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### IN THIS ISSUE

1. Editorial: Transparency (still) matters
2. Remembering CSP5 commitments on gender and gender-based violence
3. Explosive weapons, the arms trade, and the global ceasefire
4. An overview of what's at stake for CSP6
5. Challenges to transparency and reporting in the Arms Trade Treaty
6. Assessing diversion under the Arms Trade Treaty: three options for CSP6 and beyond
7. Regional perspective: the Arms Trade Treaty in 2020—a lost year
8. Regional perspective: a review of ongoing Pacific engagement in the Arms Trade Treaty
9. Regional perspective: the need for Arms Trade Treaty accountability in light of rising conflict in sub-Saharan Africa



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# TRANSPARENCY (STILL) MATTERS

Allison Pytlak | Women's International League for Peace and Freedom

The irony of the thematic focus of the Sixth Conference of States Parties (CSP6) to the Arms Trade Treaty (ATT) has not gone unnoticed. For a “meeting” premised on transparency and information exchange, there has been a disturbing lack of both in ways that impact not only the Treaty’s various processes but could also have implications for substantive work going forward.

First were the issues with information sharing around the decision-making process agreed for this CSP. President-designate Ambassador Villegas of Argentina put forward the proposal to conduct the conference in written format.<sup>1</sup> Conference participants of any stripe are invited to submit written statements that would normally be delivered orally at an in-person meeting. These will be published online by the ATT Secretariat.<sup>2</sup> While the choice of a written format meeting is not optimal, it has been floated elsewhere as an option to progress work amidst the travel restrictions and precautions necessary as a result of the COVID-19 health pandemic.

The process agreed for CSP6 had provision for decision-making, which would have seen all draft decisions disseminated to only ATT states parties. Yet per the ATT Rules of Procedure<sup>3</sup> all conference participants—including observer states, international organisations, and civil society groups—can receive formal conferences documents (which draft decisions qualify as) and would, in an in-person format, also be able to react to those and hear reactions of states parties in an open setting. Withholding the content of the draft decisions, even if done unintentionally, raised enough alarm bells to see that decision reversed. The draft decisions are now being posted on the ATT Secretariat’s website.

Then, there is a substantive concern with respect to CSP6 draft decision 13 regarding the establishment of a Diversion Information Exchange Forum—and, for those following the technical ins-and-outs, relevant references found in draft decision 12.<sup>4</sup> This proposal has its origins in the “three-tier

approach” to information exchange on diversion that was developed by the ATT Working Group on Transparency and Reporting (WGTR) and endorsed by states parties at CSP4, in which one “tier” consists of closed meetings amongst states parties to facilitate information exchange on suspected or actual cases of arms diversion.

The convening of the closed meetings—two have taken place—was agreed to openly and is not being contested. But the establishment of a new entity as an output of those deliberations is. The terms of reference for the proposed new Forum and other documentation are completely unavailable to non-governmental stakeholders or observer states and the context in which it was envisioned is unknown; it’s also quite likely that not all states parties have been able to thoroughly review the terms of reference.

Adopting this draft decision via silence procedure would set a dangerous precedent for decision-making in the ATT context. It would lead to the formal establishment of an entirely closed process by silence procedure without any opportunity for discussion or input from observers, civil society, and industry. It undermines or may even contradict the ATT Rules of Procedure, which afford certain participation rights to all registered observers in order to enable open and transparent proceedings. This is why WILPF has called on states parties to not adopt this decision. Postponing the establishment of this Forum until it can be more thoroughly discussed—and relevant documentation made available to all—would be a responsible move from states parties.

## *The drawbacks of silence procedures*

Other aspects of the CSP6 decision-making process have raised questions too. The timeframe of the silence period comes to an end after the first day of the conference, with the intention of announcing decisions and issuing a final report on the conference’s final day. This limits the impact of the written statements and doesn’t allow for any

formal interaction. Moreover, there are differences in how the silence procedure—and specifically what will happen if it's broken—has been described to states parties, versus how it's been described to other stakeholders and publicly.

The use of silence procedure gives de facto veto power to any one country, and the framing around “breaking silence” can be discouraging to states parties who have objections but fear that in raising them, the state party would somehow “bring down” or “ruin” CSP6. In other formats, whether in-person or virtual, there is space for dialogue and open negotiation prior to coming to a decision. We also know that not all draft decisions have been adopted in past years; whether the issue was open versus closed meetings, the sponsorship programme, or reporting templates, it would not be a first if certain draft decisions were put-off now.

The public version of the format for CSP6 and its decision making describes that silence procedure will be conducted as per Rule 41(3) of the ATT Rules of Procedure, which stipulates, “If the silence procedure has been broken, the President will immediately inform States Parties and the matter shall be deferred for consideration by the Conference at its following ordinary session.”

However, in a separate communication issued to ATT states parties only, the president explained that states parties will only be informed of a break in silence procedure if the objection is “of a nature that cannot be addressed” and also outlines the possibility of consultation and reformulation of the proposal, and initiating a new silence procedure, especially for items that cannot be deferred to a later meeting or advanced intercessionally.

There might be good reasons for building in the possibility of dialogue and consultation—both of which are activities that in principle should be encouraged—but because the process is already such an opaque one and there are now two sets of understandings about how decisions are being reached, this approach cultivates mistrust and could create credibility risks for whatever decisions are ultimately adopted. Unless there is some public accounting for who raised objections, what they were, and how they were addressed, CSP6 on “transparency and information-sharing”

may well go down in the record books for the exact opposite characteristics.

### **Keeping inclusivity as we move online**

Of course, this is not an ordinary year. Everyone is trying their best under extraordinary circumstances while grappling with the stress, reduced capacity, and general uncertainty that has come to define 2020.

Yet because of the uncertainty and dynamic change all around us, this is actually the moment when it is most important to stay vigilant and guard against the erosion of openness and multi-stakeholdership. It is times like this when opponents of transparency can take advantage of diminished and distracted capacity to introduce decisions and practices that will have impacts on the future.

If we are too late to shine a light on how decisions will be made at CSP6, then states parties, signatories, and observers should look to other models for future meetings and consultations that have adopted more inclusive approaches.

For example, the Human Rights Council (HRC) has in 2020 only used silence procedure selectively because of concerns about the de facto veto power that this procedure confers. When it was used<sup>5</sup> to adopt the HRC's Presidential Statement on COVID-19<sup>6</sup>, it followed on from an open negotiation on the draft statement, in which the presidency compiled inputs from all stakeholders into public documents and conducted an open online session to present and discuss textual changes, and take on board further input. Following this, a letter was issued to respond to questions that had been raised around the “legality” of a silence procedure, explaining that it was “proposed under truly exceptional and challenging circumstances due to a global pandemic.”

The approach of the current chair of the Group of Governmental Experts on Lethal Autonomous Weapons to take decisions about if, how, and when to convene the meetings scheduled for 2020 is also a possible model: online discussions, or “fireside chats” as they were called, were convened as a public space for states and non-governmental stakeholders to react to five possible working



method options and get a sense of common preferences. The chair also participated in a virtual discussion with civil society representatives to clarify the process further and hear our views and priorities. The outcome has ultimately been to postpone the GGE meetings scheduled for June and August, which is unfortunate, but at least the process of arriving at that decision was done in an open and consultative way.

### **Redefining security**

This is also the moment to redefine security and establish new priorities for how to achieve it.

The current crisis triggered by the health pandemic has exposed the fault lines of global economic and social systems. As RCW's Director has highlighted, the pandemic has demonstrated that it is not guns and battle tanks that ensure global peace and security in a crisis such as this, but essential workers in the health and food sector, in public transportation, and in the provision of other essential services.<sup>7</sup>

Yet in some countries, including those that are party to the Arms Trade Treaty, arms production and sales continue apace. The year preceding the pandemic saw the largest annual increase in global military expenditure in a decade.<sup>8</sup> Weapon manufacturing has been deemed an "essential service" by some states, able to carry on despite the closure of other industries, shortfalls in the production of essential medical equipment, and unsafe working conditions.<sup>9</sup>

Following more than five years of war and the resulting food insecurity and destruction of vital infrastructure, civilians in Yemen are now dealing with the COVID-19 pandemic. Multiple ATT states parties either continued or resumed<sup>10</sup> their arms transfers to Saudi Arabia and its coalition that is attacking Yemen. Airstrikes on Yemen by the Saudi-led coalition have increased over the last few months, often hitting civilian targets—including a COVID-19 quarantine centre.<sup>11</sup>

There are also ATT signatories providing arms to parties within Libya, in violation of a UN arms embargo and their in-principle commitment to the ATT,<sup>12</sup> and in a year in which Libya has recorded

the highest number of attacks on health facilities of any country in the world.<sup>13</sup>

This means that in the midst of a global health crisis, many countries are still engulfed in armed conflict. This has flooded already struggling health infrastructure with wounded civilians and put even more strain on populations suffering from violence and instability.

Eliminating the spread of COVID-19 requires that health facilities have adequate water, sanitation, and healthcare waste management, among other items. A 2019 report by the World Health Organization and the UN Children's Fund (UNICEF) found that "[a]n estimated 896 million people use health care facilities with no water service and 1.5 billion use facilities with no sanitation service."<sup>14</sup>

The resources needed to address that shortfall and balance other economic impacts of the pandemic such as caused by loss of employment often feel overwhelming and staggeringly high. That's because they are.

But what is also staggeringly high is the cost of buying arms, and the profits reaped from selling them. As research from the Global Campaign on Military Spending has shown, one F-35 joint strike fighter aircraft could pay for 3,244 intensive care unit beds, or a Leopard 2E battle tank costs the same as more than 400 ventilators.<sup>15</sup>

Imagine the lives that could be saved when "security" is redefined in ways that prioritise human health and well-being ahead of tools of violence and death.

### **Stay tuned**

We are publishing this edition of the ATT Monitor in order to lift up the views and expertise of diverse civil society actors on topics pertinent to the international arms trade and the Arms Trade Treaty at a time when in-person meetings and interaction are not possible. As made evident in this editorial and throughout this edition, there is a widely felt concern from many civil society actors about shrinking space and reduced transparency.

We hope this edition of our ATT Monitor goes some way to fill growing gaps while also calling attention to those very concerns.

Most contributors to this edition, and the Women's International League for Peace and Freedom, have also submitted formal statements to the conference upon which we encourage states and other stakeholders to read and reflect. We'll be reading them, too—and intend to publish a second edition of the ATT Monitor shortly after the CSP6, with analysis of the statements and decisions adopted.

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# REMEMBERING CSP5 COMMITMENTS ON GENDER AND GENDER-BASED VIOLENCE

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One year ago at the Fifth Conference of States Parties (CSP5) to the Arms Trade Treaty (ATT), states parties adopted a package of decisions on gender and gender-based violence (GBV) in the context of the international arms trade. Decisions were adopted to 1) improve gender diversity, 2) increase understandings of the gendered impacts of armed violence, and 3) improve implementation of Article 7(4) on the GBV risk assessment.<sup>1</sup>

At CSP5 and its preparatory meetings, civil society and international organisations shared significant expertise and experience on the topic, including concrete tools for states to better implement the ATT's GBV provision and to include gender considerations more broadly in the work of states parties. The focused exchange on the topic, culminating in the adopted package of decisions, helped to generate learning, discussion, and examination of a subject that is too often and too easily overlooked.

"The commitments on gender and GBV made by ATT states parties last year set a high bar for further progress towards the adoption of good practice in this area," notes Raluca Muresan of the Control Arms Coalition. Many of us who have been highlighting the links between GBV and the arms trade for many years were hopeful that the concrete—and generally measurable—agreements reached in this regard at CSP5 would ensure that the conversation would not end in August 2019.

We were hopeful that CSP5 had set out a blueprint for even deeper exchanges that could improve GBV risk assessment procedures and gender diversity in the context of ATT implementation. We were hopeful that these commitments could advance the goals of what the ATT was set out to do: to reduce human suffering. As Gabriella Irsten of WILPF Sweden argues, "Through robustly implementing the GBV criteria in the ATT, states will learn and be forced to start prioritising differently and actually make change in human lives, not the least in women's lives."

Against this backdrop, it is therefore concerning that the forward-looking workplans outlined for the ATT working groups as well as the draft decisions put forward at CSP6 do not adequately account for the decisions made just one year ago.

States and other stakeholders did not use this round of meetings to make suggestions for where and how to action the CSP5 decisions within the working groups' workplans. Ahead of the first CSP6 preparatory meetings in February, WILPF asked about the status of implementation of some of the decisions: will delegations be more diverse? Will there have been consultation with relevant gender and human rights experts from within governments in the preparation of statements?<sup>2</sup> We don't know. None of these questions were answered. No state reported back about any relevant changes or domestic activities enacted by the decisions at the first preparatory meetings, which took place in Geneva in early February this year.

In this respect, Muresan of Control Arms observes that "Many of the objectives set by the Working Group on Effective Treaty Implementation, particularly its sub-working group on Articles 6 and 7, can be strengthened by the implementation of the CSP5 action plan on gender and GBV. It is, therefore, a missed opportunity that these commitments have been largely overlooked by ATT states parties over the past year."

Governments' priorities have shifted as COVID-19 engulfs the entire globe, and rightly so. Addressing the health, economic, and social repercussions will be a task for many years to come. But the virus can't be used as an excuse to drop all else completely. In the case of CSP5 commitments, WILPF criticised the lack of sufficient inclusion of gender considerations in the documents for the first preparatory meetings in early February 2020,<sup>3</sup> before the pandemic was well underway.

In the context of the pandemic and lockdowns, incidents of gender-based violence have increased dramatically.<sup>4</sup> This means that if anything, including gender considerations, and assessing for the risk of armed gender-based violence in arms exports should be more prescient than ever.

Taking up a thematic focus each year, picked by the president, as part of a meeting cycle is becoming an unofficial tradition within the ATT community. Doing so allows meaningful, concrete, and substantive discussion and great opportunities for learning. However, as RCW's manager observed, an unintended side effect is the creation of a culture in which we move quickly onto the new thing, and the prior year's focus becomes yesterday's news.<sup>5</sup> The quality and substance of discussion and decisions relating to the priority theme becomes the flagship of each presidency. This means that the "success" of each president is partly measured by the substance or number of outcome decisions relating to his or her chosen priority theme. There is less incentive to progress and monitor progress on past agreements.

### **Gender considerations in multilateral disarmament fora: moving from words to action**

The choice of gender and GBV as a priority theme at CSP5 reflected the wider growth of interest and support for gender-sensitive disarmament in the multilateral system over the past few years. For example, in 2019, 17 UN General Assembly First Committee resolutions included references to gender topics. This was an increase from 2018, in which 25 per cent of all First Committee resolutions had such references—which was then an unparalleled number. The UN Secretary-General's Disarmament Agenda features a comprehensive section on the links between gender diversity, gender norms, and the gendered impacts of arms. The Third Review Conference to the UN Programme of Action on small arms and light weapons (UNPoA) adopted a report in 2018 with groundbreaking references to armed gender-based violence, the gendered impacts of small arms, and women's participation in disarmament, just to name a few examples.

After years or even decades—or in WILPF's case, a century—of feminist advocacy for governments and activists to account for gender in their work, we finally seem to be breaking new ground. This is good progress, and imperative to making change in this field.<sup>6</sup> Yet it's not enough if we want to truly improve the lives of those affected.

The work isn't done once gender language is included in a resolution or in an outcome document. This is where the real work starts. Implementation is the hardest part and comes undeniably with many challenges. This is why WILPF and others, who are experts in the field, have developed tools, guides, and research to share with states who truly want to make a difference, and we are ready to support those states ready to walk the talk.

In 2019, WILPF section representatives and partners from conflict-affected countries participated in CSP5, sharing their expertise and painful experiences of arms-related GBV in their countries. They outlined how arms proliferation impacts all spheres of life from Colombia to Cameroon and Yemen, from Burkina Faso to Sri Lanka and the Democratic Republic of the Congo, including serious incidents of sexual, psychological, physical, and economic GBV against women and girls, men and boys, and non-binary people. But they were hopeful that adopted decisions could truly make a difference in the lives of their communities.

But nothing has changed. In Yemen, "Marginalised women and girls [in 2020] are more subjected to rape and harassment in areas where weapons are widespread in the hands of men," reports Rasha Obaid of the Yemeni organisation Peace Track Initiative. "Every woman in Yemen is threatened," she says.

One year on, the observation made by WILPF Burkina Faso at CSP5 continues to hold true: "While the interest generated by this topic during the Fifth Conference of States Parties is a welcome development, action needs to follow words."<sup>7</sup>

We are still waiting for the action.



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Photo © Irina Popa. WILPF delegation to the Fifth Conference of States Parties to the ATT.



# EXPLOSIVE WEAPONS, THE ARMS TRADE, AND THE GLOBAL CEASEFIRE

Ray Acheson | Women's International League for Peace and Freedom

**B**ombing villages, towns, and cities is indisputably devastating for civilians. While it is clear that the targeting of civilians and civilian objects is in violation of international humanitarian law, the use of explosive weapons in populated areas (EWIPA) results in consistently high levels of civilian death, injury, and destruction: over 90 per cent of those killed are civilians; and the direct and reverberating effects of explosive violence leave people without hospitals, schools, homes, markets, water and sanitation, and other basic services. This leads to massive forced displacement, death and injury, long-term socioeconomic hardship and psychological trauma, and increased risks of sexual- and gender-based violence.

Yet, this practice is often carried out with complete impunity. Meanwhile, arms producers and exporters are reaping incredible profits selling munitions, planes, missiles, and artillery to those destroying civilian infrastructure and creating this humanitarian catastrophe around the world. Those selling the weapons are complicit in the deaths of civilians; the destruction of their villages, towns, and cities; and the mass displacement that follows.

The use of EWIPA must end—and so must the arms transfers that enable it. The UN Secretary-General's appeal for a global ceasefire and the development of a political declaration on the use of EWIPA provide opportunities for governments, international organisations, and activists to push for an end to this kind of violence and to the availability of weapons that facilitate it. Such efforts should be complementary to the efforts of Arms Trade Treaty states parties to prevent human suffering—which is, after all, supposed to be the Treaty's key purpose and driving force.

## Appeal for a global ceasefire

On Monday, 23 March, UN Secretary-General António Guterres issued an appeal urging a global ceasefire in the face of the COVID-19 pandemic. "The fury of the virus illustrates the folly of war,"

he said, calling on all parties to conflict to lay down their weapons and "put armed conflict on lockdown." Describing conflict itself as a disease "ravaging our world," he appealed for everyone to "end the sickness of war ... by stopping the fighting everywhere. Now."<sup>1</sup>

A global ceasefire was—and is—essential to ensure the ability to deliver humanitarian aid and to reduce the number of injuries requiring medical attention during a time when hospitals and medical facilities are overwhelmed with COVID-19 patients. Ceasefires would also help prevent the further destruction of hospitals and other health services in many countries that have experienced bombing in populated areas in recent years.

In Yemen, for example, there have been over 130 attacks on medical facilities since the Saudi-led bombing began in March 2015.<sup>2</sup> Since April 2019, at least 60 health facilities in northwestern Syria have been damaged in strikes.<sup>3</sup> The destruction of other civilian infrastructure during conflict, including water and sanitation facilities, has also led to health crises in many countries. The UN has warned that in war-ravaged Gaza, for example, "Hospitals, schools and homes are ... running on empty, worn down by the lack of clean water, electricity, infrastructure and jobs or money. Barely anyone has enough clean water to drink."<sup>4</sup>

As of July 2020, 172 UN member states and several non-state armed groups have supported the ceasefire appeal.<sup>5</sup> An online petition in support of the appeal has so far collected more than 2.3 million signatures;<sup>6</sup> activists in some warring countries issued statements supporting the ceasefire;<sup>7</sup> and others began mapping the response and keeping track of commitments.<sup>8</sup>

However, the ceasefire does not yet seem to have resulted in significant reduction in violence. Part of the blame for this lies with the UN Security Council, which took three months to support the ceasefire appeal. On 1 July it finally passed a resolution

calling for a 90 day “humanitarian pause” to armed conflicts, but it specified that that this did not apply to military operations against groups such as Islamic State, Al-Qaida, and Al-Nusra Front. Further impeding progress, the manufacture and trade of weapons—primarily from UN Security Council member states, which are among the leading global arms exporters—has continued unabated during the pandemic.

### **Business as usual**

During the pandemic, many arms manufacturers have been treated as essential services in most major weapons producing states. Despite risks to workers and despite the urgent need for medical equipment and protective gear, war profiteers are continuing to pump out bombs and bullets.<sup>10</sup>

In the United States, for example, Boeing, General Dynamics, Lockheed Martin, Northrop Grumman, Raytheon, and all other major weapons producers have all indicated they are “open for business”.<sup>11</sup> US officials in charge of military acquisition even said they would accelerate contract awards during the COVID-19 crisis in order to protect the profit margins of weapons companies.<sup>12</sup>

Arms transfers likewise continued during the pandemic. Some countries even used the chaos of the moment to conduct controversial arms sales that would otherwise face public opposition, in a classic demonstration of disaster capitalism. The Canadian government, for example, lifted a moratorium on future exports of military equipment to Saudi Arabia, despite its relentless bombing of populated areas in Yemen and its crackdowns on nonviolent Saudi civilians.<sup>13</sup> This decision came a few months after the Canadian government ratified the Arms Trade Treaty and mere days after it endorsed the UN Secretary-General's ceasefire call.<sup>14</sup>

In Libya, meanwhile, several actors called for a ceasefire,<sup>16</sup> in particular during Ramadan,<sup>17</sup> and there is an official UN arms embargo in place. Yet during the pandemic fighting has not only intensified<sup>18</sup> but it has turned into what the UN acting special envoy called “an experimental field for all types of new weapons systems” due to arms shipments from supporters of the warring

parties.<sup>19</sup>

To truly end violence, a ceasefire is not enough on its own. The companies that make weapons, the governments that approve sales and transfers, and the brokers that facilitate arms deals are also responsible for whether or not conflict continues. And while soldiers and militants must lay down their weapons, these others must also stop providing them.

### **Ending the use of explosive weapons in populated areas means ending their provision**

A political process to develop international commitments against the bombing of towns and cities, which began in late 2019 under the leadership of the Irish government, has been temporarily stalled due to the pandemic.<sup>20</sup> After two rounds of open meetings to comment on drafts for a political declaration on the use of explosive weapons in populated areas, the inability to meet face-to-face has meant that negotiations have been paused for now.

In the last meeting held, however, some states, civil society groups, and international organisations suggested the political declaration should include language on the arms trade.<sup>21</sup> Cuba noted that arms producers bear clear responsibility for the use of explosive weapons in populated areas. The African Group suggested the political declaration work to prevent diversion of arms, especially to non-state armed groups; while the Women's International League for Peace and Freedom (WILPF) and the International Committee of the Red Cross urged the declaration to recognise the links between the arms trade and the use of explosive weapons.

## Recommendations

Ending arms transfers that contribute to the practice of bombing towns and cities is critical. The political declaration on the use of EWIPA and the ATT could help prevent human suffering, if their member states cooperate and ensure synergies between them.

- States must implement the ATT with a view to enhancing peace, justice, and human rights, not profits and political manipulation. Each and every arms transfer must be weighed against the risks highlighted in the ATT. To this end, relevant actors should identify and promote indicators that would prevent the sale of weapons. States must not transfer weapons or military equipment that are at risk of being used to bomb populated areas.
- States and other relevant actors should support the development and implementation of a political declaration on the use of explosive weapons in populated areas. The declaration should recognise the connection between arms transfers and the use of explosive weapons in populated areas. As WILPF has suggested, the declaration could reaffirm that all states must maintain the highest possible standards on their exports of conventional arms, including by adhering to and implementing fully the ATT. It could also commit signatories, including those not party to the ATT, to develop specific guidelines to restrict or stop the transfer of certain types or categories of conventional weapons to state and non-state actors.<sup>22</sup>
- In the context of any data collection practices recommended by the declaration, it would be useful to collect data of civilian harm on the basis of type of weapon(s) used, in order to better track which weapon systems are causing harm. This will be relevant for understanding the impacts of particular weapons as well as for making arms transfer decisions.<sup>23</sup>
- In order to ensure the success of the global ceasefire, arms production and transfer must stop. During the pandemic, arms companies should be reconfigured to produce essential medical equipment. Governments should redirect public resources from weapons and war towards the production of medical equipment, medical staff, and provision of wages, rents, food and health care of those suffering from the economic impacts of the coronavirus.

**WHEN EXPLOSIVE  
WEAPONS ARE USED IN  
POPULATED AREAS,  
OVER 90% OF THOSE  
KILLED OR INJURED  
ARE CIVILIANS.**





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# AN OVERVIEW OF WHAT'S AT STAKE FOR CSP6

Cindy Ebbs and Raluca Muresan | Control Arms

As with all multilateral processes this year, the Arms Trade Treaty (ATT) Sixth Conference of States Parties (CSP6) is following a different format due to the COVID-19 pandemic and the associated travel restrictions. On 13 July 2020, the CSP6 President announced<sup>1</sup> that the conference will be conducted through written procedure, with 17 draft decisions<sup>2</sup> put forward for consideration by CSP6, to be determined via silence procedure.

The impact of COVID-19 goes beyond procedure alone however and has wider implications on the substantive progress expected at CSP6 and on transparency in the ATT process.

## Background

Following the cancellation of the second ATT CSP6 preparatory meetings, originally scheduled for April 2020, the ATT working groups made little progress towards their mandates this year, instead focusing their efforts on ensuring the continuity of their work going forward. Additionally, the written procedure employed for CSP6, by its nature, greatly limits opportunities for real-time consultations and deliberations between states parties and other CSP participants (signatories, observers, civil society, and industry). The lack of these in-person interactions among ATT stakeholders places the transparency and accessibility of CSP at risk.

## Transparency concerns

Efforts to limit the access of civil society in the ATT process are intensifying in a variety of contexts: an increasing proportion of states parties are choosing to restrict access to their national reports; states parties are encouraged to make greater use of the restricted area of the ATT website, and access is restricted to development and management documents of the Diversion Information Exchange Forum. The cancellation of ATT meetings and the shift toward virtual working methods due to the COVID-19 pandemic only exacerbate this trend, making it far easier to exclude civil society and place additional barriers to constructive advocacy work.

One decision under consideration this year, if adopted as such, could result in significant and permanent repercussions on transparency in the ATT process for years to come.

Draft Decision 13<sup>3</sup> proposes the “Establishment of the Diversion Information Exchange Forum”. Drawn from a proposed three-tiered approach to sharing information on diversion developed by the Working Group on Transparency and Reporting (WGTR), the draft decision seeks to formalise a series of closed meetings, held over the previous two years, and which aim to facilitate the exchange of information on suspected or actual cases of arms diversion. Although Draft Decision 13 is a procedural issue in nature, the establishment of such a forum, and the process used to adopt this decision, pose a serious threat to the Treaty’s Rules of Procedure, and more critically, to its stated purpose of transparency.

The formal establishment of any process necessarily requires careful consideration and input by all CSP participants. This role is enshrined in Rules 3, 4 and 5 of the ATT Rules of Procedure<sup>4</sup> which afford each of these groups the ability to “attend the Conference as observers, deliver statements at plenary meetings, receive official documents and submit their views in writing to the Conference.”

However, plenary discussion and debate on the formalisation of the Diversion Information Exchange Forum (DEIF) among all CSP participants is not feasible this year due to the shift to a written procedure. The development of an entirely closed process without any opportunity for discussion or input from observers, civil society, and industry sets a dangerous precedent within an otherwise open and transparent process, as required by the ATT treaty text and its Rules of Procedure.

Observer states, UN agencies, international organisations, civil society, and industry play a critical role in the Treaty’s universalisation and implementation as well as in holding states parties accountable to their commitments. Using its extensive and varied expertise in all aspects of

the international arms trade, civil society provides substantive input into ATT working groups, contributes to national and regional capacity-building worldwide, and develops independent research and analysis to support states in their efforts to join and implement the Treaty. Civil society also plays a key role in encouraging and facilitating information exchanges among States Parties. Without access to forums that tackle diversion and other challenging issues, states parties will lose this valuable resource.

Progress toward improved reporting and effective Treaty implementation is also limited this year.

### **Working Group on Transparency and Reporting (WGTR)**

States parties continue to fall short on their reporting obligations found in Article 13 of the ATT. While the WGTR developed several strategies to support states parties in fulfilling their reporting obligations, including a proposed peer-to-peer bilateral and regional assistance project and an 'Outreach strategy on reporting', these efforts, along with a review of reporting templates, and discussions of public availability of reports, and the disaggregation of export and import data are in suspension until next year. This year, in Draft Decision 12, the CSP6 will consider only the adoption of the WGTR agenda in preparation for CSP7.

### **Working Group on Effective Treaty Implementation (WGETI)**

States did not undertake concrete discussions on ATT implementation this year, particularly on how articles 6 and 7 are actually applied to arms transfers decisions. The rigorous application of articles 6 and 7 in line with the ATT's object and purpose requires states parties to make decisions on arms transfers in accordance with human rights and international humanitarian law. Yet, despite ongoing violations of articles 6 and 7, arms transfers in violation of the Treaty have continued—most apparently to the Saudi-led coalition for use in Yemen.

The WGETI, which is focused on advancing the implementation of Articles 6 and 7,<sup>5 9, 6 and 11</sup> 7

postponed its substantive work, prioritising the adoption of multi-year work plans for each of its sub-working groups.

**For the sub-working group on articles 6 and 7 (prohibitions and risk assessment)**, draft decision 9 proposes a three year work-plan which includes the development of a Voluntary Guide on the Implementation of these key articles.

**For the sub-working group on article 9 (transit and trans-shipment)**, draft decision 10 proposes a two-year work plan which will pave the way for states to unpack this provision and explore measures to regulate transit and trans-shipment on land, air, and sea.

**For the sub-working group on article 11 (diversion)**, draft decision 11 proposes a multi-year work plan to continue discussions on the diversion risk assessment process, the role of transit and trans-shipment states and importing states, and of the private sector and civil society in preventing and mitigating diversion risk.

### **President's Paper**

The President of the CSP6 chose transparency and information-sharing to prevent diversion as the thematic focus of the CSP process.

As in previous years, the president utilised a working paper as a basis for proposal making and discussion in the months leading up to CSP6. Through a working paper titled "Transparency And Exchange Of Information: Its Role In The Prevention Of Diversion",<sup>8</sup> the CSP6 President put forward eight recommendations to strengthen efforts to prevent diversion through transparency and information-exchange, including:

- the exchange of information on the authenticity of the import, export, transit and/or trans-shipment documentation and the legality of users and final uses on-site verifications of exports and imports;
- the exchange information on issued authorisations in order to facilitate early detection of diversion during international transactions, and;



- the involvement of the different state actors that can intervene in the detection of diversion cases, such as export licensing and law enforcement officers.

At a time when the quality and rates of ATT reporting are declining, and transparency in the ATT process is being tested against the backdrop of the COVID-19 pandemic, it is more important than ever for all stakeholders to engage in constructive discussions in order to protect, maintain, and enhance transparency in the ATT.

During and following the CSP6, Control Arms is urging states parties, signatories, and observers to increase their efforts towards transparency and reporting in the ATT process and to take concrete steps towards the meaningful implementation of the Treaty.



Infographic from the Control Arms Coalition.

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# CHALLENGES TO TRANSPARENCY AND REPORTING IN THE ARMS TRADE TREATY

Rachel Stohl | Stimson Center

Transparency is at the core of the Arms Trade Treaty (ATT) Article 1 of the Treaty includes “Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties” as an object and purpose of the Treaty.<sup>1</sup>

The Treaty advances transparency in part by mandating the completion of two reports.<sup>2</sup> Specifically, states parties are required to submit an initial report on measures taken to implement the Treaty within a year of entry into force for that state party. States parties must update these initial reports if they undertake any new measures to implement the Treaty. States parties are also required to submit annual reports on their national arms exports and imports each year, capturing information from the previous calendar year.

Initial reports allow the examination of the ways in which states parties interpret Treaty obligations and incorporate those obligations into their national transfer control systems. These reports also provide a means to monitor Treaty implementation and identify where challenges or gaps remain, thereby building confidence between states parties. Initial reports offer a means to compare implementation processes and better identify good practices as well as areas of needed improvement.<sup>3</sup> Finally, they facilitate international cooperation and identification of opportunities to match assistance needs with available resources.

Annual reports on arm imports and exports help track global weapons flows and monitor compliance with the ATT transfer criteria. Annual reports promote confidence building among states; contribute towards early warning signals for potential conflicts; support conflict prevention measures; and provide a basis for bilateral or multilateral consultations on transfers that may not be in line with ATT obligations.<sup>4</sup>

## Troubling trends in reporting

Unfortunately, compliance with the ATT’s reporting obligations is far from universal. To date, only about three-quarters of ATT states parties required to submit initial reports on Treaty implementation have done so.<sup>5</sup> Moreover, only four states parties have submitted updates to their initial reports, despite the fact that many states parties have undertaken new measures to implement the ATT since submitting their initial reports.<sup>6</sup>

The record of compliance with the ATT’s annual reporting requirement is even more worrisome. Since the Treaty’s entry into force, less than 50 per cent of states parties required to submit an annual report each year have done so by the annual deadline. The on-time compliance rate for the 2019 annual reports dipped to a record-low of 36 per cent.<sup>7</sup> However, strains on personnel, time, and resources amidst the COVID-19 pandemic have likely made it especially difficult for states parties to submit their annual reports on time this year. Thus, given the unprecedented effects of the novel coronavirus, this year may ultimately turn out to be an outlier when assessing ATT reporting trends.

Another issue worth noting is the increase in private reporting. When states submit their reports to the ATT Secretariat, they have the option of submitting privately so that the reports are available only to the ATT Secretariat and to other states parties. And they are increasingly opting to do so. In May 2016, just four per cent of submitted initial reports were private. By June 2020, the number of private initial reports had risen to 18 per cent.<sup>8</sup> Similarly, while just three per cent of the 2016 annual reports submitted by the deadline were private, 17 per cent of on-time 2019 reports were private.<sup>9</sup>

States elect to keep their reports private for a variety of reasons.<sup>10</sup> The ATT-Baseline Assessment Project (ATT-BAP) has found that in some cases the decision to submit private reports is the result of

political interference from leaders that do not want to make certain information publicly available. In other cases, the reporting templates themselves may have created confusion and affected private versus public reporting as a result.<sup>11</sup> In at least two known cases, states inadvertently made their reports private before later making them public after questioning.<sup>12</sup>

The increase in private reporting is not entirely due to new states parties opting to submit their annual reports privately. Indeed, several states parties that once submitted public reports are now electing to submit annual reports privately. When 2016 annual reports were due, one state party that had previously submitted a public report began submitting its annual reports privately. This happened again for the 2017 annual reports. The next year, three states parties switched from public to private reporting, beginning with their 2018 reports. More recently, one state party submitted its 2019 annual report privately despite previously submitting public reports.<sup>13</sup>

A third troubling trend is the tendency of states parties to exclude “commercially sensitive or national security information” from their annual reports, which they are permitted to do under the ATT.<sup>14</sup> Each year since 2015, nearly 20 per cent of publicly available annual reports have indicated that they exclude “commercially sensitive or national security information.” While there has not been a significant change in this percentage from year-to-year, it is notable that such a large percentage of states elect to withhold an unspecified amount of information in annual reports.<sup>15</sup>

These three issues—namely, less-than-universal compliance with the ATT’s reporting obligations, an increase in private reporting, and a steady but sizable percentage of states withholding sensitive or national security information—create obvious transparency challenges. With just three-quarters of states parties complying with their obligation to report on steps taken to implement the ATT and less than half complying with their obligation to report on arms imports and exports, it is difficult to evaluate whether the ATT is promoting responsibility and accountability in the global arms trade.

## Challenges to reporting

Throughout its work, ATT-BAP has identified several key reporting challenges. These include limited resources and capacity, difficulty in accessing and compiling relevant information, and difficulty in maintaining awareness of reporting obligations and deadlines. Government personnel are often strained, and relevant ministries or agencies are often under-resourced. Additionally, government bureaucracies may suffer from a lack of established mechanisms for internal communication and processes to streamline data collection, storage, and sharing, thereby further hindering reporting compliance.

## Measures to mitigate reporting challenges

States have identified several steps that can be taken to mitigate reporting challenges. Such steps can serve as examples of good practice for states parties and other key stakeholders working to support comprehensive and effective reporting to the ATT. These include identifying and promoting greater synergies across relevant conventional arms transfer control agreements to help minimise potential reporting burdens and better streamline reporting processes across multiple instruments; developing and/or utilising existing interagency coordination mechanisms to support information sharing; reviewing information on a case-by-case basis to determine whether information is commercially sensitive or has implications for national security, rather than determining an entire report is sensitive; and developing tools, such as computer software and data management, to facilitate report completion.

Although there are various challenges to ATT reporting, states, the ATT Secretariat, and civil society can take several steps to support ATT reporting efforts. Moreover, the mandate of the Working Group on Transparency and Reporting (WGTR) prioritises improving reporting compliance, identifying challenges to reporting, and fixing the reporting templates. All of these will help fulfill the goal of transparency established by the ATT.



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13. The states that have switched from submitting public to private Annual Reports are: Liberia (beginning with its 2016 report), Greece (beginning with its 2017 report), Georgia, Lithuania, and Mauritius (beginning with their 2018 reports). Albania submitted its 2019 Annual Report privately despite previously submitting public reports, though it remains to be seen if Albania will continue to report privately.
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# ASSESSING DIVERSION UNDER THE ATT: THREE OPTIONS FOR CSP6, AND BEYOND

Cesar Jaramillo | Project Ploughshares

Under the Arms Trade Treaty (ATT), special care must be taken to ensure that arms exports are not diverted from their intended use or user. Yet intentional and unintentional diversion remains common and constitutes a key challenge to the ATT regime.

Six years after the entry into force of the Arms Trade Treaty, it is critical to take stock of some of the key challenges facing states parties, and the ATT regime as a whole, in the implementation of Treaty obligations related to diversion. Below is a brief overview of three factors to consider in the implementation of treaty obligations related to diversion.

## Factor 1: A correct understanding of diversion

Any assessment of ATT states parties' compliance with diversion-related obligations is a function of the way such obligations are understood and implemented—by analysts and by the different states. At present, there seems to be some confusion about which actions and behaviours constitute diversion.

In particular, the complementary, yet distinct, concepts of “end use” and “end user” must both be considered when determining any unauthorised use of armed exports. While often used interchangeably, these concepts raise different considerations on how to prevent, detect, and respond to instances of diversion.

The need to consider both end use and end user is emphasised early in the treaty. The preamble refers to “the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized END USE and END USERS, including in the commission of terrorist acts” (emphasis added).

Discussions of compliance with diversion routinely concentrate on unauthorised end user(s),

presumably because it is easier to identify as diversion an arms export that winds up in hands other than those intended. Still, the Treaty makes it clear that diversion from intended end use is of equal concern.

Consider a scenario in which arms exported for domestic security are used in a foreign conflict, or one in which arms exported exclusively for training are used in security operations. In each instance, the end user does not change but the end use does. It is therefore critical that ATT states parties consider diversion in its full scope.

## Factor 2: Responding to diversion

The ATT prescribes in general terms the responses that states parties should take once diversion has been detected. Article 11.4 of the ATT states: “If a State Party detects a diversion of transferred conventional arms covered under Article 2 (1), the State Party shall take appropriate measures, pursuant to its national laws and in accordance with international law, to address such diversion.” However, there may be obstacles to the operationalisation of this provision.

To start, Article 7.1 of the ATT indicates that “if, after an authorization has been granted, an exporting State Party becomes aware of new relevant information, it is ENCOURAGED to reassess the authorization after consultations, if appropriate, with the importing State” (emphasis added). Here, the ATT seems to afford some immunity to exporting authorities after the required permits have been issued.

Indeed, there is no clear obligation to reassess multiyear contracts, even if diversion is detected while significant portions of the contracts have yet to be fulfilled. Rather, the Treaty merely encourages states parties to reassess ongoing exports when new information emerges—as in instances of diversion—which does not seem consistent with the aspiration stated elsewhere

in the treaty to achieve “the highest possible” international standards.

Responses to diversion by states parties can also be hobbled by contractual obligations that make suspending or cancelling contracts difficult or even impossible. Provisions that guarantee the fulfillment of arms export contracts, even those that extend over several years, drastically limit responses to changed circumstances, including instances of diversion.

Exporting states must proactively avoid situations that later limit their ability to meet ATT obligations—for instance binding themselves to an arms exports contract in which possible responses to diversion are limited by the prospect of penalties or other liabilities. The already-weak encouragement to reassess export authorisations in light of new information as found in article 7.1 becomes a moot point if states must see contracts to completion regardless of new, relevant information.

### **Factor 3: Securing credible information of diversion**

The diversion of conventional weapons is obscure by nature, and there are well-known limitations to arms exporting states’ ability to detect diversion.

Recipients of exports who divert weapons to unauthorised groups or states will likely do so covertly, and only a few ATT states parties have the human, financial, and logistical resources to conduct robust and credible post-export verifications to ensure that the arms exported are not being misused. Because diversion often occurs in remote, secluded locations, it can easily evade scrutiny, even from those exporting states with advanced resources.

Further, government spokespersons from the state suspected of diversion do not constitute sufficiently credible sources of information given the obvious conflict of interest, yet they are often cited in human-rights assessments by arms exporters. Official denials of misuse are to be expected.

Information is also commonly gleaned from an arms-exporting state’s allies, often allies that

are also exporting arms to the recipient state in question.

Critically, an arms-exporting state’s own assessment of diversion can be biased. Such a state could be disinclined to disrupt a lucrative arms contract and might declare categorically that there is “no credible evidence” to suggest diversion from the intended end user or end use.

Yet the internet is replete with relevant information worthy of careful consideration. From tweets and leaked footage, to reporting by civil society groups with personnel on the ground in conflict zones, and even what individual civilians with a smart phone can capture, this wealth of information can be used by governments to more effectively prevent, detect, and respond to instances of diversion.

There is of course significant misinformation online, and rigour must always be employed. But, with adequate vetting, these online sources could inform and enhance the ability to detect diversion. It is critical that ATT states parties fully embrace the ever-expanding information toolbox at their disposal. By doing so, they can avoid narrow assessments that exclude credible, open-source information that may help produce a more accurate assessment of recipient states’ use of arms exports.





## THE ARMS TRADE TREATY IN 2020—A LOST YEAR?

Maria Pia Devoto | APP and SEHLAC Network

The year 2020 has brought with it many completely unexpected situations. COVID-19 has had an impact in our daily and professional lives—and also on multilateralism.

Many ongoing disarmament and arms control negotiation processes were affected. This is the case for the planned political declaration on explosive weapons in populated areas (EWIPA) and the discussions of the Group of Governmental Experts on Lethal Autonomous Weapon Systems (LAWS). The Review Conference of the nuclear Non-Proliferation Treaty (NPT) is postponed to January 2021. The Review Conference of the Convention on Cluster Munitions, organised for November 2020 may still take place in Lausanne.

While there is no single approach to multilateral disarmament in this time, the Sixth Conference of the States Parties (CSP6) to the Arms Trade Treaty (ATT) has chosen the what is possibly one of the worst options for how to move forward: a written procedure, which presents clear limitations for participation.

The Arms Trade Treaty under the presidency of Argentina suffered a change of President-designate two months before CSP6. The Argentine Ambassador to International Organisations in Geneva (who also held the Presidency of the ATT) was removed from his position in March 2020 as a result of a change in government in December 2019. He was also removed from his position as President of the ATT in June 2020 and was replaced by the new, and current, Ambassador to International Organisations.

The thematic focus proposed by the Argentine Presidency for the CSP6 meeting cycle was “Transparency and Exchange of Information: its Role in the Prevention of Diversion.” This demonstrates clearly that a critical issue for the region is diversion, especially considering it had already been addressed during the Japanese Presidency and the Fourth Conference of States Parties (CSP4)<sup>1</sup> in 2018 in which decisions and recommendations were adopted, such as the

creation of the sub-working group on diversion.<sup>2</sup>

The fact that the Treaty includes a specific article on diversion (article 11) is the result of an endeavour of the Latin American and the Caribbean region during the ATT negotiations, and subsequently under Mexican leadership. Moreover, during the early years of the Treaty's existence, when the procedural aspects were being discussed, including the templates for reporting, Argentina made a presentation during the CSP1 to specifically address the issue of diversion and reporting. Numerous proposals in relation to diversion were developed throughout the years, most of which are authored by Latin American countries, such as the proposal presented during the first meeting of the Working Group on Effective Treaty Implementation (WEGTI) in March 2018, to prevent and address diversion from legal transfers.<sup>3</sup>

At the Sixth Conference of State Parties (CSP6) a Diversion Exchange Information Forum (for states parties and signatories only) has been established and the Presidency has presented a working paper<sup>4</sup> that contains proposals for decisions to be made during CSP6, even though the meeting won't be convened either physically or virtually. In February 2020, during the only face-to-face meeting of this meeting cycle, a multi-year work plan to prevent diversion was outlined<sup>5</sup> in connection with the meetings of the WGETI sub-working group on diversion.

As Latin America and the Caribbean is the region that faces the highest number of victims due to armed violence in the world, it is natural that diversion is a priority for its governments. There are many factors that facilitate diversion in the region: the remnants of weapons from conflicts; porous borders; state arsenals that lack security measures; corruption; a large private security sector with little regulation; and organised crime.<sup>6</sup> This is the reason why the thematic focus of 2020 is fundamental in preventing diversion.



The United States is responsible for much of the diversion into Latin America and the Caribbean, specifically to Mexico. It was confirmed that 70 per cent of all illegal weapons confiscated in Mexico by national authorities (a total of 73,684 firearms) between 2009 and 2014 came from the United States.<sup>6</sup> As an anecdotal example, since there are no systematic investigations and detailed reports, the media reported in 2019 that weapons (in particular M-16, Colt, and AK-47 firearms) confiscated in Argentina came from the United States in parcels from Miami and were originally destined to the Comando Vermelho Group in the Rio de Janeiro's favelas, in Brazil.<sup>7</sup>

On the other hand, one of the characteristics of the region is that policies and actions are usually taken as a consequence of past events. Since instruments like the ATT exist, it is essential that they are used in order to achieve an exchange of transparent information between governments within the region so as to help to prevent crime in general and the diversion of weapons specifically.

States parties from Latin America have acted consistently with the principles of transparency and compliance, except for Honduras which has kept its initial and annual reports private.

During CSP6, most of the decisions will be of an administrative and financial nature, except for Decision 13, which foresees the creation of the Diversion Information Exchange Forum.<sup>8</sup>

Although the creation of the Forum is necessary and an improvement for the Treaty in terms of its implementation, the fact that it is only for states parties and signatories is discouraging. While civil society does not have any access to the documents which may establish the Forum, it is believed that it is not foreseen to be a participatory space for research institutes or other members of the civil society which could present field evidence and solid proposals to prevent diversion, as a result of analysis and research, and independent from public spaces such as the CSPs and working group meetings.

Due to the approach used for decision-making at CSP6 and conducting the meeting in written format, we are facing a completely lost year, in which there has been very limited exchange on matters of substance. This is especially disappointing for a subject like diversion, that is so critical for the region.

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# A REVIEW OF ONGOING PACIFIC ENGAGEMENT IN THE ARMS TRADE TREATY

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Small island states in the Pacific have long held progressive and supportive positions on disarmament issues at large. In the last two decades, Pacific Island countries have consciously turned away from arming themselves as a strategy to achieve peace. Of those, 14 of 16 do not have armed forces, and 12 of 16 have unarmed police forces. Most Pacific Island countries have a universal ban on civilian ownership of weapons, and consequently, diversion rates and armed homicide rates in the Pacific are amongst the lowest in the world.

## Universalisation of the ATT

Pacific Island countries have unsurprisingly supported the Arms Trade Treaty (ATT) from the very beginning. Niue's accession on 4 August 2020 takes ATT membership in the region to six (including Australia, New Zealand, Palau, Samoa and Tuvalu). Vanuatu, Kiribati, and Nauru are signatories to the ATT, and have undertaken a range of steps to progress toward ratification. Even non-signatories such as Fiji, Solomon Islands, and Tonga have engaged with the ATT process, and have undertaken international assistance projects to explore and plan for accession.

## Implementation efforts

As a region, the Pacific Island countries have been very active in universalisation and implementation activities. A wide range of activities and initiatives have been undertaken by Fiji, Palau, Samoa, Solomon Islands, and Vanuatu to review and strengthen national systems. Some of the common initiatives have included:

- *Reviewing national legislation:* the vast majority of existing arms control legislation dates back to the 1960s, and the systems are thus in need of urgent updating. Countries like Samoa have completely overhauled their existing legislation to become compliant with the ATT. Others such as Palau, Vanuatu, and Solomon

Islands have begun to review the gaps and assess the changes required. Kiribati has drafted its Cabinet Paper to ensure political buy-in for the necessary legislative changes required to ratify the ATT.

- *Establishing whole-of-government systems:* a number of Pacific Island countries have begun establishing inter-agency working groups to begin recognising and capitalising on existing synergies. The Government of Vanuatu is in the process of empowering its international humanitarian law (IHL) Committee to lead on inter-agency implementation of the ATT. Palau has established a 17-agency Working Group on the ATT. Solomon Islands has begun to draft a national action plan, including agreeing to establish specific milestones for inter-agency collaboration. Samoa is reviewing existing inter-agency forums within government to identify the best host for ATT-related discussions.
- *Reporting and recordkeeping:* As a region, the Pacific has struggled to keep on top of reporting and recordkeeping obligations. In recognition of this, grants from the ATT Voluntary Trust Fund, UNSCAR, and bilateral aid projects have sought to strengthen national systems to collect and analyse national data, and to support the capacity of officials to source information and collate annual and bi-annual reports for various arms control and disarmament instruments. Tools like CAVR's *ArmsTracker* have been installed in Samoa and Fiji, with Vanuatu and Palau next to begin trials. Such tools are designed to support Points of Contact to gather information, and thereby make it easier to submit annual reports for the ATT, UN Programme of Action on small arms and light weapons (UNPoA), and other relevant instruments.
- *Regional integration:* Before the onset of COVID-19, plans were already in motion to host the 3rd Pacific Conference on the Arms Trade Treaty—with the specific goal

of strengthening regional consensus, and supporting countries to take the necessary steps to ratify/accede to the ATT. This now-delayed conference aimed to build on the progress made at the previous two meetings, and to continue exploring technical and thematic issues of regional relevance. When held, it will also provide an opportunity to invite countries from nearby South East Asia to learn from each other's experiences, and to work together to tackle issues of common concern.

### Threats, challenges, and opportunities

One of the biggest challenges for most Pacific countries has been to negotiate the physical distances between and within states. For example, Palau is a collection of some 500 islands while Kiribati is comprised of 32 atolls, spread across 2800 square miles. The physical distance between the various islands and atolls have consistently posed a logistical and governance problem to Pacific countries. The ever-present threat of climate change and the onset of COVID-19 have further isolated communities and added many

layers of challenges for Pacific governments. There has been a considerable impact on already stretched public health budgets, and the additional mitigating measures have reduced national capacity to focus on other priorities such as the ATT. This will undoubtedly have a dampening effect on ATT implementation and universalisation efforts in the region, as public resources are re-allocated to address core government programming. International cooperation and assistance mechanisms must find ways to recognise this shift and find ways to continue supporting high-achieving projects and activities and safeguard the forward momentum.

Another major challenge posed by the rapid pace of internet connectivity in Pacific countries is the lack of legislative and regulatory frameworks to control brokering activities. Whereas the rapid introduction of information management and sharing technologies is a welcome development, without adequate legal protections in place, Pacific countries become immediately vulnerable to being exploited by arms brokers to engage in illicit activities.



Photo © Deepayan Basu Ray. Opening statement by Mr. Osea Cawaru (Permanent Secretary for Defence and National Security, Government of the Republic of Fiji) at the National Workshop on the Arms Trade Treaty, November 2018.

# THE NEED FOR ATT ACCOUNTABILITY IN LIGHT OF RISING CONFLICT IN SUB-SAHARAN AFRICA

Guy Blaise Feugap | WILPF Cameroon

**T**he Arms Trade Treaty (ATT) was welcomed in Africa as an opportunity to curb armed violence, as it was the first international treaty regulating international transfers of conventional arms and ammunition to reduce human suffering.

When the Treaty entered into force, the African Institute for Security Studies (ISS) estimated that 52 per cent of global armed conflict incidents occurred in Africa.<sup>1</sup> In 2019 in sub-Saharan Africa, states parties to the Treaty are major arms importers. They have increased their overall military expenditure as a result of arms transfers and the escalation of conflicts fueled by the arms that should be regulated by the ATT. According to the Stockholm International Peace Research Institute (SIPRI), “The combined military expenditure of states in Africa grew by 1.5 per cent to an estimated \$41.2 billion in 2019—the region’s first spending increase for five years.”<sup>2</sup> During that period, millions of people continued to suffer the direct and indirect consequences of the irresponsible trade and diversion of arms.

## **The impact of arms proliferation in sub-Saharan Africa**

In Africa, there is an increase of the multiplication of conflicts that erupt due to poverty, poor governance, social and political unrest, and increasingly from identity politics, as can be seen in the conflict in the North-West and South-West regions of Cameroon. These conflicts are exacerbated by radicalisation and violent extremism, facilitated by the wide circulation of small arms and light weapons (SALW).

As a result of the weapons found in the hands of non-state armed groups, thousands of people are killed, women are raped and forced to flee their communities, while many others live under the constant threat of arms. The grave impacts of the diversion and unregulated transfer of arms on women and girls underscores the urgent need for action.

## **Reasons for the unregulated and illicit arms proliferation: The example of Cameroon**

The case of Cameroon may explain why good laws that are not respected do not help to achieve stability. The armed conflict that has been going on since 2016 in the North-West and South-West regions of Cameroon between separatist armed groups and the government armed forces is heavily fueled by illicit weapons. The separatist armed groups use home-made weapons, which are prohibited under the national law on the arms and ammunition regime which is in force since December 2016. Other weapons are obtained in various ways, such as killing military personnel in order to take their weapons; dispossessing citizens who are legally authorised to carry weapons; and obtaining them in neighboring countries.

## **The role of African states in preventing diversion and arms proliferation**

The preamble of the ATT underlines “the need to prevent and eradicate the illicit trade in conventional arms and to prevent their diversion to the illicit market, or for unauthorized end use and end users, including in the commission of terrorist acts”. As well, article 11 of the Treaty focuses specifically on the prevention of diversion.

However, one has to question the effective implementation of the ATT in the sub-Saharan region. Perhaps the efforts are being made by the states parties; but clearly the illicit arms trade, the poor regulation of transfers and the irresponsibility of the states involved remains a concern to which the Conference of States Parties to the ATT must pay attention.

African states parties in the region, which import more arms and suffer the consequences, have a particular role to play in preventing diversion and unregulated transfers. They also need to address the weak implementation of national laws and sub-regional conventions.



At the 10th anniversary of the Central African Convention, the Secretary General of the Economic Community of Central African States (ECCAS) referred to key challenges to the effective regulation of SALW in the region: the persistence of armed groups, the physical security of stockpiles of weapons and ammunition, border control, and the possession of weapons by unauthorised civilians.<sup>3</sup>

The Central African Convention (for the control of small arms and light weapons, their ammunition, and all parts and components capable of being manufactured, repaired and assembled), commonly known as the Kinshasa Convention, if implemented effectively, could help curb arms diversion and conflicts in the region. Amongst others, the Convention establishes a national arms control mechanism, implemented in several countries as a "National Arms Commission". If set up in all relevant African countries, it could help states to address many challenges to the implementation of both the Kinshasa Convention, and the ATT.

In any case, African states parties to the ATT should address the root causes of conflict, including the lack of good governance and poor living conditions, which are exacerbated by the uncontrolled proliferation of arms.

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Reaching Critical Will is the disarmament programme of the Women's International League for Peace and Freedom (WILPF), the oldest women's peace organisation in the world. Reaching Critical Will works for disarmament and the prohibition of many different weapon systems; confronting militarism and military spending; and exposing gendered aspects of the impact of weapons and disarmament processes with a feminist lens. Reaching Critical Will also monitors and analyses international disarmament processes, providing primary resources, reporting, and civil society coordination at various UN-related forums.



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