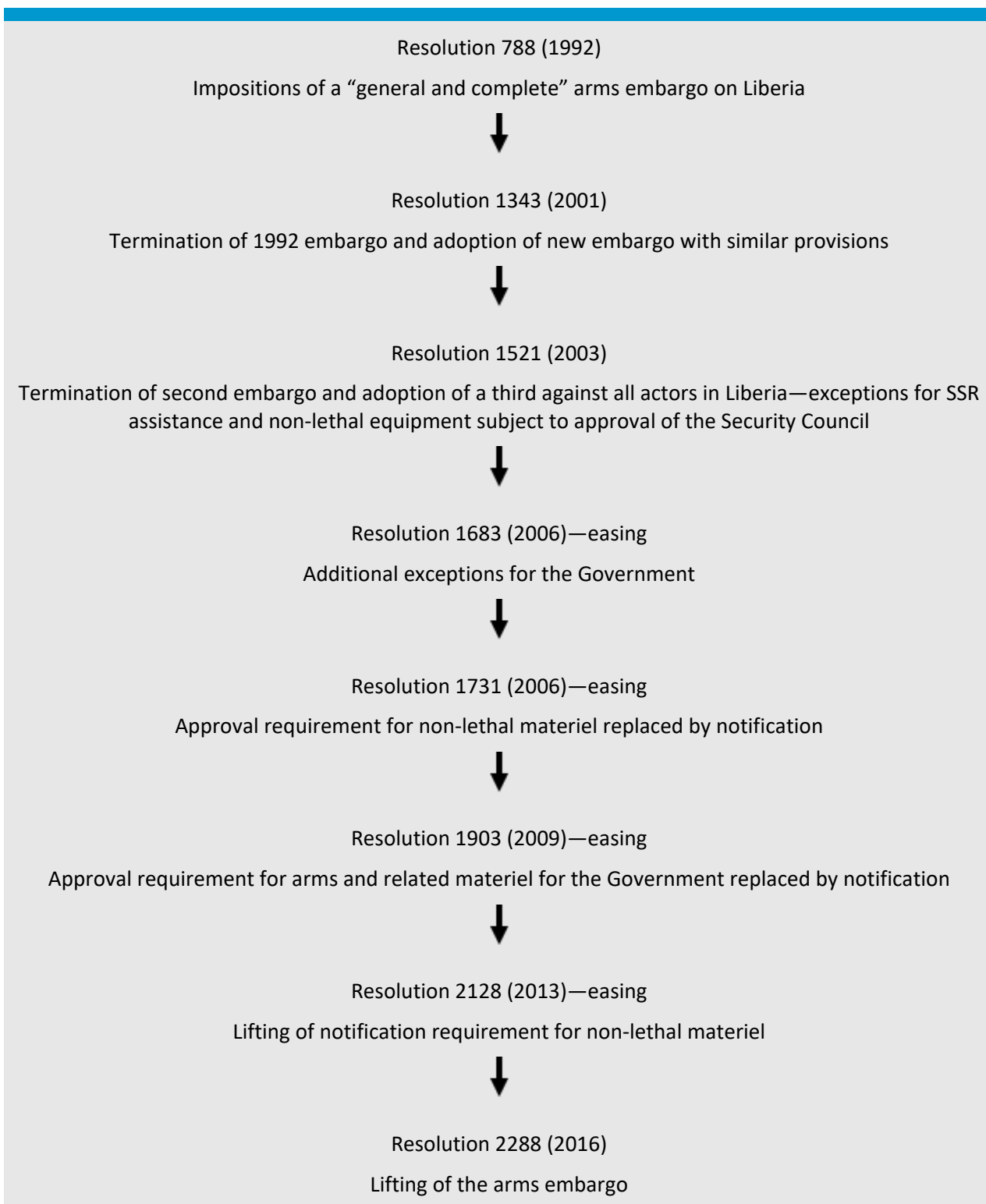
²²⁶ See Security Council, UN document S/RES/788, 1992.

²²⁷ See Security Council, UN document S/RES/1343, 2001.

3 Evolution of the arms embargo in Liberia

This section provides a detailed overview of the key adjustments, the contributing factors that led to their adoption, and the evolution of the related arms control obligations. Box 8 presents the incremental arms embargo adjustments made by the Security Council since 2006.

BOX 8: MODIFICATIONS TO THE ARMS EMBARGO IN LIBERIA



3.1 November 1992: Adoption of the first arms embargo (resolution 788)

The arms embargo was first adopted in 1992 during what has come to be referred to as the *first Liberian civil war*, which witnessed a significant deterioration in the security situation in the country as Charles Taylor's National Patriotic Front of Liberia launched offensives against the capital, Monrovia. The embargo was "general and complete", providing exceptions for the Economic Community of West African States (ECOWAS) forces only.²²⁸ In the absence of a Sanctions Committee (which was later created in 1995 under resolution 985), the Security Council requested that the Secretary-General submit a report on the implementation of the arms embargo.²²⁹

3.2 May 2001: End of the first arms embargo and the adoption of second (resolution 1343)

Noting that the progress made in resolving the conflict in Liberia, and that national elections had taken place, in section B of resolution 1343, the Security Council terminated the arms embargo in Liberia and dissolved the Committee established under resolution 985 (1995).

However, in the same resolution, the Security Council expressed its deep concern about the active support of the Government to the Revolutionary United Front in Sierra Leone, and demanded that it cease this activity immediately, including all military support and transfers of arms and ammunition from Liberian territory or by Liberian nationals.²³⁰ In addition, the Security Council imposed sanctions and restrictions on trade on Liberia, including an embargo on weapons transfers into the country, with the single exception applying to non-lethal materiel intended solely for humanitarian or protective use as approved in advance by the Committee.²³¹

3.2.1 Monitoring and assessing the arms embargo

The Security Council agreed that the embargo would apply for 14 months, after which the Security Council would decide whether the Government had ceased all support to the Revolutionary United Front and whether or not to extend the embargo measures.²³² Resolution 1343 listed those bodies from which the Security Council would take reports into account in its review of the measures,²³³ specifically the Panel of Experts established by the resolution, the Secretary-General (drawing on information from all relevant sources, including the United Nations Mission in Sierra Leone), ECOWAS, and the Sanctions Committee established by the resolution (including information provided by Member States).

The embargo was renewed by resolution 1408 (2002) and again by resolution 1478 (2003); in both resolutions, the Security Council cited the findings of the Panel of Experts that the Government continued to breach the measures imposed by resolution 1343, particularly through the acquisition of new weapons.

3.3 December 2003: End of the second arms embargo and adoption of the third (resolution 1521)

Following the signing of the Comprehensive Peace Agreement, the deployment of UNMIL, the departure of president Taylor and the formation of the National Transitional Government, the

²²⁸ See Security Council, UN document S/RES/788, 1992, paras 8-9.

²²⁹ *Ibid.*, para. 13.

²³⁰ See Security Council, UN document S/RES/985, 1995, para.2.

²³¹ See Security Council, UN document S/RES/985, 1995, para.5.

²³² See Security Council, UN document S/RES/985, 1995, para.9.

²³³ See Security Council, UN document S/RES/1343, paras. 11 and 12.

Security Council decided to terminate the arms embargo as established under resolution 1343 and to dissolve the Sanctions Committee.²³⁴

However, the same resolution established a new embargo on transfers of arms and related materiel to Liberia with a range of exceptions, including transfers to UNMIL; supplies intended solely for support of or use in an international training and reform programme for the Liberian armed forces and police, as approved in advance by the new Committee established by the resolution; and supplies of non-lethal military equipment intended solely for humanitarian or protective use as approved in advance by the Committee.

3.3.1 Monitoring and assessing the arms embargo

The resolution listed clearer benchmarks to terminate the arms embargo measures related to the full respect and maintenance of the ceasefire, the completion of DDR and SSR, the full implementation of the provisions of the Comprehensive Peace Agreement, and significant progress in establishing and maintaining stability in Liberia and the subregion.²³⁵

The Panel of Experts in its report recommended that the United Nations establish a process using UNMIL to monitor the main ports, airports and border crossings to ensure that sanctions were not violated and that all illegal shipments were seized.²³⁶ Furthermore, the Panel also suggested that UNMIL support the State in implementing the ECOWAS Convention on small arms and light weapons.

In December 2005, resolution 1647 extended the embargo for a period of 12 months, the Security Council having assessed that the State had made insufficient progress towards meeting the conditions set out in resolution 1521.

January 2006 saw Ellen Johnson Sirleaf assume office and increased levels of confidence in the capacity of the Liberian authorities. The Security Council therefore decided to review the measures at the request of the new Government, once the it had reported to the Security Council that the conditions set out in resolution 1521 for terminating the measures had been met and had provided the Security Council with information to justify its assessment.²³⁷

3.4 June 2006: Easing of the arms embargo (resolution 1683)

In resolution 1683, the Security Council decided that the arms embargo no longer applied to limited supplies of weapons and ammunition, as approved in advance on a case-by-case basis by the Committee, intended for use by members of the police and security forces who had been vetted and trained.

²³⁴ See Security Council, UN document S/RES/1521, 2003, para.1.

²³⁵ *Ibid.*, para. 5.

²³⁶ See Security Council, UN document S/2003/937, 2003.

²³⁷ See Security Council, UN document S/RES/1647, 2005, para.1 (c).

3.4.1 Why was resolution 1683 adopted?

The report of the Secretary-General commended the progress of police sector reform initiatives and noted that a lack of basic equipment, including weapons, was seriously hampering the ability of the Liberian National Police to effectively conduct their operations.²³⁸

The Panel of Experts' final report recommended that, "the arms embargo remain in place until the end of the training of the Liberian Army and, should it be lifted, that the lifting should not extend to non-State actors".²³⁹ The report mentioned that some national and international actors believed that the arms embargo should be lifted only when storage for weapons and ammunition was ensured by national authorities, reflecting the authorities' lack of capacity to conduct effective weapons and ammunition management.²⁴⁰

In a March 2006 intervention before the Security Council, President Johnson Sirleaf cited Liberia's ongoing efforts to meet the conditions to lift the diamond and timber sanctions but did not mention the arms embargo.²⁴¹

From 2006 onwards, sanctions against Liberia were gradually reduced—the diamond embargo was lifted in 2007—as was the size of the Panel of Experts, which was reduced from five to three members in 2008.

3.4.2 Arms control obligations

Marking and registering

In resolution 1683 (2006), the Security Council requested the Government to mark all weapons and ammunition approved by the Security Council for transfer, maintain a registry of all materiel, and formally notify the Committee that these steps had been taken.²⁴²

Monitoring

In paragraph 4 of resolution 1683, the Security Council requested UNMIL to inspect inventories of weapons and ammunition obtained in accordance with the provisions of the arms embargo and to make periodic reports to the Committee. Following the adoption of the resolution, UNMIL began to submit weapons inspection reports to the Committee.²⁴³

3.5 December 2006: Easing of measures against non-lethal materiel (excluding weapons and ammunition) (resolution 1731)

Resolution 1731 noted that the arms embargo:

shall not apply to supplies of non-lethal military equipment, excluding non-lethal weapons and ammunition, as notified in advance to the Committee ... intended solely for use by members of the Government of Liberia police and security forces who have been vetted and trained since the inception of the [UNMIL] in October 2003.²⁴⁴

²³⁸ See Security Council, UN document S/2006/376, 2006, para.23.

²³⁹ See Security Council, UN document S/2006/379, 2006, para 167.

²⁴⁰ See Security Council, UN document S/2006/379, 2006, para.175.

²⁴¹ See Security Council, UN document S/PV5389, 2006.

²⁴² See Security Council, UN document S/RES/1683, 2006, para. 3.

²⁴³ See Security Council, UN document S/RES//707, 2014, p.7.

²⁴⁴ See Security Council, UN document S/RES/1731, 2006.

3.6 December 2009: Easing of arms embargo provisions for the Government (resolution 1903)

In paragraph 4 of resolution 1903, the Security Council eased the embargo on supplies of arms and related materiel and the provision of assistance to the Government. The Security Council also decided that supplying States must notify the Committee in advance of any shipments of arms and related materiel. Notifications were to contain all relevant information, including the type and quantity of weapons and ammunitions delivered, the end user, the proposed date of delivery and the itinerary of shipments.²⁴⁵

In paragraph 5, the Security Council articulated further exceptions related to (a) supplies of arms and related materiel, as well as technical training and assistance intended solely for support of or use by UNMIL; (b) protective clothing, including flak jackets and military helmets, temporarily exported to Liberia for United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel, for their personal use only; and (c) other supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training, as notified in advance to the Committee.

3.6.1 Why was resolution 1903 adopted?

Despite significant positive developments in the situation in Liberia, the resolution concluded that insufficient progress had been made in meeting the conditions to reassess the sanctions, including in the area of marking weapons. That said, in its final report, the Panel of Experts noted that it had not found concrete evidence of any significant actual or attempted violations of the arms embargo.²⁴⁶

WAM capacity

In its final report, the Panel of Experts stated that it was concerned by the fact that the capacity of the Government to control weapons remained low.²⁴⁷ The Security Council did not appear to have received a positive assessment regarding the State's weapons and ammunition management (WAM) capacity through any of its additional monitoring mechanisms. The Secretary-General's report on Liberia noted that Liberia had ratified the ECOWAS Convention on small arms and light weapons.²⁴⁸

3.6.2 Arms control obligations

Notification of transfers

The requirements for the notification process were not always understood or respected by Member States; the Panel therefore decided to include an annex in its 2012 report listing the requirements, and to explain the process to Liberia and supplying Member States on a regular basis.²⁴⁹ Furthermore, there was no key point of contact within the Liberian authorities for sanctions-related queries.

Marking and registration

²⁴⁵ See Security Council, UN document S/RES/1903, 2009, para.6.

²⁴⁶ See Security Council, UN document S/2009/640, 2009.

²⁴⁷ Ibid.

²⁴⁸ See Security Council, UN document S/2009/411, 2009.

²⁴⁹ Interview with a former member of the Liberia Panel of Experts, August 2017.

The resolution further reiterated that the Government was required to mark imported weapons that had been approved by the Security Council, maintain a registry of them, and formally notify the Committee that these steps had been taken.²⁵⁰

3.7 December 2013: Further easing of the arms embargo (resolution 2128)

Through resolution 2128, the Security Council decided to lift the notification requirement for non-lethal materiel.²⁵¹ In terms of notifications, it also decided that the Liberian authorities should have the primary responsibility for notifying the Committee, at least five days in advance of the shipment of any supplies of lethal arms and related materiel, and that Member States delivering assistance could, as an alternative, make this notification in consultation with Liberia.

3.8 December 2014: The Security Council requests additional monitoring of WAM capacity (resolution 2188)

In paragraph 4, the Security Council requested

the Secretary-General to provide an update to the Security Council by August 1, 2015 on progress made by the Government of Liberia to implement the recommendations on the proper management of arms and ammunition, including enacting the necessary legislative frameworks, and on facilitating the effective monitoring and management of the border regions between Liberia and Côte d'Ivoire;²⁵²

The update by the Secretary-General was later submitted in 2015 (see section 3.9 of this Annex).

Resolution 2188 also requested the Panel of Experts to provide information on “progress in the security and legal sectors with respect to the Government of Liberia’s ability to effectively monitor and control arms and border issues, and on the Government of Liberia’s progress on meeting notification requirements;”²⁵³ as well as on the status of relevant legislation.

3.9 May 2016: Lifting of the arms embargo and termination of the sanctions regime (resolution 2288)

Following the termination of the travel ban and the asset freeze in September 2015, the arms embargo remained the only measure in place until May 2016.

3.9.1 Why was resolution 2288 adopted?

In resolution 2288, the Security Council determined that the conditions set up in resolution 1521 had been met and decided to terminate the measures on arms. In particular, the Security Council considered the Secretary-General’s last letter, updating the Security Council on progress made by the Government to implement the recommendations on the proper management of arms and ammunition, including enacting the necessary laws, and on facilitating the effective monitoring and management of the border regions between Liberia and Côte d'Ivoire.²⁵⁴ This assessment by the Secretary-General had been conducted remotely, with no on-site observations.

WAM capacity

Several members of the Security Council had been keen to lift the sanctions against Liberia for some time; however, as far as the arms embargo was concerned, the Security Council may have been

²⁵⁰ See Security Council, UN document S/RES/1903, 2009, para.6.

²⁵¹ See Security Council, UN document S/RES/2128, 2013, para.2.

²⁵² See Security Council, UN document S/RES/2188, 2014.

²⁵³ Ibid.

²⁵⁴ See Security Council, UN document S/2015/590, 2015.

waiting for the adoption and implementation of the Firearms Act.²⁵⁵ Liberia had no national legislation regulating the import of weapons or legal framework to investigate and prosecute illicit imports of arms and, in this regard, the Committee may not have deemed it appropriate to lift the embargo without such measures in place, considering that the only domestic legal mechanism applicable to arms control was the arms embargo.

Following a request from the Security Council, the Secretary-General provided updates on progress made regarding the management of arms and ammunition in July and August 2015.²⁵⁶ The Secretary-General noted progress regarding the marking of weapons, training in weapons management, and development of national structure for the control of small arms and light weapons but continued to note concern about the fact that there was no central national registry for weapons, and that the adoption of the Firearms Act had been pending for over a year. According to informal consultations undertaken as part of this study, one member of the Security Council noted the possibility that the Liberian authorities may not have sought the immediate lifting of the arms embargo.²⁵⁷ Such a view was shared by a former member of the Panel of Experts, who noted that the arms embargo may have “benefited the authorities, giving them a political advantage and disadvantaging others”,²⁵⁸ in ways not necessarily visible to the Committee.

In their last report to the Committee in April 2016, the Panel of Experts noted that the Firearms Act was still waiting to be passed; it was finally passed at the end of May 2016.²⁵⁹

According to a former member of the Panel of Experts, stockpile management was “rudimentary but not bad, and it was unlikely to get any better by continued monitoring through a sanctions mechanism. Furthermore, these were not substantial violations of the arms embargo, only technical violations”.²⁶⁰

²⁵⁵ Ibid.

²⁵⁶ See Security Council, UN document S/2015/590; See Security Council, UN document S/2015/620.

²⁵⁷ Informal consultations with a representative of the Security Council, August 2017.

²⁵⁸ Interview with a former member of the Liberia Panel of Experts, August 2017.

²⁵⁹ Liberia News Agency, “Liberia; Arms Control Body Upbeat about Firearms Act”, 31 May 2016, <http://allafrica.com/stories/201606011246.html>.

²⁶⁰ Interview with a former member of the Liberia Panel of Experts, August 2017.

4 Observations

Review of the arms embargo in Liberia highlights several key arms control measures placed at the national level that informed the assessment and modification of the embargo by the Security Council:

- Monitoring of main ports and physical inspection of materiel imported as exemption to the arms embargo in cooperation with UNMIL;
- Progress made in vetting and training of Liberian security forces to be equipped with imported materiel in cooperation with UNMIL;
- Marking, registration and safe and secure storage of imported arms and related materiel; and
- Adoption of national legislation governing small arms and light weapons.

With regards post-lifting measures, the Government of Liberia is to cooperate with the ECOWAS Commission to comply with the exemption procedures applicable to the region on imports of small arms and light weapons.

Annex 4: Evolution and termination of the arms embargo in Libya²⁶¹

1 Key findings

1.1 Adoption and evolution of the arms embargo measures

- The first easing of the Libyan arms embargo was adopted by the Security Council despite the collapse of the security sector and the lack of control over armed entities nominally working under the Libyan Government.
- A month after the easing of the embargo in 2011, the Security Council clearly expressed its concern about weapons management in Libya and the risks of proliferation of materiel which could destabilize the region and feed terrorism by enacting resolution 2017; however, no reinforcement of the arms embargo would be made for another three years after more than 80 notifications to the Committee.

1.2 Monitoring of the arms embargo

- The first major easing of the arms embargo in 2011, which allowed for transfers to be made to the Libyan authorities after notification to the Security Council, was adopted without the Security Council having a monitoring support in place.
- The Security Council can sometimes take decisions contrary to the evidence and recommendations provided by its monitoring bodies, reflecting their limited impact.
- The Security Council and the Libya Sanctions Committee have used a particularly wide range of support to issue guidance regarding compliance with arms embargo provisions, including through resolutions, notes verbales to Member States, Implementation Assistance Notices (IANs) and press releases. This may reflect the complexity of the arms embargo provisions of the Libya sanctions regime, the regular changes made to it and the political interest of Security Council members in Libya.

1.3 Benchmarks

- Benchmarks included in resolutions to review sanctions provisions are very broad, none of which specifically relate to the arms embargo.

²⁶¹ This case study is based on analysis of relevant Security Council resolutions (26 were adopted between 2011 and 2017), Libya Sanctions Committee documents, records of Security Council meetings and other United Nations documents, as well as an interview with a member of the Libya Panel of Experts. The author also used the Qualitative Database on United Nations Targeted Sanctions created by the Graduate Institute of International Studies. This case study examines relevant information and documentation up to November 2017. Any changes, or new developments, that take place after this date are not captured in the case study.

2 Introduction

In 2011 the Security Council adopted a sanctions regime on Libya, including a two-way arms embargo, very early on in the revolution, just as revolutionaries in the east were about to be defeated by the Gaddafi-led Government. In the introduction of resolution 1970 (2011), the Security Council expressed grave concern at the situation and condemned the violence and use of force against civilians.²⁶²

The benchmarks provided by the subsequent resolutions are very broad and relate to the review of all measures; to date, the Security Council has not disseminated benchmarks specifically related to the arms embargo. Box 9 presents the overview of the sanctions regime in Libya.

At the outset of the regime in 2011 (resolution 1970), the Security Council:

[a]ffirms that it shall keep the Libyan authorities' actions under continuous review and that it shall be prepared to review the appropriateness of the measures ... including the strengthening, modification, suspension or lifting of the measures, as may be needed at any time in light of the Libyan authorities' compliance with relevant provisions...²⁶³

Since 2015, the Security Council has affirmed its readiness to review the measures at any time in light of developments in Libya.

BOX 9: OVERVIEW OF THE LIBYA SANCTIONS REGIME

Second Libya United Nations sanctions regime²⁶⁴

Duration: 26 February 2011–present (6 years)

Penholder: United Kingdom

Objectives: Cease hostilities, peace enforcement, support peace building, support for democracy, human rights, protect population

Sanctions types: Current: individual sanctions (asset freeze, travel ban) and sectoral sanctions (arms embargo and illicit oil exports); terminated: no-fly zone, aviation ban, financial restrictions on Central Bank and other governmental financial institutions

Arms embargo: A two-way United Nations arms embargo was imposed covering transfers of arms and any related materiel to and from the whole territory of Libya and all actors. The provisions were eased after the fall of Gaddafi and reinforced in 2014 with the acute deterioration of the security situation. The embargo always included possibilities for exemptions for the United Nations, other international bodies, and for the Libyan authorities for security and disarmament assistance.

Other sanctions: European Union and unilateral sanctions, including the United Kingdom and United States.

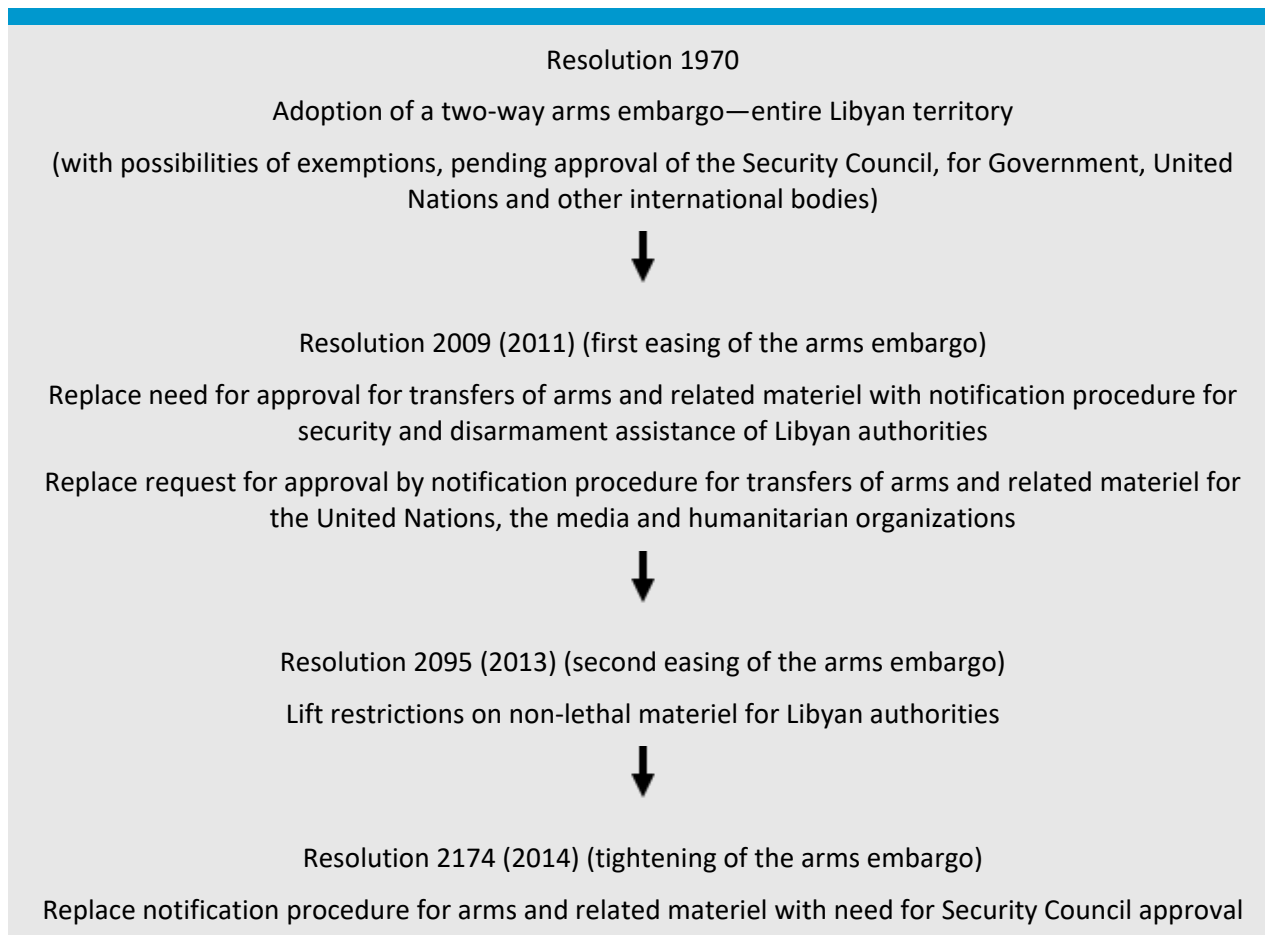
²⁶² See Security Council, UN document S/RES/1970, 2011.

²⁶³ Ibid., para. 27.

²⁶⁴ The United Nations had already imposed a sanctions regime on Libya between 31 March 1992 and 12 September 2003 (11 years), including an arms embargo related to imports.

3 Evolution of the arms embargo in Libya

BOX 10: KEY MODIFICATIONS TO THE LIBYA ARMS EMBARGO



3.1 February 2011: Imposition of the arms embargo (resolution 1970)

The resolution adopted a two-way arms embargo on the entire territory of Libya and actors therein and included possibilities of exemptions.

The resolution and the one that followed (resolution 1973) established the monitoring framework and identified the three primary actors involved in it by:

- **establishing a Sanctions Committee** to monitor the implementation of the measures, and establishing guidelines to facilitate their implementation;²⁶⁵
- **requesting Member States to report** to the Committee on actions taken to implement the measures and to inspect all cargo to and from Libya which may contain embargoed materiel, to seize and dispose of it and submit an inspection report to the Committee;²⁶⁶ and
- **creating a Panel of Experts (PoE)** under the direction of the Committee to gather and analyse information regarding the implementation of the measures, including incidents of non-compliance in particular.²⁶⁷

²⁶⁵ See Security Council, UN document S/RES/1970, 2011, para. 24.

²⁶⁶ *Ibid.*, para. 25 and paras. 11-13.

²⁶⁷ See Security Council, UN document S/RES/1973, 2011, para. 24.

3.2 March 2011: Protection of civilians and no-fly zone (resolution 1973)

The resolution authorizes Member States that have notified the Secretary-General, and which act in cooperation with the Secretary-General, to take all necessary measures to protect civilians and civilian populated areas under threat of attack in Libya (notwithstanding paragraph 9 of resolution 1970 which imposed the arms embargo).²⁶⁸ Given the ambiguous language of this paragraph, several States were able to use it to transfer weapons to the Libyan opposition, thereby creating a strong division of interpretation within the Security Council itself.

Regarding those transfers, the PoE informed the Security Council in its first and second reports that the deliveries were completed without adequate control measures in place on the ground, resulting in the uncontrolled movement of materiel.²⁶⁹ After the revolution, this materiel remained under the control of non-State actors within Libya, and some materiel was found during seizures of military materiel being trafficked out of Libya in violation of the arms embargo.²⁷⁰ Resolution 1973 also established a ban on all flights to help protect civilians.²⁷¹

3.3 September 2011: Significant easing of provisions regarding transfers of all arms and related materiel (resolution 2009)

By paragraph 13a of resolution 2009, the Security Council decided that the transfer of arms and related materiel of all types, including technical assistance, training, financial and other assistance, intended solely for security or disarmament assistance to the Libyan authorities, would be subject to advance notification to the Committee; transfers would be allowed in the absence of a negative decision by the Committee, to be delivered within five working days of such a notification (this was previously subject to the approval of the Security Council).

This amendment of the sanctions regime effectively allowed any transfer of materiel to Libya, a negative decision by the Security Council being practically difficult to issue within five days.

By paragraph 13b of the resolution, the Security Council decided to replace the approval request requirement regarding the transfer of small arms and light weapons and related materiel temporarily exported to Libya for the sole use of United Nations personnel, representatives of the media, and humanitarian organizations with a notification procedure.

3.3.1 Why was resolution 2009 adopted?

The resolution did not provide detailed justification for such a significant easing of the arms embargo. It simply “[t]akes note of the developments in Libya, welcomes the improved situation there”.²⁷²

During the Security Council session during which the resolution was adopted, Member States noted the “new era” in Libya. On the same day, the General Assembly recognized the National Transitional

²⁶⁸ Ibid., para. 4.

²⁶⁹ See Security Council, UN document S/2012/163, 2012; See Security Council, UN document S/2013/99, 2013.

²⁷⁰ See Security Council, UN document S/2013/99, 2013.

²⁷¹ See Security Council, UN document S/RES/1973, 2011, para. 6.

²⁷² See Security Council, UN document S/RES/2009, 2011.

Council (NTC) as holding Libya's seat at the United Nations (after forces aligned with the NTC seized control of Tripoli).²⁷³

This easing of the embargo may have been premature at the time as no conditions to manage arms transfers were in place. The NTC, for example, did not control the whole of Libyan territory; furthermore, the national security sector had collapsed with armed groups assuming de facto responsibility for local security. However, with the fall of the Gaddafi-led Government and the prospect of a "new Libya", the international community appeared optimistic about a rapid post-revolution recovery. According to one Member State, "There was so much optimism we thought that, with the end of the Revolution, the problem was solved and wanted to treat Libya as a normal country. Everyone got it wrong."²⁷⁴

The Security Council amended the sanctions regime without its usual monitoring support. A United Nations mission was not yet deployed, no report of the Secretary-General was submitted prior to the resolution, nor was there any PoE report as the Panel was not due to report back for several months.

Meeting of benchmarks/Compliance with the arms embargo

There is no reference to improvements in compliance and the resolution expresses its concern about the proliferation of arms to the region in violation of the embargo.

WAM capacity

The resolution encourages the Libyan authorities to prevent proliferation and to meet Libya's arms control and non-proliferation obligations under international law.²⁷⁵

3.3.2 Arms control obligations

Despite the significant easing of the arms embargo which allowed Libya to import arms and ammunition, the Security Council did not request any additional control measures prior or post transfer as part of the arms embargo provisions.

3.4 October 2011: The Security Council requests an assessment and recommendations regarding the regional threat posed by weapons proliferation from Libya (resolution 2017)

The resolution reflected the concern of the Security Council regarding the proliferation of all kinds of weapons from Libya, particularly man-portable surface-to-air missiles (MANPADS), the custody of weapons in Libya and the State's arms control measures. The Security Council requested the Sanctions Committee to assess the threats posed by proliferation of weapons and to submit proposals to counter this threat including measures to secure these arms and to ensure that stockpiles are managed safely and securely.²⁷⁶

In 2012, prior to the resolution that renewed the sanctions regime, the Sanctions Committee sent its assessment to the Security Council. The document highlighted the Government's lack of authority and control over brigades and gross deficiencies in stockpile management and security, which contributed to the risk of illicit proliferation both within and outside Libya.

²⁷³ See General Assembly, UN document GA/11137, 2011.

²⁷⁴ Consultation with a representative of a Council member, New York, August 2017.

²⁷⁵ See Security Council, UN document S/RES/2009, 2011, para. 5e.

²⁷⁶ See Security Council, UN document S/RES/2017, 2011, para. 5.

3.5 March 2012: Alleged embargo renewed and monitoring further reduced (resolution 2040)

Resolution 2040 renewed the embargo in its current state and terminated the authorization for Member States to inspect cargos, further reducing the tools for monitoring the arms embargo (after the termination of the no-fly zone and NATO operation Unified Protector, which implemented the arms embargo at sea and in the air).²⁷⁷ The Panel of Experts was downsized. The resolution reflected a positive message regarding the situation in Libya after the NATO operation, the ousting of Gaddafi, and the imposition of sanctions.

3.5.1 Why was resolution 2040 adopted?

The resolution welcomed the recent positive developments in Libya, including the adoption of the electoral law and the establishment of an electoral commission, paving the way for the first post-conflict national elections.²⁷⁸

Meeting of benchmarks/Compliance with the arms embargo

The resolution, however, did not include elements reflecting improvement of compliance with sanctions. The report of the PoE submitted to the Sanctions Committee prior to the adoption of resolution 2040 reported continuous violations of the arms embargo.²⁷⁹

WAM capacity

The resolution did not indicate improvement in the control of national authorities over the security sector or regarding weapons and ammunition management.

On the contrary, analysis by monitoring bodies, including the Sanctions Committee and PoE, highlighted the collapse of security sector institutions, the near absence of operational law enforcement bodies, and the extremely minimal measures in place for stockpile management.²⁸⁰

The resolution renewed the mandate of the United Nations Support Mission in Libya (UNSMIL), requesting it to support the Libyans in countering the illicit proliferation of all types of arms and related materiel, particularly MANPADS.²⁸¹ This request would be repeated in each of UNSMIL's mandate renewals. UNSMIL is not mandated to monitor the arms embargo.

3.5.2 Arms control obligations and provision of guidance

The Security Council made no additional requests related to arms control applicable to Libya in this resolution. However, to assist Member States in implementing the arms embargo on Libya and to support the Sanctions Committee in ensuring that transfers were solely for security and disarmament assistance to the Libyan authorities as provided for in paragraph 13 of resolution 2009 (2011), the Panel helped to draft the Implementation Assistance Notice 2 (IAN 2), which was issued by the Sanctions Committee in July 2012. It provided guidance to Member States regarding the exceptions of the arms embargo and a list of information that Member States should include in their notifications, including the precise end user, the exact quantity of items and a detailed list of equipment to be provided, in addition to a note from the Libyan body responsible for dealing with requests for support and dates of delivery.

²⁷⁷ See Security Council, UN document S/RES/2040, 2012, para. 8.

²⁷⁸ *Ibid.*, p. 2.

²⁷⁹ See Security Council, UN document S/2012/163, 2012.

²⁸⁰ See Security Council, UN Document S/2012/178, 2012, paras. 21 and 26.

²⁸¹ See Security Council, UN document S/RES/2040, 2012, para. 6d.

3.6 March 2013: Partial lifting of the arms embargo (resolution 2095)

In paragraph 9 of the resolution, the Security Council decided that supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, should no longer require the approval of the Committee.

In paragraph 10, the Security Council decided that supplies of non-lethal military equipment, and the provision of any technical assistance, training or financial assistance, when intended solely for security or disarmament assistance to the Government, should no longer require notification to, or the absence of a negative decision by, the Committee.

3.6.1 Why was resolution 2095 adopted?

Despite the partial lifting of embargo provisions, the resolution did not reflect improvement in compliance with sanctions. On the contrary, in the section of the text that dealt with the arms embargo, the Security Council condemned the reported continuing violations of the measures contained in resolutions 1970 (2011) and 1973 (2011).

WAM capacity

The resolution requested UNSMIL to support the Libyan authorities in fighting against arms proliferation and the latter to improve their arms monitoring processes (see below).

In its report submitted prior to the resolution, the PoE highlighted its concerns regarding the transfer of notified materiel to unclear end-users, the absence of an official procurement body overseeing transfers, and the fragmentation of the security sector.²⁸² Notifications of transfers of military materiel, including weapons systems and ammunition, were signed by a range of Libyan representatives with unclear affiliations. At the time of the report, close to 80 notifications had been received by the Sanctions Committee and subsequently passed since the adoption of resolution 2009, 18 months previously. The PoE also emphasized the fact that entry ports where materiel was being delivered were not under the direct control of the national authorities, which resulted in a high risk of diversion.

3.6.2 Arms control obligations and provision of guidance

Resolution 2095 urged the Libyan Government to improve further the monitoring of arms and related materiel that is supplied, sold or transferred to Libya in accordance with the provisions of the arms embargo, including through the use of end-user certificates (EUCs). It further urged Member States and regional organizations to provide assistance to the Libyan Government to strengthen the infrastructure and mechanisms currently in place to do so.

A month later, on 3 April 2013, the Chair of the Sanctions Committee sent a letter to the Libyan authorities requesting that they assign a focal point for notifications, to issue EUCs, and to inform the Sanctions Committee on the safeguarding procedures in place for arms and ammunition.

The Libyan authorities identified two members of the Ministry of Defence as the focal points for arms procurement and informed the Sanctions Committee that “the “Arms and Ammunition Department” had rules and procedures in place for the storage, recording and distribution of materiel, which were strictly applied”, without providing further details.²⁸³

²⁸² See Security Council, UN document S/2013/99, 2013.

²⁸³ See Security Council, UN document S/2014/106, 2014, para. 50.

The report of the PoE, however, noted that competing procurement networks within official institutions were continuing to operate in parallel, and that the identified focal points were not always aware of notifications being made, indicating transfers to end-users whose identity was unclear and that posed a high risk of diversion.²⁸⁴

Finally, IAN 2 was amended in July 2014 by the Sanctions Committee and requested that those Member States providing notification also notify the Sanctions Committee upon the delivery of each consignment to confirm the transfer and provide the following information: exact quantity of items delivered, actual port of entry, place(s) of delivery, and recipient of shipment (name and organizational position). No later than one month after the delivery of each consignment, the Libyan authorities should notify the Committee of the specific place of storage of the delivered materiel.

3.7 August 2014: Reinforcement of the arms embargo provisions (resolution 2174)

In paragraph 8, the Security Council decided that the supply, sale or transfer of arms and related materiel, including related ammunition and spare parts, to Libya must be approved in advance by the Sanctions Committee. This rendered legal transfers of materiel very difficult.²⁸⁵

The resolution calls on Member States to inspect all cargo to and from Libya which may contain arms or related embargoed materiel, and to seize and dispose of the materiel, and to submit an inspection report to the Sanctions Committee.²⁸⁶

3.7.1 Why was resolution 2174 adopted?

Resolution 2144, which renewed the sanctions regime in March 2014, noted the worsening of the security situation in Libya, including an increased terrorism threat and political divisions, but did not tighten the provisions of the arms embargo. Resolution 2174, adopted five months later, finally reinforced the arms embargo, bringing it back to the same restriction level that was in force during the 2011 revolution.

Resolution 2174 was prompted by the acute deterioration in the security situation and the attack and destruction of Tripoli International Airport by a coalition of armed groups a few days earlier (23 August 2014), indicating the shortcoming of the Government's control and a return to high levels of conflict intensity.

The final report of the PoE, dated 23 February 2015, documented continuous violations of the provisions of the arms embargo.²⁸⁷ With multiple diversions of materiel, and divisions within the security sector, the PoE recommended to bring non-lethal materiel back under the embargo (this had been lifted by resolution 2095 in 2013), particularly armoured personal carriers, which were being mounted with light weapons upon their arrival in Libya, significantly increasing the military capabilities of armed groups.²⁸⁸ However, to date, the transfer of non-lethal materiel remains free of restrictions when intended solely for security or disarmament assistance to the Government.²⁸⁹

²⁸⁴ Ibid., pg. 6.

²⁸⁵ Since resolution 2174 (August 2014) to date, no requests for approval regarding transfer of arms and ammunition to Libya have been granted. With the increased terrorist threat and control of territory by Islamic State in Iraq and the Levant (ISIL) and Ansar al-Charia, the Security Council adopted resolution 2214 (27 March 2015—drafted by Egypt) calling upon the Committee to consider expeditiously requests for transfer of arms and related materiel for the use by Libyan governmental armed forces to combat ISIL and other terrorist groups operating in Libya.

²⁸⁶ See Security Council, UN document S/RES/2174, 2014, para. 9-11.

²⁸⁷ See Security Council, UN document S/2015/128, 2015.

²⁸⁸ Ibid., recommendation 8.

²⁸⁹ See IAN 2 at <https://www.un.org/sc/suborg/en/sanctions/1970/implementation-assistance>.

3.7.2 Why was resolution 2174 adopted?

On 11 September 2014, the Sanctions Committee issued the updated version of IAN 2 reflecting the reinforcement of the embargo provisions. On 24 November 2014, the Sanctions Committee issued IAN 3, focusing on the reporting of detections of violations of the arms embargo and the disposal of materiel (see section 3.7 of this Annex).

On 25 September 2014, the Sanctions Committee issued a note verbale to all Member States regarding outstanding deliveries of notified materiel (prior to the reinforcement of the embargo by resolution 2174) stressing the high risk of diversion and misuse of the materiel and urging States to exercise caution and due diligence.

On 13 October 2014, the Sanctions Committee issued additional guidance through a press release to Member States and international organizations stressing that they are responsible for the management of the materiel previously notified to or approved by the Committee.²⁹⁰ The Committee encouraged them to report any loss, theft or diversion. This was likely prompted by the evacuation from Libya of the United Nations and diplomatic missions, which had previously transferred arms and ammunition for their own protection.

3.8 March 2016: The Security Council requests additional arms control measures related to the implementation of the arms embargo and provision of additional guidance (resolution 2278)

In paragraph 6 of the resolution, the Security Council requested the Government of National Accord (GNA) to appoint a focal point to brief the Sanctions Committee at its request, and to provide information relevant to the Sanctions Committee's work on the structure of the security forces under its control, the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of military equipment by the Government security forces, and training needs. The resolution further emphasized the importance of the GNA exercising control over and safely storing arms, with the support of the international community.²⁹¹

In paragraph 7, the resolution affirmed that the GNA may submit requests for the supply, sale or transfer of arms and related materiel, including related ammunition and spare parts, for use by security forces under its control to combat terrorist groups, and called upon the Sanctions Committee to consider expeditiously such requests, and affirmed the Security Council's readiness to consider reviewing the arms embargo, when appropriate.

In paragraph 9, the Security Council urged the GNA to improve further the monitoring and control of arms or related materiel that are supplied, sold or transferred to Libya in accordance with the embargo provisions, including through the use of EUCs issued by the GNA. It further requested the PoE to consult with the Government about the safeguards needed to safely procure and secure arms and related materiel and urged Member States and regional organizations to provide assistance to the Government upon its request to strengthen the infrastructure and mechanisms currently in place to do so.

²⁹⁰ See Security Council, UN document SC/11597, 2014.

²⁹¹ In resolution 2362 of June 2017, the Security Council welcomed the appointment by the Government of a focal point and took note of the briefing provided by the focal point to the Committee on the structure of the security forces under its control, the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of military equipment by the Government security forces, and training needs. However, the information provided was reportedly not very substantial (interview with a member of the PoE, 2017).

3.8.1 Why was resolution 2278 adopted?

Because of the lack of clarity regarding the security sector and the extent to which the Government controls its components, in its final report , the PoE recommended that the Security Council encourage the Government to report back to the Security Council on the structure, strength and composition of the security and defence forces before submitting any exemption requests.²⁹² It also recommended the Security Council to request the Government of Libya to establish a single channel for the procurement of all materiel for the Government, which should also be responsible for overseeing the entire chain of transfer, including for post-delivery notifications.²⁹³

3.9 June 2016: The Security Council authorizes inspections on the high seas of vessels bound to or from Libya (resolution 2292)

Due to the regular violations of the arms embargo and the concern of the Security Council that materiel could also be used by terrorist groups operating in Libya, resolution 2292 authorized Member States for a period of 12 months to inspect on the high seas off the coast of Libya vessels which they believed were carrying arms or related materiel in violation of the embargo. The resolution provided detailed guidance on how to conduct these inspections, as well as on reporting methods and on the disposal of seized materiel. IAN 3 was updated accordingly in August 2016.²⁹⁴ The provisions of resolution 2292 were then renewed a year later under resolution 2357 (2017).

²⁹² See Security Council, UN document S/2016/209, 2016, recommendation 1.

²⁹³ *Ibid.*, recommendation 2.

²⁹⁴ See <https://www.un.org/sc/suborg/en/sanctions/1970/implementation-assistance>.

4 Observations

The situation in Libya remains extremely volatile, with strong political divisions and the internationally backed Government having limited control of territory or of the armed forces. In its recent report, the PoE again recommended to bring non-lethal materiel back under embargo; however, the latest resolution adopted by the Security Council did not tighten any of the arms embargo provisions.²⁹⁵

Regarding the future of the arms embargo, one member of the PoE explained: “The decision-making process regarding adjustments of the arms embargo should in general be less political. For the time being, no conditions are met for a potential easing of the arms embargo: the country needs one government, with one security sector under its control and some weapons management and control first.”²⁹⁶

²⁹⁵ See Security Council, UN document S/2017/466, 2017, recommendation 2; See Security Council, UN document S/RES/2362, 2017, paras. 6-10.

²⁹⁶ Interview with a member of the PoE, 2017.

Annex 5: Evolution of the arms embargo in Somalia²⁹⁷

1 Key findings

1.1 Adoption and evolution of embargo measures

- The partial lifting of the arms embargo in Somalia elaborates on a number of measurable benchmarks centred on arms control obligations applicable to the Federal Government of Somalia (FGS) at the national level.
- The majority of arms control provisions applicable to the FGS require the Government to establish a relevant management framework, including procedures to secure and account for stocks held by the national security forces and to prevent their diversion to unauthorized end users.
- Following the partial suspension of the arms embargo in 2013 which establish a requirement for advance delivery notification, the subsequent resolutions have imposed further stringent arms control obligations on the FGS as part of the provisions of the embargo.
- The first notable modification was made also in 2013, to require advance approval by the Sanctions Committee for certain large calibre conventional weapons, followed by requirements related to post-delivery controls in March 2014.

1.2 Benchmarks

- An in-country United Nations assessment conducted in March 2014 in response to a request by the Security Council to the Secretary-General in resolution 2142 played an essential role in supporting the Security Council to establish a series of measurable benchmarks applicable to the implementation of the arms embargo by the FGS moving forward.

1.3 Arms embargo obligations

- The subsequent resolution 2182 of October 2014 reflects the recommendations made by the Secretary-General, requiring the FGS to institute several key weapon and ammunition management measures at the national level, including in the areas of marking, registration, verification of distributed arms and ammunition, as well as processing of captured military equipment from operations.
- In addition to reporting on the structure and composition of the national security forces since 2013, security sector-related benchmarks were introduced in more detail for the first time in 2016 in relation to the national security architecture reform process at the national level.

²⁹⁷ This case study was built from the analysis of relevant Security Council resolutions, Sanctions Committee documents, Security Council meeting records and other United Nations documents. Inputs were received through in-country consultations with national authorities in Mogadishu, as well as through interviews with national authorities at the Permanent Mission of Somalia to the United Nations in New York. Additionally, interviews were conducted with former members of the Somalia and Eritrea Monitoring Group. The author also drew information from UNIDIR reports on weapon and ammunition management in Somalia, which can be found on the UNIDIR website. This case study examines relevant information and documentation up to November 2017. Any changes, or new developments, that take place after this date are not captured in the case study.

- Since the successful conclusion of the Presidential elections in Somalia in 2017, the FGS has expressed interest to work with the Security Council on a roadmap for the eventual lifting of the arms embargo.

2 Introduction

In 1992 the United Nations Security Council, through resolution 733, imposed a complete and general embargo on all deliveries of weapons and military equipment to Somalia.²⁹⁸ In the same year, the Security Council subsequently established a Committee to oversee the general and complete arms embargo on Somalia through resolution 751.²⁹⁹ In 2002, through resolution 1425, the Security Council adjusted the arms embargo, expanding the embargo to encompass technical advice, financial and other assistance, and training related to military activities.³⁰⁰

With the passage of resolution 2093 (2013), the Security Council amended the general and complete “embargo on all deliveries of weapons and military equipment to Somalia” imposed by resolution 733 (1992) and elaborated in resolution 1425 (2002). This partial suspension of the arms embargo on Somalia has been extended, with modifications, by the Security Council in subsequent resolutions 2111 (2013), 2142 (2014), 2182 (2014), 2244 (2015), and 2317 (2016).³⁰¹ Box 11 presents an overview of the sanctions regime applicable to Somalia.

BOX 11: OVERVIEW OF THE SOMALIA AND ERITREA SANCTIONS REGIME

Somalia and Eritrea sanctions regime (as of 2013)

Duration: March 2013–present (4 years)

Penholder: United Kingdom

Objective: Tackling Al-Shabaab and other illegal armed groups; support to political process; development of national security architecture and security forces; establishment of weapon and ammunition management framework

Sanctions type—Somalia: arms embargo; travel ban; assets freeze; charcoal ban. Authorization of maritime interdiction of charcoal and arms expired on 15 November 2017

Arms embargo: Open-ended general arms embargo and targeted arms embargo on designated individuals and entities (partially lifted until 15 November 2017)

²⁹⁸ See Security Council, UN document S/RES/733, 1992, op. para. 5.

²⁹⁹ See Security Council, UN document S/RES/751, 1992, op. para. 11.

³⁰⁰ See Security Council, UN document S/RES/1425, 2002, para. 2.

³⁰¹ See Security Council, UN document S/RES/2111, 2013, op. para. 6; Security Council, UN document S/RES/2142, 2014, op. para. 2; Security Council, UN document S/RES/2182, 2014, op. para. 3; Security Council, UN document S/RES/2244, 2015, op. para. 2; and Security Council, UN document S/RES/2317, 2016, op. para. 2.

3 Evolution of the arms embargo in Somalia

This section presents a narrative overview of key modifications made in the evolution of the arms embargo on Somalia.

3.1 2013: Partial suspension of the arms embargo (resolution 2093)

In 2013 the Security Council decided, through resolution 2093, to partially suspend the arms embargo in Somalia. Specifically, paragraph 33 of resolution 2093 (2013) stipulates that the arms embargo:

shall not apply to deliveries of weapons or military equipment or the provision of advice, assistance or training, intended solely for the development of the Security Forces of the Federal Government of Somalia, and to provide security for the Somali people ...³⁰²

In the annex to the resolution, the Security Council provided a list of arms, ammunition, and military equipment and materials which are not covered by this modification of the arms embargo.³⁰³

The partial suspension of the arms embargo, however, was not without conditions. In order to promote accountability and transparency on the part of the FGS, and to keep abreast of Somalia's arms imports, the Security Council imposed a number of arms control requirements related to reporting and transfer controls—namely advance delivery notification and end-user restrictions—on the FGS.

The resolution, through paragraph 38, introduces the requirement by FGS to provide advance delivery notification (ADN) to the Committee five days in advance of any delivery into Somalia of weapons, ammunition, or military equipment, or advice, assistance, or training intended for the development of the security forces of the FGS.³⁰⁴

The end-user restrictions, as stipulated in paragraph 34 of resolution 2093, shed light on the Security Council's awareness and concern regarding the potential diversion of arms intended for use by the Somali security forces to unauthorized recipients. The reporting requirement, as outlined in paragraph 39 of the resolution, seeks to create a baseline on the structure and the composition of the national security forces, as well as procedures and infrastructure that need to be established by the FGS to adequately manage arms supplies received as part of the partial suspension of the arms embargo.

The obligations for ADN, end-user restriction, and reporting to the Committee has been maintained, with slight modifications for reporting, in subsequent resolutions relevant to the arms embargo in Somalia.³⁰⁵

3.1.1 Why was resolution 2093 adopted?

The consideration by the Security Council to partially suspend the arms embargo in Somalia may stem from the request made by the FGS to lift the arms embargo,³⁰⁶ as well as recognition by the Secretary-General, through the United Nations strategic review on Somalia, that increased efforts

³⁰² See Security Council, UN document S/RES/2093, 2013, op. para. 33.

³⁰³ See Security Council, UN document S/RES/2093, 2013; and Security Council, UN document S/RES/1425, 2002.

³⁰⁴ See paragraph 38 of resolution 2093. See also Security Council, UN document S/RES/2317, 2016, para. 8. See also Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009), Implementation Assistance Notice No. 2, *Summary of arms embargo restrictions in place for Somalia and Eritrea, including exemptions*, 14 March 2016, p. 3, para. 15.

³⁰⁵ In resolutions 2111 (2013), 2142 (2014), 2182 (2014), 2244 (2015), and 2317 (2016).

³⁰⁶ See Security Council, UN document S/PV.6921, 2013.

were needed to develop Somali national security forces in order to complement the African Union stabilization operations to liberate and secure Somali territory from Al-Shabaab.³⁰⁷ In his report on Somalia in January 2013, the Secretary-General noted, “Enhanced efforts are likewise urgently needed to develop the Somali National Security Forces. In this regard, the Security Council may wish to consider the repeated request by the Government for lifting the arms embargo.”³⁰⁸

This recommendation was considered by the Security Council on 14 February 2013 through a briefing provided by then Assistant Secretary-General for Political Affairs, Taye Brook Zerihoun, and then Somali Deputy Prime Minister Fauzia Yusuf Haji Adan. During the briefing, Mr. Zerihoun noted:

Meanwhile, [Security] Council members are aware of the request of the Somali Government for a relaxation of the arms embargo to facilitate the development of the Somalia security sector. The Secretary-General suggests in his report that it would be important to take a calibrated approach based on all the factors at play, including the pressing need to support the development of the Somali forces while avoiding the proliferation of uncontrolled weapons that could exacerbate the security situation. We understand that the Somalia and Eritrea Monitoring Group is ready to provide technical advice in the development of options in this regard.³⁰⁹

Somalia briefed the Security Council by repeating the request to lift the arms embargo in order to strengthen its security forces in an effort to better tackle the security challenges in the country. At this briefing, Ms. Adan noted:

[t]he lifting of the arms embargo is a prerequisite for attaining this goal. The Somali Government reiterates its request for the arms embargo to be lifted. The Somali Government will put in place the necessary mechanisms to ensure that armaments do not fall into the wrong hands.³¹⁰

In this regard, the Security Council in resolution 2093 underlines the importance of capacity-building of the FGS and reaffirms the need to re-establish, train, and equip the Somali national security forces.³¹¹ The resolution reflects three key elements from the rationale presented above: 1) to strengthen the national security forces through the partial lifting of arms embargo; 2) to prevent uncontrolled proliferation of arms from imported materiel by imposing end-user restrictions; and 3) to monitor, through submission of reports by the FGS and the Somalia and Eritrea Monitoring Group (SEMG), the progress made in weapons and ammunition management (WAM) in the country.

3.2 July 2013: Advance approval requirement for certain categories of conventional weapons (resolution 2111)

On 24 July 2013, the Security Council unanimously adopted resolution 2111, which extended the partial suspension of the arms embargo until 6 March 2014, introduced an advance approval requirement by the Security Council Sanctions Committee (“the Committee”) for certain types of arms and ammunition,³¹² and specified that primary responsibility rested with the FGS to notify the Committee in advance of any delivery of weapons or military equipment, or provision of assistance for the security forces.³¹³

³⁰⁷ See Security Council, UN document S/2013/69, 2013.

³⁰⁸ *Ibid.*, para. 67.

³⁰⁹ See Security Council, UN document S/PV.6921, 2013.

³¹⁰ See Security Council, UN document S/PV.6921, 2013.

³¹¹ See Security Council, UN document S/RES/2093, preamble paragraph.

³¹² See Security Council, UN document S/RES/2111, 2013, para. 7 and annex.

³¹³ As an alternative, the delivering entity (i.e. Member State, or international, regional, or subregional organization) may notify the Committee. See *ibid.*, op. para. 15. See also Security Council, UN document S/RES/2142, 2014, op. para. 4; for information to be included in the ADN, see para. 5.

The following types of arms and ammunition require advance approval by the Committee for the FGS to import, on a case-by-case basis:³¹⁴

- surface-to-air missiles, including man-portable air-defence systems (MANPADS);
- guns, howitzers, and cannons with a calibre greater than 12.7 mm, and ammunition and components specially designed for these (this does not include shoulder-fired anti-tank rocket launchers, such as rocket-propelled grenades or light anti-tank weapons, rifle grenades, or grenade launchers);
- mortars with a calibre greater than 82 mm;
- anti-tank guided weapons, including anti-tank guided missiles and ammunition and components specially designed for these items;
- charges and devices intended for military use containing energetic materials;
- mines and related materiel; and
- weapon sights with night-vision capability.

The obligation for prior approval from the Committee for certain conventional weapons has been maintained in subsequent resolutions relevant to arms embargo in Somalia.³¹⁵

3.2.1 Why was resolution 2111 adopted?

Literature that elaborates on the precise reasons for the introduction of advance approval requirements on certain conventional arms by the Security Council is limited. However, discussions held by Security Council members on 6 June 2013 on the report of the Secretary-General on Somalia, as well as on the report of the SEMG, transmitted to the Security Council on 12 July 2017, point towards concerns related to the potential diversion of arms intended for Somali security forces to unauthorized end users, in violation of the arms embargo.³¹⁶ In this regard, it may be that the Security Council sought to enforce more stringent controls over certain conventional arms regarded as high risk in the hands of illegal armed groups and terrorists, such as MANPADS.

For example, one Security Council member at the briefing noted:

The arms and charcoal embargoes on Somalia and the region remain important tools in the cooperative stabilization effort as long as they are strictly observed by Member States, which is far from always the case. Weapons freely enter Somalia, and charcoal continues to be shipped to consumers, and is a source of significant material and financial sustenance for Al-Shabaab.³¹⁷

Such concerns were echoed by another Security Council member:

Security Council resolution 2093 (2013) partially suspended the arms embargo in Somalia in order to support the strengthening of its security institutions.

The potential flow of arms into the hands of terrorists should be avoided at all costs. In this regard, the Somali Government and supplying States are strongly requested to abide by the provisions of the resolution.³¹⁸

Resolution 2111 reflects the concerns of the Security Council by “[c]ondemning flows of weapons and ammunition supplies to and through Somalia and Eritrea in violation of the arms embargo on Somalia ... as a serious threat to peace and stability in the region”.³¹⁹

³¹⁴ Security Council, UN document S/RES/2111, 2013, para. 7 and annex.

³¹⁵ In resolutions 2142 (2014), 2182 (2014), 2244 (2015), and 2317 (2016).

³¹⁶ For information from the SEMG report, see Security Council, UN document S/2013/413, 2013.

³¹⁷ See Security Council, UN document S/PV.6975, 2013.

³¹⁸ Ibid.

³¹⁹ See Security Council, UN document S/RES/2111, 2013, preambular paragraphs.

Regarding the modification to allow, as an alternative, the supplying Member State to submit ADN to the Committee, may stem from the capacity challenge faced by the FGS to adequately prepare and submit ADNs in a timely manner for all supplies imported as part of the partial suspension of the arms embargo.³²⁰

3.3 March 2014: Further stringent arms control requirements and requests the Secretary-General to develop options relevant to implementation of the arms embargo (resolution 2142)

On 5 March 2014, the Security Council unanimously adopted resolution 2142, which extended the partial suspension of the arms embargo on Somalia until 25 October 2014,³²¹ and imposed more stringent notification requirements on the FGS than previous resolutions (2093 and 2111). In addition to bearing the primary responsibility to notify the Committee in advance of deliveries, the FGS was required to confirm to the Committee that deliveries had actually arrived—known as post-delivery confirmation (PDC)—and to provide information on the details of distribution within Somalia, including the destination unit in its security forces or the place of storage—known as post-distribution notification (PDN).³²² The obligations for FGS to undertake PDC and PDN has been maintained in subsequent resolutions relevant to the arms embargo in Somalia.³²³ The SEMG was also requested by the Security Council to provide feedback to the FGS on reporting to the Committee.³²⁴

Resolution 2142 further requested the Secretary-General to provide the Security Council with options and recommendations, within 30 days, on United Nations and other technical assistance to the FGS on:

- complying with relevant requirements of the arms embargo as set out in resolution 2142; and
- assisting in improving the FGS's capacity in the safe and transparent storage, distribution and management of weapons and military equipment, including monitoring and verification.³²⁵

In response to this request, a United Nations assessment mission to Mogadishu was undertaken in March 2014 and subsequently a letter from the Secretary-General was addressed to the President of the Security Council on 3 April 2014 on this matter.³²⁶ On 22 May 2014 the Security Council

³²⁰ Consultations with officials from the Office of the National Security Adviser, FGS, June 2016.

³²¹ See Security Council, *Security Council, Adopting Resolution 2142 (2014), Partially Lifts Weapons Ban on Somalia, Agreeing to End or Suspend It on Basis of Full Compliance*, UN document SC/11307, <http://www.un.org/News/Press/docs/2014/sc11307.doc.htm>. Small arms and ammunition and other military equipment, as well as advice, assistance, and training intended for the development of security forces of the FGS, are included in the extension of the arms embargo suspension, while exceptions exist in relation to deliveries of items set out in the annex of resolution 2111 (2013). See Security Council, UN document S/RES/2142, 2014, para. 2; and Security Council, UN document S/RES/2111, 2013, annex.

³²² Notifications concerning the provision of weapons or military equipment should include, among other things, details of the manufacturer and supplier of the arms and ammunition, as well as a description of the materiel. No later than 30 days after delivery of the arms and ammunition, Somalia should submit to the Committee written confirmation of the delivery's completion and, within five days of its distribution, inform the Committee, also in writing, of the destination unit of the security forces or place of storage. See the requirements as set out in Security Council, UN document S/RES/2111, 2013, paras. 4–7.

³²³ In resolutions 2182 (2014), 2244 (2015), and 2317 (2016).

³²⁴ See Security Council, UN document S/RES/2142, 2014, para. 12.

³²⁵ *Ibid.*

³²⁶ See Security Council, UN document S/2014/243, 2014.

welcomed this letter through a Presidential Statement,³²⁷ which included calls for the FGS to establish a joint verification mechanism with international experts for oversight of distribution of arms and ammunition in Somalia, and appealed to Member States to support the FGS in the area of reporting to the Security Council as well as marking and record-keeping of arms and ammunition to inform future verification activities.

3.3.1 Why was resolution 2142 adopted?

Resolution 2142 was adopted at a time of growing concern within the Security Council regarding reported diversion of arms supplies, as well as the lack of progress by the FGS to implement the requirements of the arms embargo. In light of this, the resolution introduces more stringent arms control requirements to the FGS than the previous resolutions relevant to the arms embargo in Somalia since 2013, namely by imposing PDC and PDN requirements, and expanding on reporting requirements related to implementation of WAM at the national level. It is worth noting that while PDCs of imported supplies are observed in other arms embargo regimes in the United Nations system (for example, in the Libya regime), PDN is a unique requirement observed in the Somalia case, which points to the Security Council's close examination of control measures established at the national level to process imports intended for security forces and to establish a mechanism to monitor potential diversion.

The resolution offers some degree of insight into the concerns considered by the Security Council, including in the area of notification and reporting to the Security Council. Further, the Security Council noted with concern the report of the SEMG, which reported on potential diversion, including to Al-Shabaab, of arms and ammunition intended for Somali national security forces.³²⁸

Notably, the Security Council in this resolution explicitly noted that:

any decision to continue or end the partial suspension of the arms embargo on the Federal Government of Somalia will be taken in the light of the thoroughness of the Federal Government of Somalia's implementation of its requirements as set out in this and other relevant Security Council resolutions...³²⁹

Such reference demonstrates close monitoring by the Security Council on the implementation of arms control-related obligations imposed on Somalia and its applicability to the reassessment of the arms embargo.

The resolution, however, also offers possible insight into the Security Council's willingness to identify possible options to strengthen WAM in Somalia while maintaining the partial suspension of the arms embargo. In addition to welcoming measures taken by the FGS to better manage arms and ammunition,³³⁰ the Security Council requested the Secretary-General, through operative paragraph 10 of the resolution, to identify options and recommendations to improve both the implementation of the arms embargo and the management and governance of arms and ammunition in the country. The key findings and contributions from this assessment are reflected in the subsequent resolution 2182.

Regarding the request for the SEMG to provide feedback to the FGS on reporting to the Committee, this modification may stem from two factors. First, it could demonstrate the Security Council's recognition that support is needed to build the capacity of the FGS to improve compliance with reporting to the Committee. Second, it could illustrate the complexity of cooperation between the

³²⁷ See Security Council, UN document S/PRST/2014/9, 2014.

³²⁸ See Security Council, UN document S/RES/2142, 2014, preambular paragraphs.

³²⁹ Ibid. This language is also repeated in the subsequent resolution 2182.

³³⁰ Ibid.

FGS and the SEMG at that time, where FGS were keen to demonstrate progress made on WAM in Somalia and to improve its reporting to the Committee, while the SEMG's mandate strictly focused on reporting on violations of the sanctions. Consultations with officials of the FGS at that time revealed the Government's desire to work more cooperatively with the SEMG on reporting to the Committee, which may provide insight on the modification under this resolution.³³¹

3.4 October 2014: Introducing the Joint Verification Team and reporting on captured military equipment from military operations (resolution 2182)

In addition to reaffirming and extending the partial suspension of the arms embargo, the subsequent resolution, resolution 2182 of 24 October 2014, reiterated the Security Council's request (from the 22 May 2014 Presidential Statement) for the FGS to establish a joint verification mechanism.³³² Such a verification body is further requested to share its findings to the Committee. Further, the resolution introduced a requirement for the Somali National Army (SNA) and African Union Mission in Somalia (AMISOM) to document and register all captured military equipment from military operations and to allow inspection on those items by the SEMG.³³³ The obligations for the FGS to conduct verification of distributed materiel and to document and report on captured military equipment have been maintained in subsequent resolutions relevant to the arms embargo in Somalia.³³⁴

Notably, while the Security Council welcomed the establishment of a national coordinating mechanism on WAM, it noted a number of inadequacies on the part of the FGS in regard to WAM as required by the arms embargo, including in the areas of notification, prevention of diversion, as well as marking and record-keeping of State-held stocks.³³⁵

3.4.1 Why was resolution 2182 adopted?

Modifications made under resolution 2182 primarily draw from two key documents: 1) the letter dated 3 April 2014 from the Secretary-General presenting options and recommendations in response to the request made by the Security Council under paragraph 10 of the resolution 2142; and 2) the statement by the President of the Security Council on this matter of 22 May 2014.

The two documents above highlighted three priority areas for the FGS and called upon Member States and relevant United Nations organizations to support the Government in this regard: 1) notification and reporting by the FGS; 2) WAM; and 3) monitoring and verification.

Resolution 2182 reflects concerns, and in some areas disappointment, on the part of the Security Council with the lack of progress made by the FGS in implementing the arms embargo and its related WAM provisions at the national level. Regarding notifications, the Security Council noted with concern that the Committee had not been notified of some deliveries of weapon and military equipment and underlined the importance of timely and detailed notification by the FGS. Further, the Security Council encouraged supplying Member States to assist the FGS in improving notification to the Committee.³³⁶ In this regard, consultations with FGS officials revealed two particular challenges. First, FGS officials noted that some arms deliveries from supplying States were made directly to security force units at the sector level, at times without the knowledge of relevant FGS offices. In this regard, the FGS stressed the importance of supplying States to cooperate with the

³³¹ Consultations with FGS officials, January 2014.

³³² See Security Council, UN document S/RES/2182, 2014, para. 7.

³³³ See *Ibid.*, para. 6.

³³⁴ In resolutions 2244 (2015) and 2317 (2016).

³³⁵ See Security Council, UN document S/RES/2182, 2014, paras. 2, 4 and 5.

³³⁶ See Security Council, UN document S/RES/2182, 2014, para. 2.

FGS and for those supplying States to also comply with the arms embargo provisions by submitting an ADN to the Committee. In such cases, given that the supplies were not processed through the WAM system established by the FGS in Mogadishu, it proved challenging for the FGS to comply with ADN, PDC and PDN obligations. Second, the FGS noted practical concerns in effectively implementing PDN obligations. Given the operational environment in the fight against Al-Shabaab, where materiel may move rapidly among security forces, the FGS noted the challenge to notification of the Committee—in writing, within five days of distribution of imported arms and ammunition—of the destination unit of the security forces or the place of storage. This challenge and concern still remains.

With regard to marking and record-keeping, resolution 2182 is the first resolution where the requirement by the FGS to mark and register its weapons is referenced in the context of arms embargo provisions. The formulation behind this requirement merits elaboration. The first mention of marking and registration of imported weapons and those already in possession of the national security forces is seen in the Secretary-General's letter to the Security Council of April 2014, where the Secretary-General recommends that the FGS, with support from the international community, commence a weapons marking and registration process, against which future verification activities should be conducted.³³⁷ Building on this recommendation, the Security Council delivered a Presidential Statement on 22 May 2014, appealing to Member States to support the FGS in starting a marking and registration process for all weapons and ammunition held by the national security forces³³⁸ as a prerequisite to the establishment of a verification mechanism in Somalia. In this regard, the Security Council expressed disappointment that the marking and registration process had not yet commenced in October 2014, approximately five months after the Presidential Statement, which reveals a high degree of expectation, and to some extent desire, on the part of the Security Council for the FGS to institute an effective WAM system in Somalia.

Resolution 2182 of 2014 introduced two further obligations which, from the perspective of WAM, merit attention. First, the resolution called for the establishment of a Joint Verification Team (JVT) on arms and ammunition.³³⁹ The purpose of the JVT is to establish a national mechanism, with support from international experts, to conduct routine inspections of the security forces' stockpiles, inventory records and the supply chain of weapons, with the purpose of mitigating the diversion of arms and ammunition to entities outside the security services of the FGS. Importantly, the JVT is requested, through paragraph 7 of resolution 2182, to submit findings of such verification activities to the Committee.

The modification by the Security Council to introduce the JVT provides several key insights on the Security Council's work in the area of arms embargoes. First, it demonstrates flexibility on the part of the Security Council to consider and welcome innovative ideas to make arms embargoes more effective. Second, the JVT in fact places emphasis on national ownership by empowering the FGS to conduct internal verification of distributed material, with support from international experts, rather than strictly relying on external entities to monitor and assess compliance with the arms embargo. Third, the design of the JVT enables the FGS to cooperate with the Security Council, namely the Committee and the SEMG, in demonstrating progress made on WAM at the national level, which forms a critical indicator with regard to the ability of the FGS to safely and securely manage its imported materiel.

³³⁷ See the recommendations contained in Security Council, UN document S/2014/243, 2014.

³³⁸ See Security Council, UN document S/PRST/2014/9, 2014, para. 3.

³³⁹ Security Council, UN document S/RES/2182, 2014, para. 7; the original call for a JVT was made in Security Council, UN document S/PRST/2014/9, 2014.

The second modification worth noting is the obligation of the FGS to document and inspect captured military equipment (CME). The resolution requests the SNA and AMISOM to document and register all military equipment captured as part of offensive operations or in the course of carrying out their mandates.³⁴⁰ Further, the SNA and AMISOM are to facilitate inspection by the SEMG of all CME before its redistribution or destruction. While it is not clear if originally intended by the Security Council, this modification has two key benefits for WAM in Somalia. First, by requiring both SNA and AMISOM to document captured materiel, it has encouraged the FGS and AMISOM to cooperate closely on procedures related to the processing of captured weapons, including steps involved in registration, integration of serviceable weapons, and destruction of unserviceable weapons. This cooperation extends to inter-agency coordination at the national level among various security forces that may recover or capture weapons from military operations, which has helped create stronger oversight by the FGS of weapons in circulation beyond those in the hands of security forces. Second, as progress is made to account for weapons in possession of the national security forces, this modification enables the FGS to start gaining insight on the types and quantity of weapons that are used by Al-Shabaab and other illegal armed groups in Somalia. While challenges remain to this obligation, including implementation by SNA and AMISOM of procedures established by the FGS, through such information-gathering and -sharing the FGS may develop a better position to identify and tackle illicit trafficking routes in and through Somalia in the long term.

3.5 October 2015: One-time baseline inventory of military equipment in possession of national security forces and to assess it against needs (resolution 2244)

Resolution 2244 of 2015 introduced a one-time arms control-related adjustment, which called upon the FGS to conduct a baseline inventory of military equipment, arms and ammunition in possession of the national security forces and to assess it against their needs.³⁴¹ Further, the Security Council requested the Committee to develop an Implementation Assistance Notice summarizing the restrictions and exemptions in place for Somalia.³⁴² Other arms embargo obligations applicable in resolution 2244 were maintained from resolution 2182, including notifications (ADN, PDC, and PDN), end-use restrictions, reporting to the Committee, establishment of the JVT, documentation of CME, and cooperation with the SEMG.

3.5.1 Why was resolution 2244 adopted?

Resolution 2244 generally recognizes positive progress made by the FGS in several areas related to the implementation of the arms embargo. Apart from the baseline inventory obligation, the Security Council for the first time does not introduce new arms control measures on the FGS since the partial lifting of the arms embargo in 2013. In particular, the Security Council welcomed the commencement of a marking and registration programme by the FGS,³⁴³ and welcomed the FGS's efforts to improve its reporting to the Committee.³⁴⁴ While concerns remained over reports of arms diversion, as well as the content and timing of the FGS's reporting to the Committee, the focus of the Security Council in this resolution was placed on calling upon Member States to support the FGS in building capacity to implement the arms embargo provisions.³⁴⁵

³⁴⁰ See Security Council, UN document S/RES/2182, 2014, para.6.

³⁴¹ See Security Council, UN document S/RES/2244, 2015, para. 6.

³⁴² *Ibid.*, para. 4.

³⁴³ *Ibid.*, para. 6.

³⁴⁴ *Ibid.*, para. 8.

³⁴⁵ See, for example, *ibid.*, para. 6.

The modification made under resolution 2244 to establish a baseline inventory of military equipment held by the Somali national security forces stems from a recommendation made in the report of the SEMG of 9 October 2015. In this report, the SEMG recommends for the FGS:

to conduct a baseline inventory of military equipment, arms and ammunition in the possession of the Federal Government of Somalia security forces, assessed against their respective strength, needs and missions, in order to assist Member States in providing more targeted assistance under the partial lifting of the arms embargo, building on the development of the Guulwade and draft Heegan plans, welcomed by the Council in its resolution 2232 (2015);³⁴⁶

Further, one additional factor could be considered in light of this modification. This modification is made at a time of continued intensifying attacks by Al-Shabaab, and by the FGS and AMISOM military operation against the group, in Somalia. National consultations held by the FGS and UNIDIR in Mogadishu in this period revealed the Government's strong desire for acquiring an increased volume of arms to adequately equip the SNA and other national forces, namely the Somali Police Force and National Intelligence and Security Agency.³⁴⁷ In this regard, a baseline inventory may have been considered by the Security Council as a useful exercise to obtain information on how many weapons were held by which national security forces (including the location of the holdings), which would help in gaining further insight on the structure, composition and strength of the national security forces.

3.6 October 2016: Enhanced focus on security sector matters within arms embargo provisions (resolution 2317)

Notably, while continuing to impose existing arms control-relevant provisions from previous resolutions, resolution 2317 does not introduce new additional arms control obligations for the FGS. The Security Council in resolution 2317 offered positive language regarding the progress made by the FGS in the implementation of various arms embargo provisions, including in the areas of marking and record-keeping,³⁴⁸ development of standard operating procedures,³⁴⁹ the establishment of the JVT,³⁵⁰ reporting,³⁵¹ and notifications.³⁵² Provisions related to documenting and reporting on CME were maintained.³⁵³

Key modifications made in resolution 2317 relate more closely to security sector reform requirements. Notable modifications included calls for the FGS to implement appropriate vetting procedures for, as well as an improved system for payment and provision of, supplies to national security forces.³⁵⁴

3.6.1 Why was resolution 2317 adopted?

It is worth noting that efforts undertaken by the FGS to establish written standard operating procedures on WAM are recognized for the first time by the Security Council in resolution 2317. With regard to notifications, the Security Council focused its emphasis on the responsibilities of Member States to comply with the arms embargo provisions, reflecting feedback provided by the FGS and the SEMG on their concerns regarding violations by supplying States. With regard to the

³⁴⁶ See Security Council, UN document S/2015/801, 2015, para. 173(a)(iii).

³⁴⁷ National consultations on WAM in Mogadishu, June 2015.

³⁴⁸ Security Council, UN document S/RES/2317, 2016, para. 5.

³⁴⁹ *Ibid.*, para. 5.

³⁵⁰ *Ibid.*, para. 6.

³⁵¹ *Ibid.*, para. 7.

³⁵² *Ibid.*, para. 8.

³⁵³ *Ibid.*, para. 12.

³⁵⁴ *Ibid.*, paras. 13 and 14 respectively.

JVT, its establishment was recognized by the Security Council. As of November 2017, the JVT had undertaken four verification missions in Mogadishu, Baidoa and Baledogle. Moving forward, the JVT is planned to be integrated into wider FGS efforts to roll out WAM to the federal member states, including enhancement of record-keeping and processing of captured weapons. With regard to documenting and reporting on CME, the Security Council continued to call for enhanced cooperation between AMISOM and the SNA. Challenges remain in processing all CME through the procedures established by the FGS in Mogadishu, in particular for those weapons recovered at the sector and field levels.

As noted above, resolution 2317 places particular focus on security sector-related measures as part of the arms embargo. This greater focus may have been related to the support for the political process in Somalia ahead of the Presidential elections that took place, with delay, in early 2017. With the expected finalization of relevant national security policy and national security architecture, which would design and implement the structure of the national security forces in Somalia, the resolution placed emphasis on measures to 1) strengthen the vetting procedures for security forces;³⁵⁵ 2) improve systems for payment and supply of provisions to security forces;³⁵⁶ and 3) improve reporting by the FGS on the structure, composition, strength and disposition of the national security forces.³⁵⁷

3.7 Recent developments relevant to the arms embargo: Development of a roadmap towards lifting the arms embargo in Somalia

Following the Presidential elections in Somalia in February 2017, the Security Council held a high-level meeting on Somalia on 23 March 2017. At this meeting, the recently elected Somali President, Abdullahi Mohamed Farmajo, made a request to the Security Council to develop, in a cooperative manner, a clear roadmap towards the lifting of the arm embargo in Somalia. President Farmajo noted:

We are working with our partners to develop a clear road map for the reduction of AMISOM forces, while we are also expanding both the quality and quantity of our security services. In that regard, I would like to ask the Security Council to work with us on a road map towards the full lifting of the arms embargo. The road map will be presented at the upcoming London conference in May.³⁵⁸

President Farmajo reiterated this request at the London Somalia Conference in May 2017. He noted:

Time has come for Somalia to be able to get access to qualitatively better weapons than terrorists. In this regard, we are working with our partners and the Security Council to develop a clearly defined roadmap to the full lifting of the arms embargo. This would include the improvements we must make to our weapons management, command and control systems.³⁵⁹

Consultations with Somali nationals in August 2017 reveal that the FGS is aiming to develop a draft roadmap on lifting the arms embargo by the end of 2017. As of November 2017, no such roadmap has been presented by the FGS to the Security Council.

Consultations indicated that the FGS would work with relevant key stakeholders in development of such a roadmap, including notably with the penholder of the Security Council resolution. Further FGS officials have acknowledged that such a roadmap would not seek for an immediate lifting of the

³⁵⁵ Ibid., para. 13.

³⁵⁶ Ibid., para. 14.

³⁵⁷ Ibid., para. 7.

³⁵⁸ See Security Council, UN document S/PV.7905, 2017.

³⁵⁹ See the statement by the President of the FGS at <https://www.gov.uk/government/speeches/london-somalia-conference-2017-president-mohamed-abdullahi-mohameds-opening-speech>.

arms embargo, but rather seek to put into place an incremental process that is measurable in line with progress made in instituting control systems at the national level.

It is worth noting that such a proposal to develop and implement a cooperative roadmap to lift an arms embargo between an embargoed State and the Security Council has not been attempted in other sanctions regimes, thus presenting a unique case to observe and monitor moving forward. It is also important to note that caution remains among certain members of the Security Council on such a proposal to lift the arms embargo, as the threat of terrorism and insecurity persist, and the need to build the capacity of national security forces in light of the drawing down of AMISOM forces remains a high priority in Somalia at this time.³⁶⁰

³⁶⁰ For example, one Security Council member stated in the high-level meeting on Somalia of March 2017 that “the arms and coal embargoes against Somalia are an important and effective instrument in preventing extremist and terrorist forces from resupplying and re-arming. It is those forces that prevent the normalization of the region. The policy of partially lifting the embargo on arms to benefit the security forces of Somalia has proven its effectiveness.”

4 Observations

This section provides an observation of the adjustments made by the Security Council to the arms embargo in Somalia during 2013–2016. The observation considers the evolution in the arms embargo provisions, including methods utilized by the Security Council in assessing the arms embargo, as well as key references made by the Security Council on the progress made by the FGS in implementing relevant obligations at the national level.

4.1 Summary of key adjustments in the arms embargo

There are several key actions that merit focus when examining the adjustments made in the arms embargo in Somalia during 2013–2016:

- partial suspension of the arms embargo in March 2013 (resolution 2013), requiring ADN and reporting on the structure of the national forces, existing infrastructure, code of conduct, and procedures to manage arms and ammunition;
- requirement of advanced approval for annexed items in July 2013 (resolution 2111);
- requirement of PDC and PDN in March 2014 (resolution 2142);
- request to the SEMG to provide feedback to the FGS on its reporting obligations in March 2014 (resolution 2142);
- request by the Security Council to the Secretary-General for options and recommendations in March 2014 (resolution 2014);
 - an in-country assessment by the United Nations Secretariat in Mogadishu in March 2014;
 - letter from the Secretary-General to the President of the Security Council following the in-country assessment in April 2014;
- a statement by the President of the Security Council in April 2014 requesting the FGS to establish a JVT on arms and ammunition and appealing to Member States to support the FGS in establishing a marking and registration system as a prerequisite;
- requirement to establish the JVT, as well as to document and register CME in cooperation with AMISOM in October 2014 (resolution 2182);
- request to the Committee to develop an Implementation Assistance Note in October 2015 (resolution 2244);
- request to the FGS to conduct a baseline inventory of military equipment and arms and ammunition and to assess against the needs of security forces in October 2015 (resolution 2244); and
- call for the FGS to establish and implement vetting procedures and a system for payment and supply of provisions to national security forces in October 2016 (resolution 2317).

These key actions are examined in the sections below.

4.2 Reflection and commentary on benchmarks and adjustments

The partial suspension of the arms embargo in Somalia places strong emphasis on arms control requirements at the national level. In particular, the arms control provisions set out during 2013–2016 require the FGS to establish and implement a robust and transparent WAM framework. The arms control provisions focus on measures to increase accountability over State-held materiel and to prevent their diversion to unauthorized end users, as demonstrated by the responsibilities of the FGS to conduct notifications, registration and verification of distributed materiel.

4.2.1 FGS responsibilities on arms control

Import controls including notifications

FGS's capacity to regulate its imports of arms and ammunition, including the accurate and timely submission of notifications to the Committee, is one of the areas assessed by the Security Council. Through its resolutions on a number of occasions, the Security Council has expressed concerns on compliance in this area.³⁶¹ In particular, emphasis has been placed on the FGS's compliance with PDCs as well as PDNs.

With regard to post-distribution notification, the FGS has noted practical challenges to implementing this measure, including the requirement to submit a notification within a five-day period of distribution of materiel.³⁶²

End-user restrictions and prevention of diversion from State stockpiles

In each resolution extending the partial suspension of the arms embargo in Somalia, the Security Council has placed an end-user restriction on the FGS, deciding that arms and ammunition supplied to Somalia may not be resold, transferred or made available for use by any entity not in the service of the FGS. The Security Council has continued to express concerns of reported diversion of materiel from FGS stockpiles.³⁶³ In this context the Security Council has repeatedly called for improved management of arms and ammunition by the national security forces, underlining the FGS's responsibility for stockpile management and calling upon Member States to support the Government to strengthen this area of work.

Monitoring violations of end-user restrictions should be considered in proportion, examining the number of diverted items against the number of actual deliveries. Such analysis may be challenging given that not all exporters of arms to Somalia coordinate their delivery of supplies with the Office of the National Security Adviser, which enables the circumvention of the arms control framework established by the FGS. The importance of Member States coordinating supplies with the Office of the National Security Adviser has been recognized by the Security Council in resolution 2244.³⁶⁴

In this regard, further strengthening the FGS's capacity to safely and securely manage its stocks, including through physical security and stockpile management, remains a high priority for the Government to mitigate the risk of diversion from State-held stocks. In particular, the FGS's focus is placed on security and accountability of stocks down the supply chain at the sector level, where the FGS has continued to request capacity-building support, including the need for appropriate infrastructure, to strengthen physical security and stockpile management.

Marking and registration

As a prerequisite to establishing a verification mechanism for distribution of arms in Somalia, the Security Council appealed to Member States to support the FGS's efforts to start a weapons marking and record-keeping programme. Since that appeal in 2014, the Security Council expressed initial concerns (in resolution 2182), but has since welcomed (in resolutions 2244 and 2317) the progress

³⁶¹ See Security Council, UN document S/RES/2182, 2014, para. 2; Security Council, UN document S/RES/2244, 2015, para. 8; and Security Council, UN document S/RES/2317, 2017, para. 97.

³⁶² Interview with a member of the Office of the National Security Adviser, FGS, in June 2017. Such concern has also been expressed by the Office in June 2016 during the Sixth Biennial Meeting of States on the United Nations Programme of Action on Small Arms.

³⁶³ See Security Council, UN document S/RES/2182, 2014, para. 2; Security Council, UN document S/RES/2244, 2015, para. 6; and Security Council, UN document S/RES/2317, 2017, para. 5.

³⁶⁴ See Security Council, UN document S/RES/2244, 2015, para. 9.

made by the FGS in this area. Such observations reflect the Security Council's assessment of this arms control provision.

Marking and registration is one of the key areas on which the FGS has placed its focus since 2014. While the marking of weapons makes them uniquely identifiable to Somalia and its security forces, registration forms the basis of a national management system. As such, progress made in establishing and implementing a robust record-keeping system for all security forces, including down the supply chain, remains an essential requirement for the FGS. In terms of means of assessment, progress in marking and registration can be assessed with relative ease, as both provisions can be physically verified.

Joint Verification Team

Since the request to establish a JVT in 2014 (resolution 2182), the Security Council has urged Member States to support the establishment of such a team (resolution 2244), and subsequently welcomed its establishment in 2016 (resolution 2317).

The provision for a JVT is a unique provision to the arms embargo in Somalia. It enables the FGS to take ownership of accountability of its stocks, while it embeds an external verification mechanism by including international experts as part of the team. The JVT and its reports can play a critical role in supporting the Security Council in its assessment of the arms embargo in Somalia as it serves as an avenue to periodically evaluate the FGS's regulation and control over its imports, marking, registration, storage and distribution of arms and ammunition in the country.

Processing captured military equipment

The Security Council in resolution 2182 requested the FGS and AMISOM to cooperate on the documentation and registration of military equipment captured during operations, and to enable the SEMG to inspect those items. There are three key methods in which the implementation of the measure can be assessed: First, processing captured materiel (document, record and dispose, either through reintegration or destruction) requires the establishment of appropriate procedures (in the form of standard operating procedures) that should be applied to relevant national security forces. Such procedures should be harmonized with AMISOM in order to ensure the accuracy and credibility of the records. This is a measure that can be physically verified. Second, the reports provided by the Office of the National Security Adviser on captured weapons serve as secondary data which can be examined by the Committee. Third, either through the JVT or the SEMG, those items that have been captured and stored by the national security forces could be physically inspected periodically and possibly traced.

Reporting by the FGS

Since the partial suspension of the arms embargo in 2013, the Security Council has requested the FGS, with some variations, to report on three key issues: 1) the structure of its national security forces; 2) the infrastructure relevant to the management of arms and ammunition; and 3) code of conduct and procedures relevant to management of arms and ammunition. The Security Council has, over time, welcomed the improvement in reporting by the FGS in this area.³⁶⁵

The reporting obligation is particularly relevant to a wider security sector benchmark. In particular, the Security Council's request to report on the structure, composition and strength of the national security forces, including the status of regional and militia forces, takes into account the national security policy and architecture reform process currently being undertaken by the FGS. Accurate

³⁶⁵ In particular in Security Council, UN document S/RES/2244, 2015; and Security Council, UN document S/RES/2317, 2017.

and detailed reporting by the FGS in this area is directly relevant to future FGS planning for management of arms and ammunition, as it will inform the approach that the FGS envisages for the establishment and implementation of arms control systems and procedures at the federal and sector levels.

4.2.2 Role of United Nations assessment

The in-country assessment conducted by the United Nations Secretariat—in response to the call by the Security Council to identify options and recommendations in resolution 2142—was a key catalyst in the reassessment and adjustment of the arms embargo in Somalia. The options and recommendations—in particular to establish a marking and registration system as well as a JVT—has helped place emphasis on the FGS’s responsibility to govern and manage its arms and ammunition management, while enabling a more systematic assessment of the arms embargo by the Security Council moving forward. The United Nations assessment has proved useful in this case to bring stakeholders together to examine and provide practical options that help the FGS to better comply with the arms embargo and at the same time address diversion concerns of the national authorities and the international community.

4.2.3 Role of the SEMG

The reports of the SEMG continue to play an essential role in helping to inform the Sanctions Committee on the implementation and compliance by the FGS on the arms embargo in Somalia. The reports prepared by the SEMG have directly contributed to informing the modification process in Somalia on at least one occasion for resolution 2244 with regard to conducting a baseline inventory exercise. In addition to the monitoring of arms embargo violations, one particular provision relevant to the SEMG set out by the Security Council merits focus. In resolution 2142, the Security Council requested the SEMG to provide feedback to the FGS on its reporting to the Security Council.³⁶⁶ While this was a one-time request by the Security Council, this provision on the SEMG played two important roles in the reassessment process. First, given the timing of the request, the provision enabled the SEMG to cooperate with the FGS in improving its reporting to the Security Council. Second, through promoting engagement, the provision played a role in building trust and cooperation between the FGS and the SEMG.

4.2.4 Role of the Committee

In similar fashion to other select sanctions regimes, in resolution 2244 the Security Council requested the Committee to develop an Implementation Assistance Notice for Somalia. Subsequently, the Security Council in resolution 2317 encouraged its use by Member States. Such support documents help to provide further guidance to the FGS and Member States in the effective implementation of arms embargo provisions. It is important to note, however, that Implementation Assistance Notice provides information on what the provisions and exemptions are, rather than what is to be undertaken. It particularly lacks details and guidance on post-shipment provisions that are applicable at the national level (such as marking, registration, distribution, and verification).

4.2.5 Role of the Committee

While a cooperative framework between the Security Council and Somalia to develop a roadmap to eventually lift the arms embargo remains to be developed and tested, such an exercise may prove useful when further political and security advances are achieved in Somalia. The political agreement between the FGS and the federal member states on a national security architecture in April 2017, followed by the Security Pact agreed by the FGS and the international community in May 2017,

³⁶⁶ See Security Council, UN document S/RES/2142, 2014, para. 12.

represent crucial frameworks for enabling sustainable, long-term security in Somalia. In this context, elaborating on the relevance and applicability of WAM is important for the following reasons.

First, in the context of implementing the national security architecture and further developing the Somali national security institutions and forces, attention will need to be paid on how security forces will be supplied and equipped with arms, and how those supplies would be managed and accounted for down the supply chain. This is particularly critical in light of the obligations that the international community has placed on Somalia to ensure that weapons are not being diverted to unauthorized end users in violation of the arms embargo.

Second, in the absence of adequate and functioning WAM governance systems beyond Mogadishu, which can manage and account for weapons already in stock or in circulation, there is a risk that the influx of new supplies, without adequate oversight, may contribute to the unintentional proliferation of arms throughout the country. In conclusion, it is imperative that WAM is considered part of the discussion on implementing the national security architecture and developing the national security institutions and forces, in order to mitigate the risk that weapons supplies intended to strengthen Somali forces do not lead to the unintended proliferation of arms, which may destabilize the progress made by the FGS to establish security in the country.



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Applying conventional arms control in the context of United Nations arms embargoes

The past decade has witnessed the highest number of United Nations arms embargoes running concurrently across the globe. However, to date, insufficient attention has been paid to the processes for reassessing, adjusting and terminating arms embargoes and how this relates to conventional arms control.

This study examines exactly this question, providing an overview of the evolution of arms embargo measures throughout United Nations sanctions history, examining challenges in reassessing and adjusting sanctions regimes and analysing the increasing use of arms control obligations to accompany these adjustments. This study further considers how analysis of WAM capacities might be more systematically integrated into assessments of arms embargoes and how a more robust use of arms control obligations could support the objectives of embargoes and sanctions regimes.

Finally, this report examines five separate case studies (Central African Republic, Côte d'Ivoire, Liberia, Libya and Somalia) to identify common trends, indicators and lessons to be learned.