



ATT MONITOR

Civil society perspectives on the
Second Informal Preparatory Committee and Working
Group meetings of the Arms Trade Treaty
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ROOM FOR IMPROVEMENT IN THE ROOM WHERE IT HAPPENS

Allison Pytlak | *Reaching Critical Will of WILPF*

At the outset of Arms Trade Treaty (ATT) meetings held last week, the hope was expressed that the upcoming Fifth Conference of States Parties (CSP5) could be a turning point for states parties to move from discussing matters of institution building, to ones of substance.

This has been a call from civil society for a few years now, bred out of frustration that ATT meetings are more preoccupied with administrative matters than the problems caused by the arms trade that the Treaty sets out to address—and particularly, flagrant displays of non-compliance that are eroding the Treaty's impact and external credibility. Some states have defended this approach to business by pointing out that it is a "new" instrument, not "mature" enough to withstand harder or politically sensitive discussions about compliance. It is true that to be effective, treaties require significant infrastructure, resources, and institution-building. It is also true that to be effective, treaties need political will and to demonstrate that they have teeth—by changing practice and policy, and through unbiased application of their provisions.

To an extent, a turn to substance is occurring. The system of working groups and sub-working groups is allowing for concrete and at times, detailed and sometimes even interactive exchanges on a range of issues related to Treaty universalisation and implementation. For instance, the sub-Working Group on Article 5 is moving toward adopting a Basic Guide that would assist states parties with establishing of national control systems. The process of creating that guide and reviewing its contents has required interaction and sharing about existing practices and real challenges. The sub-Working Group on Article 11 may organise a meeting to discuss actual or suspected instances of diversion. The Working Group on Treaty Universalisation session included presentations from newer states parties in which they described obstacles that they faced in ratifying or starting to implement the ATT which prompted reactions from other states that

are encountering similar challenges. The meeting of the Working Group on Transparency and Reporting enabled frank sharing about the practical issues that states are encountering with reporting—ranging from discrepancies between the suggested template and their own record keeping practices or in trying to collect the necessary data across departments and ministries.

Thematic focus areas, now becoming an annual tradition in the ATT meeting cycle, are a good mechanism for generating substantive discussion on either synergistic topics like the 2030 Agenda in 2017 and was then mainstreamed into Working Group discussions the following year; or actual Treaty provisions like diversion in 2018 and currently, gender and gender-based violence (GBV). There has been a noticeable progression in the depth and breadth of what is being said in the working groups and preparatory meetings about gender and GBV and a move away from somewhat abstract support for an abstract concept of "gender" to concrete suggestions for incorporating a gender perspective in ATT implementation. During the meetings held last week, states and observers had a lot to say on this subject, in response to the working paper prepared by the current ATT President that sets out possible actions for states parties to endorse at the CSP5. Some urged better coherence with the Women, Peace and Security Agenda or relevant human rights instruments. Others encouraged applying a gender perspective to other Treaty articles beyond Article 7.4, which is the provision on GBV. Support exists for developing further guidance on implementing a gender-based violence risk assessment alongside acknowledgement of the value of existing work in this area. There was discussion about understanding what gender-based violence is in the ATT context, where and how to find data to make an assessment, and support for gender-disaggregated data collection. Two side events and a new working paper from the International Committee of the Red Cross generated additional dialogue, details of which can be found further in this edition.

Editorial continued on next page

Editorial, continued

It's evident, therefore, that there is an appetite for dialogue and talking about substantive matters alongside administrative or procedural ones, and that good things are happening. Yet, there is an elephant in the room that cannot be ignored and all the welcome packages, thematic panels, and guidance documents in the world won't obscure forever the fact that the ATT is not stopping the arms transfers that it is supposed to. On-going transfers to Saudi Arabia have tragically become the go-to example and would have been an ideal test case for the Treaty's strength. There are other examples too: in advance of the fourth states parties conference in 2018, one organisation highlighted transfers of concern to the Philippines, Nicaragua, Cameroon, and Israel.

The act of assisting states parties who lack control systems or struggle with diversion because of porous borders is important—but it is not only those states parties who need to comply with what they've agreed to. At the time of its negotiation, ATT detractors

warned of the potential for discriminatory application and that the Treaty would benefit major arms exporters, not limit them. Arms Trade Treaty supporters need to do better to prove critics wrong and not allow genuinely important implementation assistance in certain areas to become a smokescreen for inaction in other areas.

"The room where it happens" is perhaps the most popular song in the mega-hit musical *Hamilton*, performed during a scene in which a famous political compromise occurs behind closed doors, the precise details of which are forever a mystery. It was said in passing last week that the "biggest room in the world is the room for improvement". ATT states parties must get serious about saving lives—both in the rooms where they meet behind closed doors and continue brokering deals that cause human suffering, and in those where they meet to discuss Treaty implementation collectively. •



TACKLING THE ROOT CAUSES OF WAR AND VIOLENCE SINCE 1915

Peacemaking from
a feminist perspective



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SUMMARY: SUB-WORKING GROUP ON ARTICLE 5

Katrin Geyer | *Reaching Critical Will of WILPF*

On Tuesday, 2 April, after a few introductory remarks by Ambassador Dallafior of Switzerland, Chair of the Working Group on Effective Treaty Implementation (WGETI), the sub-Working Group on Article 5 (sub-WG), facilitated by Mr. Tetey of Ghana started its work.

Article 5 of the Arms Trade Treaty (ATT) obliges states parties to “establish and maintain a national control system in order to implement the provisions of ATT, including a national control list, competent national authorities and one or more national points of contact to exchange information on matters related to the implementation of the ATT.” As noted in a Letter from the Chairperson of the WGETI, states parties agreed to work towards a basic, voluntary and non-prescriptive guide to establish a national control system at the Fourth Conference of States Parties (CSP4) in 2018.

Draft Basic Guide to establishing a national control system

The April meeting of the sub-WG built on progress made during an earlier meeting in January. It discussed an updated draft of the Basic Guide mandated by CSP4, which includes an additional section on record keeping. Mr. Tetey stressed that the guide is a living document that will continue to grow in seeking to ensure that states parties comply with obligations under Article 5.

A few states commented on the revised draft Basic Guide as a whole. The United States stressed that not all states are parties to the legal and regulatory frameworks cited on page four of the Guide, and hence do not have to comply with them. Belgium wondered if there will be a document in addition to the Guide outlining national points of contact responsible for national control systems and ATT implementation. Mr. Dladla of the ATT Secretariat clarified that such a document is in the process of being drafted.

The United Kingdom (UK) reiterated that the Basic Guide should remain voluntary and non-prescriptive, stating that some language is close to prescribing standards that are not set out in the Treaty. Peru wondered how the Secretariat compiles information provided by states parties on Article 5 requirements, and where states can access such information. Mr. Dladla explained that new states parties receive welcome packs which encourage states to submit information on national points of contact, and are henceforth reminded every year to submit relevant information. He noted that in the restricted part of the ATT Secretariat’s website (www.thearmstradetreaty.org), information on this is available to states parties.

Documentation

The sub-WG discussed in-depth various aspects of documentation, and particularly record keeping. Representatives from the UK and Australia, respectively, offered national experiences of their practice of record keeping. The UK noted that it has an online licensing and recoding system that administers export controls, and informed that records are kept “as long as is required”. The UK compiles an annual report that includes information on licenses issued, refused or revoked; the types of weapon systems exported; statistics for processing time; and a summary of ultimate destination of exports, amongst others. It was noted that the UK offers full datasets of the aforementioned information free of charge on its government website. Australia focused on the example of firearms and noted that both import and export are documented. Australia also keeps all records online and stressed that a good relationship with industry is crucial to ensure good record keeping.

States sought clarifications on a number of issues as a response to presentations by the UK and Australian representative. These included questions about relationships with industry, and potential challenges when there are disagreements between states and industry; if the UK also has an import licensing system, the “required” time period to maintain records, and if record keeping is also done on actual imports and exports.

Participants then moved on to the next agenda item, responding to several guiding questions posed by the Facilitator: What records need to be kept; what type of information should be retained in records; how may records be stored; how long should records be stored; who is responsible for keeping records; and what is the role of record keeping in reporting?

Many states informed that decisions about licences, and other related information, was recorded in a digital database. The period of keeping records varies, some keep it for 40 years, others keep them indefinitely. The Republic of Korea cautioned that states building an information technology (IT) system for record keeping should consider security capabilities in order to prevent exploitation of these systems.

Norway emphasised the importance of keeping records for a long time, as they can be indispensable when considering applications for re-exports, for instance. Norway requires all exporters to keep records for at least ten years but noted that the government authorities keep records indefinitely. While the UK does not report on actual exports or imports, Romania informed it does keep records of actual imports and exports.

Article 5, continued

Some states only maintain records of exports, other only of imports, while others keep records of both, and some are in the process of introducing better record keeping of imports. Some states, such as Burkina Faso, Togo, and Benin said that they still had to improve record keeping and are taking efforts to modernise their databases.

Other states explained that depending on the type of conventional weapons, various ministries are in charge

of issuing licences, and may also keep records differently within a single government. This means that some states keep electronic and/or manual copies of relevant information.

Some states highlighted the National Arms Transfer Database developed by the Centre for Armed Violence Reduction (CAVR) as a good and free resource on this issue. •

SUMMARY: SUB-WORKING GROUP ON ARTICLES 6 AND 7

Katrin Geyer | *Reaching Critical Will of WILPF*

On Tuesday, 2 April, there was a session of the sub-Working Group on Articles 6 and 7 (sub-WG) which was created by the Working Group on Effective Treaty Implementation (WGETI). Articles 6 and 7 of the Arms Trade Treaty (ATT) contain some of the core provisions of the Treaty, including prohibitions that states parties need to abide by, the rules concerning export and the requirement that export assessments are being conducted. The sub-WG seeks to identify measures that can aid the effective implementation of these articles.

The sub-WG was facilitated by Mr. Lindell of Sweden in replacement of Mr. Nord of Sweden. The session consisted of three presentations meant to illustrate states' working methods to implement Articles 6 and 7, and to clarify states parties' obligations under these articles.

Presentation and discussion on working methods

The first presentation was from a representative from the South African export control authority who provided an overview of some of its national working methods to implement Articles 6 and 7. This included a description of the South African arms export control system, with a focus on how to ensure that the prohibitions in Article 6 are respected; that the necessary risk assessments are made under Article 7; examples of sources used for risk assessment; the role of different parts of government and/or ministries; and possible mitigation measures. South Africa stressed that in its assessment criteria, it takes into consideration calls for reduced military expenditure in the interests of development and human security, and assesses if a transfer would escalate regional conflicts or endanger peace.

States welcomed South Africa's presentation, especially those that are still establishing or deepening

their implementation of Articles 6 and 7. Questions included how South Africa tackles diversion, what risk mitigation measures look like in practice, or if post-delivery verification is undertaken.

Presentation on state parties' implementation of Articles 6 and 7

Mr. Vestner from the Geneva Centre for Security Policy (GCSP) presented a second presentation. He spoke of the main findings from his study entitled *Prohibitions and Export Assessment: Tracking Implementation of the Arms Trade Treaty*, published in March 2019, on the similarities and differences of states parties' implementation measures of Articles 6 and 7. The study scrutinises national legislation, regulations and policies contained in all 58 publicly available initial reports of the ATT states parties as well as from 20 selected states parties' national laws and policies. He noted that few states parties have adapted their domestic legal framework for implementing Articles 6 and 7, but have mostly existing domestic legislation, regulations, and policies as a basis for arms transfer assessments and decisions. Mr. Vestner outlined states' main considerations for each Article's implementation. For instance, for Article 7(1) (a), states do not only consider international and regional security and stability, but also exports' effects on national defence industries. He further noted that with respect to Article 7(4) and 7(1) (iii) relating to gender-based violence and terrorism respectively, most states do not have explicit criteria on these issues. In general, many states have additional assessment criteria beyond those required by the ATT, including foreign policy interests or obligations, and general economic, commercial, and financial interests.

Presentation on GBV and IHL

A third presentation was delivered by Ms. Goussac of the International Committee of the Red Cross (ICRC)

Articles 6 and 7, continued

who outlined a new working paper on international humanitarian law (IHL) and its relevance for assessing the risk of serious acts of gender-based violence (GBV), as required under ATT Article 7(4). She offered clarifications on relevant terminology in the ATT, such as “serious violation of IHL” and “war crime” (which the ICRC understands to be interchangeable), and “gender-based violence”. She noted that the absence of a universally accepted definition of GBV shouldn’t prevent states from assessing the risk of GBV. She stressed that not all acts of serious GBV are sexual in nature. This can include unlawful killing or the unlawful recruitment and use of children in armed conflict when individuals are targeted for gender-specific reasons.

States welcomed Ms. Goussac’s clarifications on GBV and IHL in the context of the ATT. Some wondered how the ICRC grounds its understanding of GBV, and if domestic jurisdiction could support the elaboration of understandings of GBV. Ms. Goussac cited various international instruments, such as the CEDAW Committee, that have defined GBV, but noted that even if states understand GBV differently, this would not challenge the overlap between IHL and GBV, as outlined in the ICRC’s working paper submitted to this sub-WG’s meeting. She recommended to focus on practical implementation of risk assessments as a whole, of which GBV forms an important part.

Follow up on Article 7.4-related discussions

The last point of the agenda on Tuesday was a follow-up discussion on specific issues from the discussion at the 29 January meeting of the sub-WG, on Article 7.4, which is the one on gender-based violence. A lot of this discussion centred on whether states parties should develop voluntary guidelines to support implementation of 7.4.

Many participants, including the Control Arms Coalition and the Women’s International League for Peace and Freedom (WILPF) observed that ATT states parties should draw on existing material first instead of seeking to develop a new voluntary guiding document or manual, such as suggested in the working paper prepared by the CSP5 President. They referenced guidance developed by the ICRC, the Control Arms Coalition, the Harvard Law Clinic, states parties’ working papers, and Reaching Critical Will of WILPF. Switzerland and Ireland noted it is important to leverage expertise by civil society as the ATT was developed “hand in hand” with civil society organisations, as put by Switzerland.

Switzerland, Chile, and Belgium noted that a gap analysis would be useful before the sub-WG would commence any work on developing its own guide or

manual. Switzerland and Japan also saw value in compiling existing guidelines that states parties can draw from when relevant and useful. Ireland, Chile, and Mexico recommended the compilation of states’ good and best practices.

A few states stressed the need for practical guidance and measures as the only tool to mark advances.

Mexico alerted to the fact that some states already have interesting approaches that link human rights, and the implementation of the UN Security Council resolution 1325 on Women, Peace and Security (WPS agenda) with the ATT. It called on states to include these perspectives in national control measures which would contribute that authorities cross-check relevant information in daily operations. WILPF also noted that GBV-related commitments under the ATT align with commitments that states parties already hold through human rights instruments or as part of the WPS agenda.

Various participants highlighted the need to consult with human rights, WPS, and gender experts, and those who have experienced arms-related GBV, if states were to develop own documents on these issues or when implementing GBV risk assessments.

Japan stated that further discussion on common understandings of GBV are needed. Belgium observed that if states preferred further discussion on understandings of the concept of GBV, this would require to discuss Article 7 as a whole, as terms such as “facilitate”, “serious” or “overriding” risks do not only relate to GBV but other aspects of Article 7. Austria noted that there isn’t an internationally recognised definition of “terrorism” either. It does not see the need to get into discussions around the definition of GBV, as there are already “plenty of papers” out there that operationalise the term.

WILPF supported the suggestion of further trainings for government and licensing officials so as to bridge the divide between individuals attending ATT meetings and those that make licensing decisions.

The Control Arms Coalition noted that one point of further discussion could be how different types of conventional weapons contribute to or facilitate serious acts of GBV. •





SUMMARY: SUB-WORKING GROUP ON ARTICLE 11

Katrin Geyer | *Reaching Critical Will of WILPF*

The sub-Working Group on Article 11 on Diversion (sub-WG) convened on Wednesday, 3 April in the context of the wider meeting of the Working Group on Effective Treaty Implementation (WGETI). It was facilitated by Ms. Allen of Jamaica. The meeting discussed the sub-WG's revised multi-year work plan; the topic of import documentation; and the role of the private sector in import documentation.

Multi-year plan

Many states welcomed the multi-year plan and its focus on thematic discussions, and described it as useful, exhaustive, and a tool to systemise efforts.

The Control Arms Coalition, AeroSpace and Defence Industries Association of Europe (ADS), and Norway noted that discussions on the multi-year plan should include a broad range of stakeholders, including enforcement and customs authorities, industry experts, as well as civil society organisations.

The United States wanted to clarify that discussions around diversion should not "re-open" the ATT's text but should centre around developing a best practices document that would assist states in implementing Article 11.

Import documentation

Ms. Allen presented her background paper to facilitate discussions on import documentation, which would be necessary to provide before an arms transfer. She noted her paper is heavily informed by a study from the UN Institute for Disarmament Research (UNIDIR) on the same topic, entitled *Examining Options to Enhance Common Understanding and Strengthen End Use and End User Control Systems to Address Conventional Arms Diversion*, published in 2016.

The discussions followed the six topics set out in the Facilitator's paper (see Attachment 2 of the document ATT/CSP5.WGETI/2019/CHAIR/441/M2.LetterWorkPlans), namely Terminology; Preparation of Documentation; Information/ Content of EUCs; End Use/r Assurances; Compliance with End Use/Assurances; and Options for Verification and Authentication. After the Facilitator's presentation, Mr. Shiotani from UNIDIR and Mr. Holtom from Small Arms Survey (SAS), who were both involved in UNIDIR's study on the topic, alternately provided brief presentations on each topic as set out in the Facilitator's paper, before participants were given the opportunity to offer their perspectives.

Addressing the first topic of the Facilitator's paper, Mr. Shiotani of UNIDIR provided an introduction on different/convergent usage and understandings of

terminology. He noted that each state utilises and defines terms tailored to the individual state's needs. While common understandings may exist among exporters, importing authorities may understand processes differently which can lead to misunderstandings. This can ultimately hinder the effective prevention of diversion.

Some states observed that it would be useful to develop a guide on this topic, while others noted that existing guides are already publicly available, such as contained in the EU Common Position on Arms Exports, or the Wassenaar Arrangement.

One state informed that it is not familiar with the import documentation requirements for non-state end users, and encouraged further clarification. As a response, Switzerland informed that it makes distinctions between the documentation of arms transfers to state and non-state users, respectively. When selling to a non-state user, such as an arms dealer, Switzerland requires an import licence so to ensure that the relevant state is aware and consents to the transaction to specific non-state users on its territory.

Addressing the second theme in the Facilitator's paper, Mr. Holtom offered a brief introduction to the section on "Preparation of Documentation". He noted that importing states also have developed end user documentation and have expressed interest in aligning this with exporting states. UNIDIR's study identified that interagency cooperation is particularly important for ensuring control. Poor cooperation between different national agencies was raised as a particular concern in certain regions.

States noted that in developing documentation and templates, they look at language of existing frameworks and best practices such as the Wassenaar Arrangement, but then customise and adapt templates in an ongoing and dynamic process based on national preferences and resources.

Some states supported the idea that national points of contact would be a good avenue to confirm authenticity of end user certifications (EUCs), as well as to publish guidelines on authentication, and establish a common depository that includes national points of contacts and authenticated signatories on the ATT Secretariat website.

Togo and Benin shared their experience relating to import documentation and outlined the various stages when providing import documentation.

Mr. Holtom provided an overview of the third section on "Information/Content of EUCs" of the Facilitator's

Article 11, continued

paper. He explained that UNIDIR's study determined that existing best practice guidelines are in general in agreement on key information to be provided to export control authorities as part of an application for arms export authorisation. Importers and exporters questioned in UNIDIR's study agreed that an international process on the contents of end use/r documentation to develop a checklist of 'essential elements' was feasible. Annex B. in the document ATT/CSP5.WGETI/2019/CHAIR/441/M2.LetterWorkPlans includes the table of recommended types of information and assurances for end use/r documentation. Mr. Holtom noted that there was a lack of discussion as to contents of licence documentation when it comes to non-state users.

In the ensuing discussion addressing this section, states sought clarification about potential tools to prevent diversion when exporting to non-state actors. Mr Holtom cited as one example the Montreux Document, a non-legally binding document which defines how international law applies to the activities of private military and security companies (PMSCs), that could be one of the tools regulating arms transfers to non-state actors such as PMSCs.

Mr. Shiotani gave an overview of the fourth section on "End Use/r Assurances" of the Facilitator's paper. UNIDIR's study concluded that "the only common essential element for all of the best practice guidelines relates to an undertaking or assurance that the items will only be used by the declared end user for the declared end use." The study also noted that all guidelines recommend an optional provision of prohibiting re-export, and identified three following types of re-export clause. Further recommendations for optional assurance elements in best practice guidelines can be found in Annexes A and B of document ATT/CSP5.WGETI/2019/CHAIR/441/M2.LetterWorkPlans.

The Center for Armed Violence Reduction (CAVR) stressed the importance of comprehensive re-export clauses, not least to serve as confidence building measure. It noted that if these are absent, they may contribute to diversion. ADS noted that there is a mismatch between requesting and providing governments, and that there is value in further mapping those differences.

Mr. Shiotani provided an overview of the fifth section on "Compliance with End User/r Assurances". He noted that reasons why assurances are not respected include: assurances on end use or re-export are not widely understood by the importing state or are simply ignored; adherence to assurances is not monitored by the exporting state; actions are not taken when

reports of violations are presented to the exporting state and international community; re-transfer or re-export may take place many years later, and documentation may be lost, or forgotten.

He further cited some states' practices to ensure compliance with end use/r assurances, and said that actions on violations are varied, and observed that mostly, reactive actions are taken instead of preventive measures.

In response, delegations focused particularly on the financial challenge of cooperation and verification. Chile informed that with respect to EUCs, many states do not have the capacity to monitor the end use of exported conventional weapons. Spain agreed that it was "extremely complicated" to follow-up on weapons use once EUCs have been received.

It was noted that the financial burden lies usually with the exporter, particularly with companies themselves. Austria and Switzerland have systems where fees paid for by companies for licence applications are used for costs of conducting post-shipment controls.

With respect to sanctions, one state noted that it includes the country that hosts a manufacturer who breached an agreement in a "black list", another informed about its guidelines in case of breach that halt exports for as long as further re-export of defense material is continued. Another delegation noted that in case of mild breaches, sanctions entail a temporary ban only. This means that after a certain time, industry can continue exports to prevent too much of a "burden on industry".

Addressing the sixth section of the Facilitator's paper on "Options for Verification and Authentication", Mr. Holtom observed that there are three main reasons for inadequate end use/r control systems: end use/r documentation is not authenticated by exporting states; end use/r documentation is not verified by exporting states; and lack of information sharing. Reasons for this can include the lack of resources, or lack of familiarity with end use/r control procedures and requirements, or difficulties in identifying competent authorities.

Benin asserted that control authorities should strengthen information exchange amongst themselves so to meet challenges encountered related to authenticity and verification.



Article 11, continued*The role of the private sector in import documentation*

In the last hour of the sub-WG's meeting, participants discussed the role of the private sector in mitigating diversion risk. To that end, a representative from German arms producer Dynamite Nobel Defense offered a thorough review of the company's internal risk assessments, documentation reviews, and its cooperation with regulators. A representative from ASD noted that some states have provided good guides on internal compliance programmes. He highlighted the importance to have a contact person from the regulator's side and effective national structures, enforcement mechanisms and established relationship and dialogue with commercial entities.

At the end of sub-WG's session, the Facilitator proposed putting two recommendations forward for adoption at CSP5: To develop a voluntary guide for end use/r documentation, including a depository of terminology, types of assurances in documentation, common approaches to verification and authentication; and to share, on a voluntary basis, through the ATT Secretariat, national templates on end use/r documentation, and information on who is authorised or designated to sign/ authorise certificates, amongst others. •

SUMMARY: WORKING GROUP ON EFFECTIVE TREATY IMPLEMENTATION—GENDER & THE WAY FORWARD

Katrin Geyer | *Reaching Critical Will of WILPF*

Chair of the Working Group on Effective Treaty Implementation (WGETI), Ambassador Dallafior, conducted two additional sessions on Wednesday, 3 April in the later afternoon in addition to the sub-WG meetings held earlier in the day.

Gender dimensions of ATT implementation

The first session addressed the gender dimension of Arms Trade Treaty (ATT) implementation. Based on her discussion paper in Annex A of the document ATT/CSP5.WGETI/2019/CHAIR/441/M2.LetterWorkPlans entitled, "Gender and ATT Treaty Implementation", the exchange had three objectives: to unpack further the relationship between gender and ATT implementation; to identify which articles within the WGETI's mandate may include a gender dimension; and to identify possible voluntary elements of guidance for states parties to consider in the ATT's implementation.

Article 5 on national control systems

Finland stated that a gender dimension to this Article was "self-evident". Many participants, including Ireland, Sweden, the Control Arms Coalition, Finland, and Mexico stressed the need to promote women's representation and gender diversity amongst those working in national control systems. They also emphasised the need to consult with gender and Women, Peace and Security (WPS) experts in establishing and monitoring control systems. The Control Arms Coalition further argued that gender considerations are crucial to ensuring the application of the Treaty's provision to the broadest range of conventional weapons. Along with the Women's International League for Peace and Freedom (WILPF), the Coalition assert-

ed that states should increase their efforts to adopt national policies in pursuit of gender equality in their national institutions, and to strengthen synergies between the ATT and the WPS Agenda. WILPF further proposed to add a gender perspective to initial gap analyses of states' control systems.

Article 8 on Import

Australia stated that import and export are "two sides of the same coin." WILPF and Australia argued that since gender considerations are part of export assessments, they too should be applied in importing requirements.

Article 9 on Transit or transshipment and Article 10 on Brokering

Finland and WILPF asserted these two articles have a gender dimension. WILPF observed that risk assessments for gender-based violence (GB) should also be conducted in transit and transshipment, being one of the weakest links in the transfer chain.

Article 11 on diversion

Many states asserted there was a clear gender dimension. Mexico suggested to collect and assess gender-disaggregated data with respect to end users, and if there is a correlation between the end-user being a private person and the connection with the number of deaths.

Article 15 on international cooperation

Ireland underscored that it was important to take gender perspectives into account and noted that the Voluntary Trust Fund (VTF) already requests applicants to indicate if gender considerations are included in their project proposal.



Effective treaty implementation, gender & way forward, continued

General

Many states asserted that gender should be considered across all aspects of the Treaty. Mexico urged states parties to “step up efforts” to make the prevention of gender-based violence a reality, and stressed the need to generate resources for day-to-day work of authorities in charge of risk assessments and licence reviews. Australia observed that gender-sensitive Treaty implementation doesn’t only mean to ensure gender parity in ATT processes but also to ensure the Treaty’s implementation be gender-sensitive. Benin informed about its national practices with respect to ATT implementation and asserted that women’s representation is ensured throughout and at all levels. The Chair concluded that there is general agreement that the gender dimension is broader than Article 7(4), and that all articles under the WGETI’s mandate are of relevance in these considerations.

Working Group on Effective Treaty Implementation focus in the period following CSP5

The second session addressed the activities that the WGETI should undertake in the period after CSP5. Chair Ambassador Dallafior informed that she will hold this role until CSP5, and encouraged delegations to submit their candidacy for Chair of the WGETI after CSP5.

There was widespread support to establish a sub-WG on Article 9 on transit and transshipment. Japan encouraged the elaboration of a medium-term plan if the sub-WG were to be launched so to focus discus-

sion points.

Some states referred to the presentations of other states that outline national practices and challenges with respect to implementing WGETI-relevant articles. Some suggested consider creating a basic guideline to be used as template by the speaker. Costa Rica noted that presentations by specialised agencies and other entities should continue, and that those should not only focus on technical issues but also on practical results of states’ implementation efforts. Australia would prefer to move away from national presentations and instead have delegations touch on key points in their interventions from the floor. Some states noted that the multi-year plan, as elaborated under sub-WG on Article 11, is useful, guides the nature of exchange, and allows for better preparation to the meetings. It was asserted that such a plan could also be elaborated for other sub-WGs of the WGETI. Costa Rica suggested that under sub-WG on Article 5, a mechanism could be established for regional exchange and break-up groups. •

ATT AND GENDER-BASED VIOLENCE

Still not sure how to implement the ATT's provision on gender-based violence?



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SUMMARY: WORKING GROUP ON TREATY UNIVERSALISATION

Allison Pytlak | Reaching Critical Will of WILPF

The half-day meeting of the ATT's Working Group on Treaty Universalisation (WGTU) took place on Thursday 4 April, under the joint chairpersonship of current ATT President Ambassador Karklins of Latvia and former president Ambassador Takamizawa of Japan. It covered five agenda items.

The first, an update on the status of accessions, ratification, and signatures, included a presentation from the head of the ATT Secretariat, Mr. Dladla. It was noted that there is a positive domestic process taking place in one Asian country; in Africa there is another state waiting to deposit; and in the Americas one state is in the process of re-submitting its certain documentation to its parliament. Benin, speaking from the floor, shared that the one state from the Economic Community of West African States (ECOWAS) that remains outside the Treaty does so because of instability, but other ECOWAS countries are doing their part to convince it to join. Benin felt that regional efforts in one part of the world can be a frame of reference for other regional groupings.

The second agenda item was a report on the universalisation activities of the Presidency. Ambassador Karklins has recently sent letters to 50 Heads of State from countries that remain outside the Treaty, among other outreach including to Arab League countries. Ambassador Takamizawa described recent meetings with Asian states while in Tokyo. The Control Arms Coalition suggested that it could be useful to advertise these universalisation activities in advance of their taking place so that civil society in those locations can better support them.

States then provided response to the draft Toolkit and Welcome Pack to be presented at the Fifth Conference of States Parties (CSP5) for adoption and use in future universalisation efforts, although subject to updates so as to remain current. Mr. Dladla outlined updates that had been made since the January WGTU session: the section on "What is the ATT" has been expanded to include points on the Treaty's object and purpose; deeper elaboration of the benefits to joining the ATT; more details about transparency, human security, human rights, and sustainable development; and more detail on certain documents agreed to at the fourth CSP.

Feedback was generally positive while also offering suggestions. The United Kingdom (UK) cautioned on using language that is too prescriptive, although felt the current version is fine in this respect. The ATT's goal of establishing the "highest common standards" could be made clearer. The UK noted considerable

overlap between the Welcome Pack and elements of other draft documents, such as the draft Basic Guide on Establishing a National Control System. The Control Arms Coalition proposed refining certain aspects of the draft, including to include the reference to gender-based violence as among the description of Articles 6 and 7.

Republic of Korea stressed the necessity of translating resources like these into languages beyond the six UN languages, particularly for them to have utility in the Asia region. Mexico and Romania supported this point, which Ambassador Karklins said could be looked into following their adoption. He later clarified that translations within the six official languages could be covered by assessed contributions and other languages through voluntary funding.

As part of the fourth agenda item on sharing the experiences of new states parties, Chile and Cameroon described their experiences of ratifying and starting to implement the Arms Trade Treaty. The presentation from Chile stressed that it has been more of a political than technical challenge as it required building support for the Treaty and making the case for changing long held legal practice across different ministries, departments, and agencies with differing levels of knowledge, and support, for the Treaty. In Chile's case, a further complicating factor was that it exports mainly parts and components, which are variously used, and identified gaps in its regulation of transshipment and brokering. It stressed the importance of intra-governmental cooperation which was also highlighted in the presentation from Cameroon. In its case, individual parliamentarians who had been sensitised to the issue by civil society—including through work on the Women, Peace and Security Agenda and in relation to the Kinshasha Convention—undertook letter writing initiatives and helped facilitate the overall process. Both Chile and Cameroon noted support received from other countries.

During the dialogue that followed, Benin shared that Cameroon's experience is a good model for others in the region. The Cameroon section of the Women's International League for Peace and Freedom reinforced its commitment to continuing to work with its government toward implementation. Mauritius described how its domestic firearms act included laws that prohibit firearms and control brokering activities, which has made its experience of joining the ATT easier.

The final agenda item of this meeting was on universalisation activities by other ATT stakeholders. The UN Office of Disarmament Affairs in Geneva stated that,



Treaty universalisation, continued

in its experience, universalisation is most effective where activities work at the multilateral and national level. It suggested there is value in having a repository of good advocacy practice, developing priority targets, stressing the benefits of joining, and including among them the relationship to the Sustainable Development Goals (SDGs). It also felt that sharing a list of potential arms transfers that did not proceed because of good ATT implementation would be useful to demonstrating impact.

The Republic of Korea shared information about an upcoming conference. Palestine asked how can it be a good example for the Treaty if states parties have

deals with other states that have human rights violations?

Australia spoke of a recent conference it co-hosted with New Zealand to promote the ATT in Asia Pacific and Southeast Asia. It was managed by the Centre for Armed Violence Reduction, and had over 50 participants, half of which were women. It helped to identify some key impediments to joining—resource capacity constraints, lack of political will, competing priorities—but also saw positive announcements and commitments from states that attended. •

SUMMARY: WORKING GROUP ON TRANSPARENCY AND REPORTING

Allison Pytlak and Katrin Geyer | *Reaching Critical Will* of WILPF

The Working Group on Transparency and Reporting met on Thursday, 4 April under the facilitation of Mr. Nijs, of Belgium and Ms. Cortés Martínez, of Mexico.

State of play of compliance

The first agenda item was on the “state of play of compliance with reporting obligations”. Among other trends, a presentation from the ATT Secretariat revealed that 70 of the 94 Initial Reports due have been submitted, meaning that 25 per cent of states parties have yet to submit one. Thirteen of those submitted so far have not been made public and there are high levels of use of the reporting template agreed at the second Conference of States Parties (CSP2).

Challenges of reporting

The second item covered the challenges of reporting. Brazil felt that states should bear in mind that the ATT is a new treaty and that the rate overall is good. France and the United States (US) responded to say that reporting compliance is very important, regardless.

Austria asked if states parties have a choice between using the online reporting mechanisms or submitting it manually, as colleagues have shared that the structure of the template is difficult to complete. A demonstration would be helpful.

The European Union (EU) finds the reporting rate alarmingly low and reminded that transparency is a key aim of the Treaty. It echoed the call from the chairperson to states with a good record on report-

ing to provide basic support to other states parties. It supported Togo toward the submission of its Initial Report. Togo explained a key challenge was to collect information from the various parts of the government and ensure that all stakeholders in the reporting process are aware of their responsibilities.

The US stressed that given the absence of a verification system, reporting is the only way to demonstrate compliance with Treaty provisions, including to the outside world.

New Zealand announced it will submit an updated Initial Report, making it the first state party to do so.

The Philippines, South Africa, Peru, and Burkina Faso also stressed some of the practical challenges involved in meeting reporting requirements such as collecting information and bureaucratic challenges, as well as reporting fatigue. Similarly, Brazil felt it is important to understand why states do not report, noting it could be political but also for technical reasons. It noted that a UN Group of Governmental Experts on reporting has been convened, the findings of which could be referred to in the ATT context. Ireland highlighted that there is discrepancy between ATT reporting systems and national record systems and said that to reduce the reporting burden, synergies with other instruments like the UN Programme of Action on small arms and light weapons could be considered.

South Africa suggested that universalisation efforts could also include engaging with future states parties to develop their control and reporting systems so that





Transparency and reporting, continued

when they join the ATT they are already well-placed to submit reports. Peru noted that in other fora, technical secretariats assist states parties with reporting and that maybe an assistance programme through the Voluntary Trust Fund could be considered instead.

Review of the reporting templates

As next point on the WGTR's agenda was the review of reporting templates. Participants were invited to share their suggestions on how the templates could be improved to better support efficient, effective and transparent reporting.

The Facilitator informed that this reporting cycle was the first where the online reporting tool was available.

Many states welcomed the reporting tool as a means to assess trends, progress and verification of states' implementation.

Some states asserted it was too early to discuss the content of templates. The Facilitator highlighted the fact that it was in the WGTR's mandate to review effectiveness and clarity of the template at this point.

Some states stressed their preference for flexibility in reporting, allowing other means to report than through the online reporting tool, such as submitting the UN Register of Conventional Arms (UNROCA) report instead. The Facilitator clarified states were still able to submit UNROCA reports, or submit their reports via email based on national preference.

The role of industry in supporting states with their reporting obligations

Two presentations were delivered on the role that industry can play in helping states parties meeting reporting obligations, as part of the agenda item on challenges.

Ms. Stohl of the Stimson Center explained that through the ATT Working Group on Industry, it was possible for the US arms industry and government to interact, as well as with ATT experts. The Group was a way to obtain input and provide clarity on ATT obligations. She outlined that the arms industry benefits from the ATT in the following ways: establishing convergence amongst control systems and harmonised regulation; it levels the playing field; reduces reputational risks; and clarifies the obligations and responsibilities of industry. For industry, reporting is important because it could give insights to future business opportunities and streamline record-keeping procedures, but there is also concern about protecting data that could undermine legitimate trading practices.

Mr. Wood stated that given the highly regulated nature of the European arms industry, most companies should already be familiar with reporting requirements that states hold through participation in other control mechanisms. He noted that given the similarities between the UN Register of Conventional Arms and the scope of the ATT, reporting burdens may be somewhat reduced. He highlighted that the purpose of reporting is something to think about and unpacked some of the concerns around commercial confidentiality.

Both speakers touched on the varying capacities of states, informed in part by the size and nature of their respective arms industries. Norway described its e-licensing system, which industry was an important part of developing.

Organisational means for information exchange

There was discussion about organising a meeting for an exchange on specific cases of detected or suspected diversion, for which there is general support.

Switzerland noted this is already practice in the context of the Wassenaar Arrangement, but an ATT discussion could have a wider geographic grouping. It proposed looking at past cases that have been settled, so as to avoid any sensitivities, and conducting half of the meeting in an open format on generic terms, and the other closed and addressed specific cases. France, the US and the UK supported this format, with the latter two expressing concern about confidentiality, as did South Africa which also questioned if this would have the status of a formal or informal meeting. South Africa, and the US, asked for clarity on the meeting's purpose. Japan said this kind of meeting could deepen understanding on existing practice; share expertise; and raise awareness of the ATT to a larger audience.

The information technology (IT) platform: reporting and transparency functionalities

A demonstration was provided on how to gain approval to, and then access, the restricted area of the ATT Secretariat website. The ATT Secretariat further presented various elements of the ATT website pertinent to the online reporting tool reporting, and the information exchange platform.

Possible options for a livestream or video recording of CSP meetings

There was discussion around the costs of live streaming ATT meetings, and if demand for this is sufficient to meet costs. •

SUMMARY: SECOND INFORMAL PREPARATORY MEETING FOR CSP5

Allison Pytlak and Katrin Geyer | *Reaching Critical Will* of WILPF

The second informal preparatory meeting for the Fifth Conference of States Parties (CSP5) to the Arms Trade Treaty (ATT) took place on Friday, 5 April and covered multiple agenda items.

The CSP5 President Ambassador Karklins of Latvia opened the meeting with the announcement that Argentina has submitted its candidacy for presidency for the sixth CSP in 2020, which would be undertaken by Ambassador Foradori. This was widely welcome by other delegations, including through a joint statement delivered by Chile on behalf of several Latin American and Caribbean states.

Discussion of the draft working paper on gender and gender-based violence (GBV)

The first substantive agenda item was discussion on the draft working paper prepared by Ambassador Karklins on gender and GBV. The paper is structured around four themes: representation and participation of women in disarmament; gendered impacts of armed violence; gender-based violence risk assessment criteria; and other considerations. The intention is that some of the proposals in the working paper could become a basis for decisions at CSP5 and future action.

Participation

The European Union (EU) asserted that the ATT would benefit from greater gender diversity and equal participation.

Ireland and the Control Arms Coalition welcomed the recommendation to maintain records of gender balance of all delegations at ATT meetings, and for the sponsorship programme to consider gender balance as one of its selection criteria. The Control Arms Coalition added that other factors in a gender analysis should be registered as well, including the number of women as head of delegations, delivering statements or chairing/facilitating discussions.

Peru, on behalf of 17 Latin American and Caribbean states, and the EU stressed the importance of women's participation in peace and security bodies and highlighted the equal importance of equal participation in ministries in charge of implementing international arms control and disarmament instruments. Switzerland agreed that gender balance should be encouraged in national government administrations, as delegations to the ATT meetings reflect the make-up of those entities.

Switzerland highlighted the importance of early education, training, and mentoring to encourage women to enter arms control and diplomacy.

Gendered impacts

In its statement, Ireland, as well as Peru, on behalf of 17 Latin American and Caribbean states, welcomed the President's recommendation to collect gender-disaggregated data on armed violence and conflict. It was further recommended to include figures on the impact of arms transfers on women and girls to ensure comprehensive strategies. The EU also encouraged states to improve their data collection for Sustainable Development Goals (SDG) indicators to achieve SDG Target 5.2. It was asserted that data collection is vital to enable the development of adequate measures and policies. The Control Arms Coalition noted that data collection on the proportionality of harm to civilians should focus on both direct and indirect impacts. The Women's International League for Peace and Freedom (WILPF) encouraged better support for the participation and inputs of people impacted by gender-based violence so as to improve states' collective understanding of these problems in a first-hand way.

Risk assessment

Peru, on behalf of 17 Latin American and Caribbean states, observed that GBV should be addressed in a broader manner throughout the Treaty, and to explore links between Articles 7(4), 7(1), and 6(3) and where relevant, Article 14, to allow for more comprehensive risk assessment criteria. Australia and Ireland also affirmed the need to mainstream gender considerations across all areas of the ATT and encouraged future CSP Presidents to take this into account. The ICRC encouraged states to further discuss what factual indicators states examine in their risk assessment, which mitigating measures they are taking, and which mitigation measures would trigger approval or cancellation of a licence, amongst others. Some of these points were also raised earlier in the week during the meeting of the Working Group on Effective Treaty Implementation.

It was noted that the proposed voluntary manual that is mentioned in the working paper and would assist states parties in making GBV risk assessments, should also identify appropriate national institutions within each country for submission of information on gender matters.

The EU, Sweden, and Trinidad and Tobago noted that a best practice guide should be based on existing data, research, and knowledge. The United Kingdom (UK) welcomed a voluntary guide on risk assessments. The EU and Switzerland recommended to undertake a gap analysis of existing material. WILPF noted that a mechanism for information exchange and compilation of existing practice in this area would be beneficial.

Preparatory meeting, continued

Peru, on behalf of 17 Latin American and Caribbean states, asserted the value to explore common understandings how to make GBV risk assessments. WILPF recommended a new addition for the working paper—a call on states parties to harmonise obligations under the ATT with obligations under the CEDAW Convention, National Action Plans on Women, Peace and Security, and other human rights treaties, as applicable to allow for a better understanding of implementing Article 7(4) and policy coherence.

General

Peru, on behalf of 16 Latin American and Caribbean states noted that gender sensitivity is a core element in the field of disarmament and arms control.

The EU stated that the promotion of gender equality, the empowerment of women, and the prevention of GBV and sexual violence are cross-cutting issues. It referred to various activities it is supporting to prevent GBV outside the ATT context. The EU and Germany noted their commitment to the Women, Peace and Security (WPS) agenda and stressed its potential to strengthen the ATT. WILPF outlined several planned, relevant activities, including research on how different types of arms relate to different types of GBV and a proposed training opportunity in Geneva.

The EU observed that serious acts of GBV may not be limited to conflict zones but occur in all aspects of public and private life. The EU asserted that effective national ATT implementation will contribute to the elimination of GBV and will contribute to the achievement of Sustainable Development Goal 5.2.

Trinidad and Tobago welcomed further clarifications on the possibility of establishing a sub-Working Group on GBV.

Ireland noted that the ATT community should utilise the wealth of knowledge available both within and outside the disarmament community, and that it should seek cooperation with gender and WPS experts, amongst others.

Progress reports on ATT Subsidiary Bodies

Voluntary Trust Fund

The second agenda item to hear an update on the operation of the Voluntary Trust Fund (VTF), delivered by Mr. Beerwerth of Germany who acts as the Chairperson of the VTF Selection Committee. Together with Mr. Dladla, Head of the ATT Secretariat, the report included an overview of the number of funded projects and applications for the 2019 project cycle as well as on the status of finances. Applications have doubled

since last year, indicating the value of the Fund. The Committee is also developing guidance for project evaluation to be ready for adoption at CSP5.

The Republic of Korea stressed the importance of project evaluations and feedback to upgrade the quality of projects and avoid duplication. The Chairman confirmed, as a response to Japan's question, that gap analysis is an element in the selection of projects.

Reports from the Working Groups

The chairpersons of the three working groups on Effective Treaty Implementation (WGTI), Transparency and Reporting (WGTR), and Treaty Universalisation (WGTU) provided a summary of work conducted this year, including the meetings held in January and April, which are summarised in this and earlier editions of the ATT Monitor.

Report from the Management Committee (MC)

The report from the Management Committee provided details on activities conducted this year. There was no comment from states parties to the report; it will proceed to be presented at CSP5. Under this agenda item, the following other topics were discussed.

a) ATT Sponsorship Programme

Within the context of the report of the Management Committee, the ATT Sponsorship Programme, which facilitates the participation of states parties to ATT-related meetings, was discussed. The decision taken at the Fourth Conference of States Parties (CSP4) to transfer the administration of this programme from the UN Development Programme to the ATT Secretariat has been followed up on by the development of a draft Administrative Guidelines document, accompanied by General Principles for the Selection of Delegates (Annex A) and a Draft Financial Protocol (Annex B).

i) Draft guidelines

The UK felt a primary consideration in determining eligibility of a delegate should be if a state has paid its assessed contributions.

Costa Rica felt they are an improvement from earlier versions but felt more could be done to distinguish between the draft Guidelines and the Annexes. It pointed out that CSP5 will be an opportunity to also see how new procedures for selecting sponsorees has worked.

New Zealand and Japan expressed support for the guidelines as drafted.

Preparatory meeting, continued

Switzerland felt that for governance reasons, it could be important that the Secretariat be able to refer to a body that would confirm or validate their sponsorship decisions, and if that could not be put into place now than the procedure should be re-evaluated in a few years. The Netherlands responded by asking if this is not within the mandate of the Management Committee which is already providing oversight to the Secretariat staff.

The President encouraged states to review the draft documents in light of the fact that the Secretariat had selected and sponsored 17 delegates to attend the April sessions with no challenges, and the proposed mechanism correspond to what works in other treaty fora, such as those on landmines and cluster munitions.

ii) Annex A

Costa Rica noted that use of the term “small economic countries” is not a very clear definition or label. It also felt that some of the secondary considerations included are not appropriate or too subjective, such as “political support” for the ATT, and that the requirement of not having an embassy in the location where meetings are occurring contradicts the requirement of having subject matter expertise.

The President explained the rationale for using “small economic countries” as being a way to explain countries that may no longer be considered Least Developed Countries per United Nations standards, but still have small economies.

Brazil suggested not including a list of secondary considerations but instead have discretionary criteria and use common sense, to avoid micromanagement.

Switzerland questioned how funds for the Sponsorship Programme are being allocated across the three sets of ATT meetings taking place annually and suggested such information about that could be included in the relevant documentation.

iii) Annex B

There were no comments.

b) Options to address financial liquidity

An update to earlier proposals on how to increase financial liquidity was presented by the Netherlands as a Management Committee member. A new document identifies two proposals: add a one-time contingency provision from states parties when they next make

contributions; or to establish a reserve fund.

The UK noted the interrelated nature of liquidity issues and non-payment and stressed that non-payment of dues is a challenge across all disarmament and arms control fora, although not yet present to the same degree in the ATT context, a point supported by Mexico. It urged the President and Management Committee to make use of the agreed rules that are put in place to penalise non-payment, before moving to structural changes.

The United States (US), an ATT signatory, said it would not be able to contribute to either a reserve or contingency fund. Japan appreciates the consideration put into finding solutions but noted that the suggestions lead to an increased overall contribution that seems unlikely to be met. It also spoke of what would happen if reserve funds are used, and how they would be replenished.

Chile feels hopeful of finding a solution for these challenges and urged that states parties consider the varying processes by which countries determine their budgets, and when. Mexico supports the suggestion of states parties including a contingency provision of 15 per cent for the next financial period in the annual budget.

Switzerland, which is providing in-kind support to the ATT Secretariat and meetings as part of its hosting arrangement, explained that a one-time 15 per cent contribution increase could be rolled over to future years, and possibly compensated in the long-term should it continue its hosting contributions for another four years. It believes contingency provisions are a key measure going forward, as seen in other treaties.

c) Proposal to address the problem of payment of assessed financial contributions

Discussion around non-payment of annual financial contributions from states parties, determined on an assessed scale, was dynamic after the President projected a slide that indicated which states parties are in arrears. Various states questioned this “naming and shaming” approach, feeling that it does not respect the different processes and timelines within national governments to make payments, or that it could negatively impact universalisation efforts. The President expressed frustration that many states have not responded to his outreach to encourage states to meet contribution deadlines or understand the reasons for delay.



Preparatory meeting, continued

Organisation of work for the CSP5

The final agenda item was to review the draft programme of work for CSP5, to which no comments were made. It was shared that a few high-level speakers have confirmed participation in the high-level opening panel, and other known experts have been contacted to participate in the high-level thematic panel discussion on gender and GBV.

Any other business

Mexico and Costa Rica announced that they have prepared a working document that reflects on good practices from past CSP cycles that could be used in future. This is now available on the ATT Secretariat. •

Palau becomes 101st State Party to the ATT!

Palau ratified the ATT on 08 April 2019 to become the 101st State Party to the ATT. The Treaty will enter into force for Palau on 07 July 2019.



Source: ATT Secretariat

SIDE EVENT REPORT: GENDER-BASED VIOLENCE AND THE ARMS TRADE TREATY—A LEGAL ANALYSIS

Radhika Kapoor | Harvard Law School

On 2 April 2019, as the Working Group on Effective Treaty Implementation (WGETI) initiated substantive discussions around Articles 6 and 7 of the Arms Trade Treaty (ATT), the Control Arms Coalition and the Permanent Mission of Namibia organised a side event about implementation of the gender-based violence (GBV) criteria in the ATT.

The aim of the event was to shed light on the overlap between the GBV provision in ATT Article 7.4, international human rights law (IHRL), and international humanitarian law (IHL).

The event was chaired by Mr. Namalambo of Namibia, who emphasised the centrality of gender considerations to a holistic interpretation of the ATT's provisions.

The first panelist, Ms. Crowe from the International Human Rights Clinic at Harvard Law School, presented findings from a joint Control Arms Coalition-Clinic paper on interpreting key terms under Article 7 of the ATT. The terms include: "serious" violations of IHRL; "commit" and "facilitate"; and the concept of "peace and security." Emphasising the overlap between GBV and serious IHRL violations, Ms. Crowe concluded that ultimately, many violations of IHRL are serious, including acts of GBV.



The next panelist, Ms. Goussac from the International Committee of the Red Cross (ICRC), also shed light on this issue of GBV in the context of the ATT, but from an IHL perspective, tracing the links between acts of GBV and serious violations of IHL.

Ms. Butler of the Women's International League for Peace and Freedom outlined the Security Council's resolutions that collectively form the Women, Peace and Security (WPS) Agenda. Ms. Butler stressed why there is a need for peace and security discussions to involve gender sensitivity, and equally important, for women's voices to be included in all peace and security fora.

The event was very well attended, with many states and non-governmental organisations listening actively to the panelists and raising relevant comments and queries.

A delegate from Peru praised the practical guide developed by Control Arms in 2018 "How to use the ATT to prevent gender-based violence" for its clarity and inclusivity, commenting that states parties could no longer claim ignorance as an excuse for non-incorporation of GBV concerns.

Responding to questions about the competency of an authority to conduct a GBV risk assessment, all three panelists stressed the importance of transparency in the export authorisation process.

Ms. Butler, while addressing a query posed by the delegate of New Zealand, stressed that there are many opportunities to link disarmament with WPS. Further, a representative from a non-governmental organisation asked the panelists how violations of the rights of children may be incorporated within Article 7's risk assessment. Ms. Crowe and Ms. Goussac explained that not only would violence against children—much like GBV—often overlap with IHL and IHRL violations, but in fact Article 7 itself explicitly refers to violence against children as a concern relevant to risk assessment, without necessarily requiring a gender component.

In addition, reporting mechanisms under conventions such as the Convention on the Rights of the Child could serve as important sources of information on violence against children. •

SIDE EVENT REPORT: BRIDGING GAPS AND BUILDING UNDERSTANDING: GENDER, GBV AND THE ARMS TRADE TREATY

Sara Dominguez | WILPF

As Arms Trade Treaty (ATT) states parties met for the Treaty's working groups and an informal preparatory meeting for the upcoming Fifth Conference of State Parties (CSP5), WILPF co-organised an event with the Permanent Mission of Ireland to the United Nations to fill in knowledge gaps around significant gender concepts and how to assess for the risk of gender-based violence (GBV) in the context of an arms export.

The event took place hours after the CSP5 President, Ambassador Karklins, presented a new working paper outlining elements and actions relating to gender and GBV for states parties to consider adopting at CSP5.

The event took the form of an interactive discussion, which started off with opening remarks by Ambassador Gaffey of Ireland, who stressed his concern about information gaps among states parties on understandings of GBV and how to assess the risk of it being committed or facilitated by an arms transfer. The diverse and experienced panel further developed the problematics around this existing gap, and went on to discuss issues of data collection, women's participation in peace agreements and disarmament, the disproportionate impacts of conflict on different members of society, and thus the pertinence of

incorporating a gender lens when conducting risk assessments.

In this regard, moderator Ms. Pytlak from WILPF's disarmament programme kicked off the discussion by asking panelists how to define GBV, as some ATT states parties have suggested that a special definition is needed in the context of Treaty implementation, while others maintain that existing definitions are sufficient.

Panelist Ms. Qasas from UN Women, stressed that we "shouldn't try to go back and reinvent the wheel" each time there's a discussion about gender. International agencies, namely the UN and its instruments, have already discussed these terms thoroughly, and in Ms. Qasas' words, the international community "must now move from words to action", which remains the main challenge. A gender impact assessment is needed in the ATT, she argued, as it is needed in all other dimensions of society.

This was also reiterated by panelist Ms. Solorio from the Women's Human Rights and Gender section at the Office of the High Commissioner for Human Rights (OHCHR), who also reminded the audience that GBV is usually intersected by one's race or religious



Picture credit: Charlotte Hooij/WILPF

Bridging gaps and building understanding, continued

affiliation, and that the additional importance of incorporating a gender lens in risk assessments is that it brings us closer to the root causes of violence and how this affects someone's rights. Ms. Solorio also stated that GBV, occurring both in times of peace and in conflict, has been long criminalised in international human rights law (IHRL), and the ATT can ultimately complement and reinforce this idea, and contribute to a better implementation and fill up existing gaps.

Panelist Mr. Feugap from WILPF's national section in Cameroon, in line with Ms. Solorio, also acknowledged the gender dimension of the arms trade. Through Cameroon's unique experience, Mr. Feugap shared some examples of how armed violence and conflict in his country distinctly affects women and girls. Mr. Feugap has witnessed that arms are a common "working tool for GBV", and that the simple presence of a gun already affects a society deeply, triggering fear—which is also a powerful weapon.

In regards to challenges of collecting and accessing data to be used in an arms transfer risk assessment for GBV, an issue that was discussed also in the plenary meeting earlier that morning, panelists argued that there are plenty of sources available in order to conduct risk assessments, including detailed reports

of Commissions of Inquiry and state reports for UN treaty bodies, among other examples. Nonetheless, it is important to continue efforts to produce more gender disaggregated data or to possibly create, in Ms. Pytlak's words, "a collective pool of information" between states, so that this information can be more readily available for those making risk assessments.

Lastly, the discussion turned into the topic of women's participation in disarmament and arms control fora and the added value of gender diversity in these processes. While the argument has been and continues to be made that women's participation in peace agreements increases its effectiveness and likelihood of success, it is also important to retain that it is, above it all, a legitimate right, given that women are half of the agency and perspective of a society. As panelist Ms. Qasas has put it, "It's not really about what we gain with women's participation, but rather what we lose with their exclusion." •



Panelists of the side event. From left to right: Ms. Pytlak, Mr. Feugap, Ms. Mendoza, Ms. Qasas, and Ambassador Gaffey.

Picture credit: Charlotte Hooij/WILPF

WHY SHOULD ATT STATES PARTIES IMPLEMENT THE GENDER DIMENSION OF THE TREATY?

Guy Feugap | WILPF Cameroon

Gender and gender-based violence (GBV) have rightly been a theme of consideration during last week's second preparatory meeting for the upcoming fifth Conference of States Parties (CSP5) to the Arms Trade Treaty (ATT), not only because the presidency of Latvia is focusing on the issue, but also because there are several reasons why it should be considered in order to effectively implement the Treaty.

During the week, we have noticed the great interest of state parties and non-governmental organisations to take into consideration gender at different levels of their implication in the normal functioning of the ATT. The working paper proposed by the CSP5 President was diversely commented on, and two side events were organised on this subject including one by WILPF and the Mission of Ireland, aiming at increasing the understanding about gendered concepts and GBV in relation to the arms trade and the ATT. It is noteworthy that the discussions have seen the gender dimension of the ATT start to go beyond Article 7.4 on risk assessment, to include suggestions related to reporting and international cooperation and assistance. It's relevant to focus a CSP on gender and GBV in the implementation of the ATT. It is obvious that if stakeholders want effective implementation, no obligation should be left behind, especially not as gender and GBV are concerned.

In order to enhance common understanding of gender in the ATT and gendered impacts of the arms trade, we can look at some ground work from WILPF Cameroon. It's often said that in conflict situations, women and girls suffer a distinct impact. Indeed, the arms trade has a gender dimension, as the ATT recognised in its preamble: "The vast majority of people affected by armed conflict and armed violence are civilians, and in particular women and children."

WILPF Cameroon has verified the impact of armed conflict on women and girls in Cameroon (2016-2017) through a baseline study which helped the government to develop a National Action Plan to implement UNSCR 1325 on Women, Peace and Security (WPS), and related resolutions.

The study showed that the trade and the circulation of arms is a factor responsible for the intensification of conflicts and terrorism. Conflicts have also been responsible for the destruction of hospitals, which denies people access to health care in such circumstances. The circulation of weapons impacts differently on men and women, and boys and girls.

With respect to women, thirty-five per cent of in-

duced violence is psychological, and women victims have very little chance of recovery. The impact on women is tragic for two reasons: the violation of their physical integrity and the serious impact on their ability to contribute to the well-being of their families and communities. WILPF Cameroon visited a refugee site in the East region and could find less visible impacts of gender-based violence against women that are not specific to Cameroon. Gender-based violence results in life trauma as a consequence of having been raped or having lost relatives- This is aggravated by the fact that rarely, justice is found. This in turn reduces spaces for women to fully participate in reconstruction and peacebuilding.

The armed conflict also has differential impacts on boys and girls that reflect constructs of gender which determine social roles and identity. For instance, it is noted that in the conflict areas, the absence of mothers in their houses for evident reasons has meant insecurity for children, in addition to the fact that they could no longer go to school. As result, boys have joined armed groups in vast numbers and girls got involved in sex work, which means the spread of sexually transmitted diseases and pregnancies. Domestic violence is due to small arms and light weapons, because they are the most accessible, those for which permits are issued to individuals. A lot of examples illustrate their use. We have registered a case of a quarrel between a couple that ended with the husband taking his gun and shooting his wife. Possession of weapons by civilians is a multiplier of the risk of GBV being committed. Yet we can also mention the need of responsible use by the military. It is reported that in the ongoing crisis in the English-speaking regions of Cameroon, girls are raped both by armed groups and militaries. During the recent presidential election in October 2018, two women in those conflict areas who exercised their right to vote by going to polling station were killed by armed groups using small arms.

The living conditions in other parts of the country are difficult. Many women and girls are attacked and even raped when they fetch firewood or water for long distances. They cannot shout to request assistance when the weapons are used. Even in big cities, weapons are widely used to commit theft, and sometimes it happened that these robbers rape girls in presence of their parents, or women in presence of their husbands and children. These are genuine acts of sexual and psychological violence resulting from the use of arms. This is in addition to denying girls' rights to education and health care, to the extent that most of the economic activities carried out by women



Why ATT states parties should implement gender, continued

(such as in the areas of agriculture, commerce, or crafts,) are reduced or almost non-existent because of fear and violence.

The examples and advice are numerous on why ATT states parties should better implement the gender dimension of the Treaty. Some mitigating measures that arms-receiving states could put in place where there are concerns of GBV can include the adoption of a WPS National Action Plan on the implementation of the UNCSR 1325 and broadly the Women, Peace and Security (WPS) agenda, that allow women to participate in crisis prevention and resolution. Besides the ratification of the ATT, those states need to harmonise national legislation accordingly.

When exporting arms to a country, states could look at past issues on femicides, the rate of past acts of domestic violence, the security context involving forced displacements, existing studies on the impact

of armed violence on women, with a particular focus on the resolutions and actions that have been taken as result of the recommendations from those studies. Exporters could also look at whether the arms-receiving state is implementing the WPS Agenda and has a National Action Plan, or consider whether this state has a gender policy and allows women's civil society organisations. Empty mitigating measures expose women, more and more, during contexts of insecurity, particularly when states fail to ensure difficult access to weapons, or when they rely more on military options in conflict resolution.

Finally, international assistance is a way to ensure that the gendered impacts of arms and GBV are better considered when supporting any initiative on ATT implementation. The global arms trade definitely needs to meet obligations taken by states when they ratified the ATT. By doing so, states are more likely to transfer peace and not human suffering. •



Members from WILPF Cameroon celebrating the adoption of Cameroon's national action plan on 1325. Picture credit: WILPF Cameroon