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EDITORIAL: PREVENTING THE DIVERSION OF ATTENTION

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

As states and civil society met virtually last week for the first time in this Arms Trade Treaty (ATT) meeting cycle, the UN Office Coordination of Humanitarian Affairs (OCHA) **reported** renewed clashes between the Myanmar security forces and regional armed groups in several places in Kachin state. These included the use of airstrikes by the Myanmar military and mortar shelling by both sides. The result was the displacement of nearly 5,000 people and damage to their homes, compounding already difficult conditions caused by earlier violence, poverty, digital repression, and the COVID-19 pandemic.

Around the same time last week that OCHA filed this report, an ATT conference side event was taking place on the subject of how irresponsible arms flows—including of parts, components, equipment, and dual-use goods—are fuelling the crisis in Myanmar.¹ The access to and production of weapons and military equipment in Myanmar is complex, but it does demonstrate a situation where the ATT can make a difference. As part of his opening remarks to the side event, Ambassador Lim of the Republic of Korea **observed** that, “As seen over the years, ATT states parties and stakeholders share different views and interpretation of the ATT criteria. At the end of day, what matters is that that the ATT makes an impact on the groups that need it most.”

This is a point that WILPF and other stakeholders have been emphasising repeatedly since even before the Treaty was adopted. The cities and countries in the grip of crisis may be different now than they were then—although tragically, a few have slid even further from peace—but the message to reduce human suffering is a constant.

The limits and possibilities of Zoom diplomacy

Last week's round of intersessional ATT meetings was this treaty community's first foray into a fully virtual conference. Since the start of the COVID-19 pandemic, all multilateral processes have been

trying out a range of methods to advance their work, with varying levels of success.² The ATT CSP6 meeting cycle occurred completely via written format and decisions were taken by silence procedure. Agreements were not always clearly communicated or explained to all stakeholders, which generated confusion both on substance and on process. As we noted in an **earlier edition** of this *Monitor*, in his role as CSP7 president, Ambassador Gberie of Sierra Leone has done well in taking a consultative approach to planning this meeting cycle by outlining the options for meeting modalities and formats and asking states and civil society to offer input along the way, in an effort to find a method that works for all, or at least for most.

It was evident that significant work went into preparing for the virtual meetings. Clear agendas and advance documentation were provided; some of which had been organised neatly so as to ensure that topics would not overlap one another within a single meeting, but that each would be given sufficient time and space to be addressed. The ATT Secretariat website has become a well-organised hub for these and other relevant documents, including the many expert and kick-off presentations delivered throughout the week, which were immediately available online. All meetings were recorded and also made available instantly in the five languages used by the Treaty (Russian is the only UN language not yet in use, as based on the needs of current states parties). Participants were also encouraged to submit in writing any statements delivered verbally for posting on the ATT Secretariat afterwards. These measures are important for transparency and information-sharing, especially in a process that ultimately leads to the adoption of formal decisions. In addition, such measures can help lesser-resourced delegations or those based in further time zones to catch-up and stay abreast of developments. Virtual meetings hold the possibility in general of enabling broader and more diverse participation than would be possible when visas,

flights, and hotel costs are a factor—although, as we saw a few times last week, the digital connectivity of all cannot be taken for granted. For some in civil society, safe internet access is also a consideration.

Yet, despite there being around 200 or more people logged in each day, verbal participation in most meetings was noticeably low. The meeting on the CSP7 thematic focus of stockpile management on the first day had by far the most statements. Only around a dozen state delegations³ and two or three civil society groups delivered statements regularly throughout the remainder of meetings. Expert thematic presentations were met with very few questions, and there was not much interactivity between and among participants, which is admittedly always somewhat awkward to manage well in a virtual format and with an eye to time restrictions. However, considering the amount of substantive items that are under consideration and the significant preparations that the presidency, co-chairs, and the ATT Secretariat have put in to planning the meetings, the low level of active participation felt surprising, and even somewhat disappointing. For some topics, such as on sharing about challenges in meeting reporting requirements, it was also a missed opportunity for meaningful exchange and progress.

This could be a reflection of where we are in the pandemic and the toll that the last year has taken on resources and capacity. It could also be as simple as the time of day when the meetings took place not being convenient for all parts of the globe or connectivity problems. As well, some states may be sending their inputs in via email or through the information exchange platform. If they are doing so, it will be important that contributions received either as meeting statements or as written proposals be made available online so that it's possible to assess those inputs against future proposals.

Reduced or lower than usual participation does give credence to points that WILPF and others have made about this being an opportune moment in time to evaluate the existing and proposed meeting modalities, work plans, discussions, and

related resource allocations, and questioning the “business as usual” approach. This applies both to how working methods support the Treaty’s real-world impact, but also if they enable fair and equitable participation of all. As Palestine noted in its statement last week, states should reconsider their priorities in light of the global pandemic—it explained that the understanding of security as dependent on “astronomical expenditure on weapons and militarisation is fundamentally flawed” because true security depends instead on education and health services, for example.

The pandemic may feel like it is ebbing in some parts of the world, but in others it is raging and won't be “over” for anyone until it is over for everyone. The disarmament calendar is also chock full of postponed meetings on other weapons issues around the time of CSP7, posing further constraints. It may be that the temperature needs to be taken again before finalising the plans for CSP7, to protect against the contributions of lesser-resourced states and actors being squeezed out.

Diverting attention

Another point that WILPF has raised in reference to ATT meeting cycles is about continuity and ensuring that commitments undertaken during states parties’ conferences on a specific thematic focus do not get lost in the move to a new thematic focus the following year. This was echoed by Argentina and Control Arms in their statements to the CSP7 preparatory committee.

One thematic focus that has definitely not gotten lost in the mix, however, is diversion, which was the focus of CSP4 in 2018. There is now a sub-working group on the topic (constituted under the WGETI); there was an informal meeting to discuss “concrete cases of detected or suspected diversion that States Parties and Signatories are dealing or have dealt with” during CSP5; it was somewhat the focus of CSP6 (which was, officially, “transparency and information exchange: its role in the prevention of diversion”); and has led to the establishment of a new body, the Diversion Information Exchange Forum. Not surprisingly there has been a correspondingly large amount of publications, resources, and side events on the subject in these years.

Diversion, and illicit trade, is also very much bound up in this year's thematic focus on **stockpile management**. This focus was well-received by states during the corresponding meeting last week, as is outlined elsewhere in this edition of the *Monitor*.

It should not be surprising then that during that meeting and elsewhere throughout the week, there were many references to the Treaty's objective to "prevent and eradicate the illicit trade in conventional arms and to prevent their diversion". But it is starting to sound as if the ATT were an instrument focused solely on illicit transfers and trafficking or designed solely to prevent diversion.

Arms diversion and illicit transfer are undoubtedly a massive part of the reason why conventional arms continue to reach the conflicts, crises, and actors that they do, but it's also important that the ATT community not allow its attention to be diverted from the Treaty's focus on regulating the legal transfers of arms and preventing the negative consequences outlined in articles 6 and 7. Further, this should not just be in the context of arms exporting countries taking care to prevent diversion through their own control system, but also in being rigorous in assessing for the other risks set out by the Treaty.

Private sector responsibility was also noted more than once in statements last week, especially in the context of transit and trans-shipment, and on diversion. There is a lot to be said—and done—in relation to corporate responsibility in the arms industry. Earlier this year, the UN Working Group on Business in Human Rights convened a discussion about possible areas of action and research in relation to weapons companies, and different organisations including WILPF have long highlighted the applicability of the **UN Guiding Principles on Business and Human Rights** to the arms industry. This is an important conversation that is not yet really being had in the way it ought to, including within human rights frameworks, but calling for private sector accountability should not lead to an abdication of state responsibility and due diligence.

Accountability in a changing landscape?

One new development last week was the first-ever participation of China in an ATT meeting as a state party, following its accession in 2020. China was an active participant in meetings. Its statements tended to highlight its "principled arms transfers" and how its domestic policies and law align with Treaty requirements.

Meanwhile, a voice that had been heard often in past meetings has become quieter as of late. The United States signed the ATT in 2013 and while it never ratified, US representatives have subsequently been very active participants in working group meetings and at CSPs, offering views on documents and decisions in its capacity as a signatory. Ever since former US President Trump tried to "un-sign" the ATT in 2019, US government participation has been muted, however. Current US President Biden has not yet reversed that decision in any public way and given that US representatives did not really contribute last week beyond responding to a technical question, it would appear that they do not yet have instructions to re-engage.

The involvement of two of the world's largest arms exporters may generate some new political dynamics among the ATT membership, including in relation to accountability and compliance. China did not hesitate to call out the United States for remaining outside of the ATT in one of its statements last week. In other disarmament and arms control fora, the two countries throw barbs at one another regularly, but this is unusually candid behaviour for an ATT meeting. Some of China's other inputs also drew attention to the fact that that some of the resources and tools that have been developed via ATT working groups to support implementation refer to arms control instruments and frameworks that not all exporting states parties (i.e. China) are party to, highlighting the Euro-centric composition of the ATT's exporting membership. There are of course broader geo-political and security relationships that bind Europe and the United States in ways that exclude China, just as China has ties to some other, mainly importing, states parties, and including in the provision of arms and military equipment.

China's role in relation to Myanmar was not overlooked during the side event referenced earlier in this editorial; just as the role of some European and North American countries have not gone overlooked in other side events and reports launched throughout the years on arms supplies to Yemen, South Sudan, Libya, and elsewhere. Going forward however, it would be difficult for Western states parties to throw shade at China for activities in relation to Myanmar, or elsewhere, without finally having to own up to some of their own, equally shady, arms transfers. Some of the activities undertaken by the Working Group on Transparency and Reporting (WGTR) such as updating the draft report templates and allocating time during meetings for states to share about the challenges they face in meeting reporting deadlines or why they chose to keep their reports private, are helpful in this regard. Regrettably, few states took the floor during those opportunities last week and it doesn't appear any opportunities will arise in the context of the Working Group on Effective Treaty Implementation (WGETI).

Civil society members that are part of the Control Arms Coalition **called again** last week for a reality-based conversation about assessing the Treaty's impact, a move WILPF supports:

Since it first convened in 2015, the ATT Conference of States Parties has made great strides in developing its reporting system and improving its transparency. We must now

turn our focus to improving transparency in arms transfer decisions.... Only by rigorously assessing arms transfers decisions against the Treaty's criteria and by providing scrutiny to possible Treaty violations by others can we ensure that implementation efforts are effective.

As underscored at the start of this editorial, the message to reduce human suffering has been a constant since before the ATT was adopted. It is more than just a message, however—it is a moral imperative that underpins the legal commitments undertaken by ATT states parties.

1. *A summary of this event can be found on p. 29.*
2. *In September 2020, WILPF published **Locked out during lockdown: an analysis of the UN system during COVID-19**, in which its programmes on disarmament, human rights, and Women, Peace and Security came together to analyse working methods of relevant UN fora during the first six months of the pandemic.*
3. *These include Argentina, Belgium, Canada, China, European Union, France, Ireland, Japan, Mexico, Panama, Republic of Korea, Switzerland, and the United Kingdom. Other states spoke only once, or not at all.*

Article 1

Object and Purpose

The object of this Treaty is to:

- Establish the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms;
- Prevent and eradicate the illicit trade in conventional arms and prevent their diversion;

for the purpose of:

- Contributing to international and regional peace, security and stability;
- **Reducing human suffering;**
- Promoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, thereby building confidence among States Parties.

Extract from the Arms Trade Treaty text

SUMMARY: THEMATIC DISCUSSION ON THE PRESIDENT'S PAPER

Katrin Geyer | Women's International League for Peace and Freedom

The president of the Seventh Conference of States Parties (CSP7) to the Arms Trade Treaty (ATT), Ambassador Lansana Gberie of Sierra Leone, invited participants to comment on his draft working paper *Strengthening efforts to eradicate the illicit trade in small arms and light weapons and ensure efficient stockpile management* (ATT/CSP7/2021/PRES/659/Conf.SALWPSSM) on Monday, 26 April 2021 as the first item on the agenda.

In his introduction, the president reminded of the grave threat that small arms and light weapons (SALW) pose in his own country as well as many other regions in the world. He referred to the UN Programme of Action (UNPoA) on SALW that demonstrates that SALW are one of the most pressing issues of international peace and security, and recalled the UN Secretary-General's (UNSG) observation in his *2018 Agenda for Disarmament* that SALW are key enablers of armed violence due to their ease of use and widespread availability. He stressed that SALW are threat multipliers, and are the weapons of choice in gender-related violence, terrorism, organised crime, armed violence and conflict, amongst others, and are a factor for mass displacements and human rights violations across the world. The president recalled Sustainable Development Goal (SDG) 16, and particularly Target 16.4 as avenue to tackle SALW proliferation, and reminded of the *2020 UN General Assembly resolution* on the ATT that included in 2020, for the first time, a reference to SALW in an operative paragraph.

The president briefly introduced the draft working paper. It sets out areas of the arms trade supply chain requiring further attention in existing regulatory frameworks, and poses a set of suggestions for ATT work plans, to prevent the illicit trade of SALW and to strengthen stockpile management (SPM) and security, through mapping and better implementation of existing guidance, and information sharing and assistance programmes on effective and innovative stockpile management. The president informed

that the working paper will be revised based on participants' inputs, and will be submitted at CSP7 for consideration of adoption.

The paper is divided into five parts. It includes an introduction, explaining the president's rationale and intention for this theme. The second part "Addressing the illicit trade of SALW through the ATT," explains how the ATT is well-designed to address this theme through its various provisions. This section also recalls the 2020 UN General Assembly resolution. The third section "Synergies between ATT and the global framework for arms control, non-proliferation, and disarmament," explores and lists synergies between the ATT and other frameworks, and lists suggestions for further areas of work, including mapping of additional instruments, identifying of gaps in other instruments, and identifying challenges and complementarities between relevant assistance programmes. The fourth section "Strengthening ATT implementation by enhancing safe and secure stockpile management," emphasises the importance of stockpile management, and encourages states parties to consider all aspects of stockpile management both before export authorisation occurs and safe and secure storage post-delivery. It suggests further measures with regards to storage facilities and mitigation measures, and assistance to importing states. The fifth section "Possible outputs from the CSP7 focus on the illicit trade in SALW and stockpile management," proposes a set of possible areas for states parties to consider for further inquiry and exchange or longer-term implementation. Proposals include 1) mapping of existing tools on the prevention of the illicit trade of SALW and strengthening stockpile management; 2) formalising discussions concerning post-delivery cooperation experiences; 3) information sharing on effective stockpile management; 4) and compilation of relevant bilateral and multilateral assistance programmes addressing the illicit trade of SALW and stockpile management.

General

France, Control Arms, Peru, and the European Union (EU), amongst others, welcomed the suggestion that the proposals be further discussed in the Working Group on Effective Treaty Implementation (WGETI) and especially in its sub-working group (SWG) on article 11. Control Arms urged that this topic be included beyond CSP7, either in the SWG on article 11, or in a special session dedicated to implementing recommendations of CSP presidencies.

Humanitarian concerns about SALW

The vast majority of participants welcomed the president's theme in light of the devastating impacts of illicit transfers and diversion of SALW, including Burkina Faso, Japan, Georgia, Uruguay, Panama, Ireland, Peru, Nigeria, EU, the United Kingdom (UK), Control Arms, Argentina, and Mexico, amongst others. Burkina Faso expressed concern about the impact of SALW in its country, including with respect to terrorism, "victimising families, civilians, and the military," and therefore recalled the urgency to improve SALW control, including through greater transparency and cooperation of states parties to the ATT. Mexico and Nigeria also underscored the impacts of trafficking of SALW on their regions. Mexico recalled that in the past years, 75 per cent of homicides were committed with SALW. Nigeria said that SALW were implicated in the kidnapping and killing of children, causing displacement and threatening livelihoods. Panama underscored that illicit SALW pose challenges to the respect for international human rights law (IHRL) and international humanitarian law (IHL) and the promotion of the SDGs. Ireland made similar remarks. Uruguay echoed negative impacts of SALW on the achievement of the SDGs. The EU and the UK also noted that (diverted) SALW are an impediment to sustainable development.

Synergies between the ATT and the global disarmament regime

Many participants, including Mexico, China, Georgia, the EU, Peru, Canada, Switzerland, Control Arms, France, Ireland, and Panama, amongst others, underscored the importance of exploring and consolidating synergies with other existing instruments, and therefore welcomed the president's suggested approach to this topic.

Switzerland and Control Arms underscored the relevance of the upcoming **seventh Biennial Meeting of States** (BMS7) of the UNPoA as opportunity to create further synergies. Control Arms specified that two BMS7 agenda items are relevant to the ATT: 1) consideration of efforts to prevent and combat diversion of SALW, and 2) reviewing cooperation and assistance in these areas.

A few participants mentioned additional instruments that could be considered in the mapping exercise, as proposed in the president's paper. Mexico and Panama encouraged strengthening the links between the ATT and the The Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA), the first international instrument to cover the illicit trade of SALW.

Panama argued that preventing illicit trade and the safe management of stockpiles are also coherent with the UNSG's Agenda for Disarmament, through its pillar "disarmament to save lives", that calls for elimination of excessive stockpiles. Switzerland recommended the consideration of a programme, established by the Organisation for Security and Cooperation in Europe (OSCE) that includes best practice on SALW and conventional arms management, including illicit trade of arms and ammunition.

Ireland encouraged examining possible synergies with the work by the UN Human Rights Council on arms transfers and its impacts on women and girls. It noted that the **latest report by the UN Office of the High Commissioner of Human Rights** addresses the gendered impacts of diverted and illicitly trafficked arms, calling on states to address the gendered root causes of violence. Ireland stressed that relevant HRC resolutions and reports reaffirm commitments made by the disarmament community on this topic.

A few states urged for caution in exploring synergies. For instance, Japan said that while exploring synergies between the ATT and UNPoA can be beneficial, duplication and deviation from established norms should be avoided.

Stockpile management

The vast majority of participants welcomed the focus on improving SPM. The UK noted that addressing SPM in importing countries is crucial, as risks can occur through loss, thefts, and accidents. Similarly, Control Arms stressed that SPM is key to prevent diversion of SALW, and reminded of well documented cases of diversion from arms and ammunition stockpiles, demonstrating the effects of weak stockpile security.

France noted that while stockpile management isn't addressed in the ATT, the strengthening of the physical security of arms and ammunition depots and improving management is essential, and contributes to the implementation of the ATT.

A few participants spoke to the topic of mitigation measures in SPM. Canada was pleased to see a reference to mitigation measures that states can adopt at the post-delivery stage, in efforts to strengthen stockpile management. Control Arms encouraged that the Information Exchange Forum (DIEF) include the role of stockpile security in its updates to the SWG on article 11, and said it would be useful to learn from actual cases where mitigation measures proved effective to combat diversion, as well as when mitigation measures weren't successful.

France noted that an exchange on information on stockpile management measures could be done via the initial reporting templates, as suggested in the draft working paper, but cautioned that this shouldn't be an obligation.

Post-delivery cooperation

Switzerland, Nigeria, Canada, Ireland, and Peru, amongst others, welcomed the president's proposal to formalise discussions concerning post-delivery cooperation experiences. Switzerland referred to a study by the Stockholm International Peace Research Institute (SIPRI) with a census of post-transfer measures as useful basis for continued discussion on the topic. Canada informed that it will draft a working paper with an overview of national practices regarding post verification measures, an initiative that it presented in more detail in the WGETI SWG on article 11.

While most states were supportive of strengthening post-delivery measures, the UK said that states parties shouldn't build "unnecessary barriers," and argued that setting additional burdens such as post-delivery requirements can risk creating "insurmountable hurdles" detrimental to full ATT implementation.

Gender

A significant number of participants, including Mexico, Uruguay, Nigeria, Panama, Peru, the EU, Ireland, and Argentina spoke about the various links between gender and SALW and the need to include gender perspectives in the president's theme. This is a welcome development in light of lacking implementation of commitments on gender and gender-based violence (GBV) agreed upon at CSP5.

Various states stressed the distinct gendered impacts of SALW proliferation, including Panama and Peru. Mexico reminded of the links between possession of SALW and domestic violence, and both Mexico and Uruguay noted that women and children often have to take care of the victims of armed violence, causing additional burdens. Nigeria, Uruguay, Panama, Peru, and Ireland also stressed GBV as one of the direct consequences of the illicit trade of SALW.

A few participants, such as the EU, Argentina, and Ireland reminded that the ATT is the first international legal instrument to recognise the link between the arms trade and GBV, and therefore argued that this year's theme, as well as CSP7 more broadly, should include these links. The EU informed that it's actively mainstreaming gender perspectives in its work on SALW control, and that it's working to understand gender-specific impacts of SALW to improve policies. Ireland stressed that the link between SALW and GBV is well documented, and specified that the president's paper could draw attention to that evidence, showing a correlation between illicit arms flows in both conflict and non-conflict areas, and the rate of violent crimes and intimidation against women and girls.

Ireland also highlighted the link between gender and ammunition management and diversion, ammunition being the main component in improvised explosive devices (IEDs) whose use also has distinctly gendered impacts.

National efforts

A few states parties reported on national efforts to address the illicit trade and diversion of SALW. Japan for example explained that it has been actively engaged in SALW control by submitting annual UN General Assembly resolutions on the topic, and by providing assistance to diverse projects on SALW control. The EU informed that it funds many activities to address the illicit trade of SALW, and to prevent diversion in many regions, including in the Western Balkans, Latin America and the Caribbean, as well as Ukraine. The EU also explained that it's supporting SALW control and enhancement of security of stockpiles. The EU does this, *inter alia*, through the development of an internationally recognised system to allow for independent validation and certification of compliance by states with open international standards on a voluntary basis.



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SUMMARY: SUB-WORKING GROUP ON ARTICLES 6 AND 7

Jillian Rafferty | Women's International League for Peace and Freedom

The first meeting of the sub-working group on article 6 and 7 on export prohibitions and the export risk assessment in this cycle met on 26 April under the facilitation of Ambassador Ignacio Sánchez de Lerín of Spain. During his introductory remarks, Ambassador Sánchez introduced the **report** distributed in advance of the meetings, which reviewed the sub-working group's exercise to identify good practices in interpretation of key terms in articles 6 and 7. Much of the sub-working group session ultimately focused on this "good practices" exercise (which has also been referred to as an "unpacking" exercise) and its resulting contributions and implications. In particular, Mr. Sánchez emphasised his position that the good practices exercise had satisfactory participation and results.

The meeting was divided into two parts: (1) a pair of presentations on two key terms in the Article 7 risk assessment; and (2) a discussion among attendees of the good practices, or unpacking, exercise.

Topic one: Presentations on "serious violation of international human rights law" and "serious violation of international humanitarian law"

Maya Brehm of the International Committee for the Red Cross (ICRC) delivered an opening presentation on the term "serious violation of international humanitarian law," which is central to the article 7 risk assessment.

In her presentation, Brehm noted that "serious violation of international humanitarian law" is a well-defined and settled term in international law. Ms. Brehm reviewed the various sources of law drawn on in coming to this settled definition—including treaty law, jurisprudence from international courts, and customary international law. As she clearly explained, a serious violation of international humanitarian law (IHL) is any breach of IHL that (1) endangers protected persons or protected objects, or (2) breaches important values. She noted that serious violations can be the result of both acts and of omissions, and can involve

actual harm, the threat of harm, or breaches of important values that do not themselves directly result in harm. Brehm also clarified that serious IHL violations can take place during both international and non-international armed conflicts.

Brehm then spoke directly to the good practices exercise and to the importance of the term “serious violation of international humanitarian law” to the effective implementation of the ATT—and to the Treaty’s ability to successfully subject arms transfers to humanitarian considerations. She discussed the results of the good practices exercise, noting that states appeared to share a common reference framework in interpreting the term—but she pointed states to Rule 156 of the ICRC’s Customary IHL Database for more precise guidance. In addition, Brehm drew attention to the range of indicators the ICRC has proposed for states parties as they conduct their risk assessment with respect to serious violations of IHL, including, among others, the destination country’s record of respect for IHL and the destination country’s pattern of respect for international human rights law. Importantly, Brehm stressed that because the ATT aims to *prevent* (rather than provide accountability for or remediate) harm, the standards of evidence or proof in conducting the risk assessment must be substantially lower than, for example, in determining criminal accountability.

Dr. Andrew Clapham of the Graduate Institute of International and Development Studies (IHEID) in Geneva then **presented** on the term “serious violation of international human rights law.” After reviewing how international law directs states to interpret treaty terms, Dr. Clapham then came to the following conclusions. As a descriptor of human rights violations, “serious” can refer both to the type of human rights being violated and to the gravity and scope of the violation. Certain rights—such as the right to life, the prohibition on torture, or violations of *jus cogens*—are inherently serious. Violations of other rights, such as the rights to free expression, to health, and to housing, among others, may be serious if they are persistent, if they are part of a pattern, or if they occur on a widespread or systematic basis. And though “widespread” or “systematic” violations—

terms that come from the law of crimes against humanity—would certainly qualify as serious, violations need not be widespread or systematic to be serious.

Ultimately, Dr. Clapham defined two broad categories of serious violations of international human rights law: (1) violations that are, by nature of the right or norm they violate, are inherently serious; and (2) violations that, under certain conditions—relating to the scope of the violation, the gravity of the harm caused, etc.—can qualify as serious. Notably, he emphasised that single acts that violate international human rights law must be taken into account—not only patterns of acts or repeated acts.

Though time was reserved for questions following these presentations, no participants took the floor to pose any questions to the expert presenters.

Topic two: Discussion of the good practices exercise

Switzerland noted the usefulness of the good practices exercise and of the expert presentations but joined many other attendees in emphasising that this work must not call into question existing definitions under international law.

The European Union (EU) noted that the good practices exercise is of key significance in implementing the ATT. It said that the EU is committed, in line with the European Union Common Position’s eight criteria, to promoting cooperation and convergence among EU member states and noted several EU initiatives to harmonise among EU states in their arms transfer work. The European Union also noted its support for three projects implemented by the ATT Secretariat to strengthen Treaty implementation and local expertise regarding the treaty.

France emphasised the importance of national practices in implementing the treaty, as well as the need for a case-by-case assessment based on each country’s interministerial process when conducting the export risk assessment. In addition, France resisted the idea that the terms included in the good practices exercise necessarily each have a single definition, arguing for the importance of

accommodating a variety of interpretations in line with the letter and spirit of the Treaty.

The **Women's International League for Peace and Freedom** (WILPF) reiterated its concerns regarding the best practices exercise, including, most notably, that the exercise asks participants to interpret many Treaty terms that are already well defined, settled terms under international law. In addition, WILPF noted the low participation and the lackluster diversity of participation in the exercise and questioned the validity of the outcomes as a result of those flaws.

Belgium echoed WILPF's concern that the good practices exercise must not be used as an opportunity to redefine settled terms or identify alternative definitions, particularly given that several concepts have well-established meanings under international law.

Japan also echoed this concern, noting that the written interpretation of key Treaty terms could have serious legal implications for the interpretation of other treaties and instruments, and asked participants and the sub-working group to give careful consideration to the implications that could arise from this endeavor.

Nonviolence International South-East Asia (NISEA) welcomed the sub-working group's work to highlight gender-based violence. In particular, NISEA emphasized the importance of regional and sub-regional cooperation to encourage countries to standardise the risk assessment process, noting that insecurity and instability in one country inevitably affect nearby countries. In addition, NISEA discussed issues of lacking capacity and resources, particularly in developing and conflict-affected countries in the context of the pandemic.

Control Arms noted that it supports efforts to develop common understandings of concepts and terms that may be ambiguous or open to interpretation but echoed early speakers' wariness of applying that process to concepts that are already well-defined and understood under international law, given the risk that opening settled terms may undermine or weaken international norms. Control Arms also reiterated WILPF's concerns about the low rate of

participation in the exercise, as well as the lack of representativeness (in terms of both geography and of participants' role in the arms trade) among those who participated in the good practices exercise.

Canada noted the importance of developing resources to aid in the implementation of the treaty and the role of sharing good practices in that effort. It also discussed the complexity of (including the linguistic challenges posed by) certain treaty terms, including "overriding risk" and celebrated the good practices exercise as useful.

Republic of Korea spoke to the importance of the good practices exercise in helping states that are new to the treaty in the efforts to establish their export control systems.

Palestine emphasised the importance of "good faith" in any work to interpret Treaty terms, in keeping with the Vienna Convention on the Law of Treaties (VCLT), and stressed that interpreting, implementing, and universalising the ATT requires a legal, rather than political, approach, especially given the potential of the ATT to meaningfully encourage humanitarian behaviour and reduce human suffering. Palestine also noted that national-level differences among states parties—and, in particular, preexisting national-level laws—should not be used to justify gaps in the application of the treaty across states parties. In addition, Palestine called on states to reconsider their priorities in light of the global pandemic, arguing that the pandemic proved that our understanding of security as dependent on astronomical expenditure on weapons and militarisation is fundamentally flawed, as security depends instead on, for example, education and health services.

China took the floor to say that it is studying the questions raised in the good practices exercise seriously, and noted that the EU Common Position, which was commonly referenced as a guide in the good practices exercise, does itself not form part of international law. In addition, China discussed its own work to implement the ATT since joining, in an effort to provide a strong legal safeguard to China's arms trade process and to continue to support both the regulation of the international arms

trade and the fight against illicit arms transfers and diversion. China also noted its own policy to not sell arms to non-state actors and argued that prohibiting such sales could considerably reduce regional conflicts and humanitarian disasters.

Ireland stressed the importance of information-sharing in the ATT and urged those who had not yet contributed to the good practices exercise to still contribute in the sub-working group's development of a voluntary guide on implementation. Ireland also suggested the further development of a list of reference documents, including the Stimson

Center's **new paper** and its gender-based violence risk assessment questionnaire.

Next steps

- The facilitator indicated that the good practices exercise is now closed.
- The facilitator will proceed with work on draft elements for a voluntary guide on the implementation of articles 6 and 7, as described in the multi-year work-plan, to be presented in the CSP8 cycle.

SUMMARY: SUB-WORKING GROUP ON ARTICLE 9

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

The first meeting of the sub-working group on article 9 on transit or trans-shipment in this cycle met on 27 April under the facilitation of Rob Wensley of South Africa. During introductory remarks, Mr. Wensley noted that this is the newest of the sub-working groups established by the Working Group on Effective Treaty Implementation (WGETI), and as a result of the COVID-19 pandemic, hasn't been able to make much progress since its meeting held in February 2020.

The meeting was divided into two topics.

Topic one: Discussion on national approaches to the terms "transit" and "trans-shipment"

Dr. Cops of the Flemish Peace Institute provided a kick-off **presentation** that looked at the transit controls for military goods in seven European countries. The presentation highlighted the importance of sharing national practices in this area for states parties to have a basis to draw on. He concluded that all states use a broad general definition of "transit" and a narrower approach to transactions, in combination with exemptions and possibilities for ad-hoc licencing. Dr. Cops noted there are substantial differences in countries' approaches on controlled transit regarding goods, modes of transport, in relation to countries of origin/destination. This gives rise to a need for increased transparency.

Following the presentation, several delegations took the floor to outline their national understandings in this regard. France said that it applies strict regulations for both transit and trans-shipment, and that these steps in the transfer chain are important ones to control including to prevent diversion. France requires preliminary authorisation for the transit or trans-shipment of military equipment if going to a non-EU country and that it details this information in its annual ATT report, and referenced this practice in its initial ATT report.

Switzerland considers trans-shipment as part of transit and applies the same licensing process to both actions, which, as a landlocked country occurs on the ground or through airspace. It noted that for states with a comparable system to Switzerland's, it may grant a general license for multiple transits under which the holder must keep records for at least 10 years. A few exceptions exist for hunting and sporting equipment, and for armed security personnel.

Belgium has recently made changes to its transit control system in the Flemish region, including definition of these terms. It now has different control measures for transit with, and without, transshipment. Belgium also has ad-hoc licensing requirements that align with the requirements

of ATT article 6. These newly introduced ad-hoc license applies when the exporter, carrier, or any transit operator involved has knowledge that one of the cases subject to licensing might be applicable. These actors are “jointly and severally” responsible for complying with licensing requirements, and if they are located abroad then they need to be represented by a company in the Flemish region. There are also some licensing exemptions on trans-shipment in connection to the requirements of EU member states.

Nonviolence International Southeast Asia (NISEA) emphasised the role of bilateral and multilateral cooperation networks to improve transit and transshipment monitoring safeguards, especially among customs and law enforcement. NISEA noted that there are more technologically advanced ways to transport arms that make doing so easier, but that this is a largely neglected issue in Southeast and South Asia.

China said its policies are fully in line with the ATT and that its new law on export control issued in December 2020 regulates the export of military products, especially their transit and transshipment. Its customs law also includes various administrative provisions relating to transit and transshipment. China is ready to share its experiences in this area and believes that some developing countries need to enhance their ability to increase control over transit and transshipment.

South Africa distinguishes between transit and transshipment, defined in its Customs Control Act and it shared those definitions as part of its statement. The industry is very strictly controlled. It says that the manufacture, possession, import, export, transit and trans-shipment of arms are regulated by the National Convention Arms Control Act, which inter alia ensures compliance with governmental policies; seeks to ensure transparency in control process; provide guidelines and criteria for assessing application permits, and ensuring adherence to international treaties.

The UN Office on Drugs and Crime (UNODC) shared how transit is regulated and understood in the context of the Firearms Protocol. The Protocol does not define transit because there were different views on this during the Protocol’s negotiation,

which the UNODC representative described in her remarks. The definition is left to each state’s own interpretation, but the Protocol does require each state party to verify that transit states have, at a minimum, given notice in writing that they have no objection to the transit.

Control Arms stated that it feels that article 9 is one of the least developed parts of the ATT, which reflects the fact that approaches to this topic vary and that there is a lack of detailed information on existing types of transit and trans-shipment control regimes. It encouraged states to be open and proactive in sharing their experiences and that a compendium or voluntary guidance would be helpful. Control Arms further noted that while there are definitional and practical distinctions between the terms “transit” and “trans-shipment”, there is no distinction between these terms when it comes to states parties’ obligations under ATT article 6.

The Republic of Korea (RoK) does not have many cases of transit and trans-shipment but provided its national definitions of these terms. To obtain permission for transit and trans-shipment, documents on the export, importer, and user, and transaction contract, must be submitted.

This is an extremely relevant issue for Georgia, as a transit corridor and in light of the fact that diversion can happen at any place in the long lifecycle of a weapon, include during transit and trans-shipment. During its statement, Georgia said that it does not see a distinction between these two terms. It outlined different measures it is taking to implement the ATT.

Topic two: Discussion on the phrases “under its jurisdiction” and “through its territory in accordance with international law”

The second topic opened with a **substantive presentation** from Dr. Anna Petrig of the University of Basel. Dr. Petrig explained the UN Convention on the Law of the Sea (UNCLOS) and how its different provisions, especially those outlining jurisdiction and responsibility, are relevant to how article 9 is implemented and understood.

France explained that of all the different control options available to states, it uses transit licenses. Prior authorisation from the Minister of Customs is required, usually following inter-ministerial consultation. Relevant information is included in the context of its annual report on arms exports to French parliament.

Switzerland shared that its jurisdiction applies to transactions on its territory, but its legislation can affect transfers that occur beyond that, if they are brokered within Switzerland. Swiss law also applies on board of Swiss sea-going vessels, but as flag ships are not considered to be territory, the mere transport of arms by sea is not subject to Swiss control.

The representative of the UNODC noted that article 11 of the Firearms Protocol has a similar formulation to the one used in article 9. It follows a

purely territorial understanding of the word transit.

Control Arms referenced earlier resources on how the ATT obligations fit in with those of UNOCLOS, including a 2015 report by Saferworld. Control Arms stressed that ATT article 6 prohibitions apply to all transfers, and not just exports, and are therefore inclusive of transit and trans-shipment. It suggested that as many of the states that have not joined the ATT are those where transit and transshipment are key concerns, that a voluntary guide on how to implement article 9 would also benefit universalisation alongside implementation.

Next steps:

- The focus of this sub-working group is to see where the group can reach common understandings of the terms contained in article 9. The possibility of a compendium of national practice or a voluntary guide will be explored.

SUMMARY: SUB-WORKING GROUP ON ARTICLE 11

Jillian Rafferty | Women's International League for Peace and Freedom

The first meeting of the sub-working group on article 11 on diversion met on 28 April under the facilitation of Ms. Stela Petrović of Serbia. During her introductory remarks, Ms. Petrović reviewed the work of the sub-working group in the past year. In particular, she focused on the sub-working group's **draft paper**, based on discussion in February 2020, on assessing the risk of diversion, and that paper's main elements and key questions

The meeting was then divided into two agenda items: (1) a discussion on the draft paper outlining elements of a process for assessing the risk of diversion; and (2) a practical discussion on assessing the risks of diversion.

Topic one: Discussion of the draft paper outlining elements of a process for assessing the risk of diversion

Mexico spoke in recognition of the sub-working group's progress in fighting diversion before,

during, and after arms transfers. Mexico noted the importance of studying practical cases of diversion to help all participants understand how to better prevent diversion and emphasised that deepening exchanges about national experiences and elaborating on measures to avoid diversion is necessary.

Switzerland praised the draft paper and its key elements for assessing the risk of diversion. Switzerland suggested that the paper address import documentation more clearly, particularly when an export of arms is destined for a private recipient. It also noted the importance of information exchange among countries for the sake of authenticating and verifying import documents and end-user certificates. Finally, Switzerland suggested increased standardisation of such documents to help with authentication, including, for example, by using standardised electronic signature.

The United Kingdom (UK) noted that a well-regulated arms trade has real potential to reduce diversion, so long as the requirement to assess the risk of diversion is met rigorously and all relevant stakeholders are engaged. The UK noted the important role that the weapons industry can play in this process and spoke to the range of sources—including NGOs, international organisations, diplomatic posts, and reports from the UK's and resources.

Nonviolence International South-East Asia (NISEA) welcomed the draft paper and agreed that the elements it lays out are crucial to the risk assessment process to prevent diversion. NISEA focused on the importance of sharing and exchanging information in the Asian context, including on how such exchange can meaningfully mitigate authentication challenges. NISEA also spoke to the importance of encouraging states—especially those without access to existing regional databases—to keep detailed, centralised, accessible records that can be cross-referenced when the need arises.

Republic of Korea noted that the authentication of end-user certificates is central to assessing the risk of and preventing diversion and, in that light, suggested that states share templates of such certificates via the DIEF, on a voluntary basis and within the limits of confidentiality.

France welcomed the draft paper and discussed three measures in the diversion risk assessment. First, France suggested that exporting states should be encouraged to require certain kinds of information before assessing the risk of diversion. Second, it proposed that states should be encouraged to undertake an interministerial process to assess diversion risks to better align sources of information and to better assess the risk of diversion. Third, France suggested that states should be encouraged to maintain national databases of entities involved in illicit trafficking.

Libya spoke to the reality that conflicts attract weapons illegally and therefore increase the acuteness of diversion risks—and lead to human rights violations. Libya noted its own negative experience with diversion of weapons to parties not associated with the government and suggested

that greater coordination with government authorities could be useful in preventing diversion. In addition, Libya suggested that weapons-producing countries could be held responsible for the negative impacts resulting from their diverted weapons.

Finland noted that the ATT has two interdependent goals: improving the regulation of the legal trade of weapons, and preventing diversion and the illicit trade of weapons. Because the goals are interdependent, Finland argued that the fight against the illicit trade of weapons is a cross-cutting issue that affects all actors. Finland noted that in order to tackle illegal transfers, states parties must look at the root causes of those transfers and of diversion: which, in its view, are the sources of illicit supply, corruption, international trafficking routes, and more.

Canada noted its particular interest in tackling diversion through concrete actions and praised the draft paper's potential to create fruitful discussion on the concrete measures that can be taken to combat diversion. Canada echoed earlier comments that stressed the importance of end-user certificates and that called for the voluntary sharing of templates for these certificates, among other documents. Canada also spoke to the importance of information sharing and other confidence-building measures. Echoing other comments, Canada noted its interest in concrete discussions on the diversion risk indicators that states parties are already implementing and suggested including a non-binding list of such indicators in the draft paper.

Topic two: Practical discussion on assessing the risks of diversion

Japan spoke to the importance of addressing diversion, which was the theme of Japan's own CSP4 presidency. It praised the establishment of the DIEF as a forum for constructive exchanges to concretely address diversion. Japan also spoke to its own efforts to address these issues in Asia, including through its annual export control seminar on export controls.

Switzerland took the floor to discuss the individualised, case-by-case nature of diversion

risk assessments and noted the importance of diversity in sources of information, including past decisions, personal experience, human rights reports from civil society, and others. Switzerland also noted its own policy of requesting post-shipment verifications and promises of non-re-export when exporting weapons to a government agency. In addition, Switzerland discussed its process of conducting national company audits to assess the credibility and legitimacy of Swiss arms exporting companies, and of licensing exporting companies as a step prior to applying for licenses for particular exports.

Ireland noted that the Stimson Center's **recent paper** on diversion helps to identify good practices, as well as to highlight the lack of shared understanding of key terms, indicators, and mitigation options. In addition, Ireland registered its support for expanded information sharing and exchange via the DIFE, as not all states have access to the same information and improving that access could prove highly effective. Ireland emphasised the role of civil society organisations in bridging informational gaps. Finally, Ireland noted that there are strong links between diversion and gender-based violence and reminded participants of the importance of considering the relationship between article 11 and gender-based violence.

Control Arms reiterated earlier comments regarding incorporating the work adopted in CSP4 into the sub-working group's work in preparation for CSP7. Control Arms welcomed the inclusion of an agenda item that aims to identify diversion risk indicators and suggested comprehensively

gathering such indicators already in use by states in conducting their diversion risk assessment. In addition, Control Arms praised the focus on risk mitigation and its potential, as a case-specific means of demonstrably reducing risks. Control Arms also noted that substantive discussions should continue in the WGETI context, as civil society organisations and the private sector have real contributions to make in this area.

China spoke to the role illicit diversion of conventional arms plays in fueling armed conflict and undermining security and stability. China spoke to its own internal regulations, including its qualification system by which only government-authorised companies can export military items and its requirement that each step of negotiations with foreign parties be approved by the government. China again reiterated that it does not sell conventional military items to non-state actors, but rather only to sovereign governments.

China noted that, even with a high level of scrutiny by exporting states, the risk of diversion still exists given the practices of importing countries.

Next steps

- The facilitator will update the draft paper outlining a process for assessing the risk of diversion based on feedback during the working group meetings and will circulate it for consideration at CSP7.



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SUMMARY: WORKING GROUP ON TREATY UNIVERSALISATION

Katrin Geyer | Women's International League for Peace and Freedom

The meeting of the Working Group on Treaty Universalisation (WGTU) took place on Tuesday, 27 April 2021. The meeting was chaired by Ambassador Lansana Gberie of Sierra Leone, president of the Seventh Conference of States Parties (CSP7), with input also from Ambassador Federico Villegas of Argentina, who presided over the Sixth Conference of States Parties (CSP6).

Ambassador Gberie provided an update on the presidency's activities to promote Treaty universalisation. This included his facilitation of the [2020 UN General Assembly resolution](#) on the ATT, supported by more than 150 states. He noted that due to COVID-19 restrictions, he had to find creative ways to advance Treaty universalisation. As a result, Sierra Leone's president wrote letters to heads of states not yet state party to the ATT, and Ambassador Gberie submitted 24 of these letters in person to missions in Geneva.

He explained that in his conversations with representatives from non-state parties, reasons given for not having joined the Treaty include: security concerns by bordering countries that aren't states parties, bureaucratic obstacles, and the view that the Treaty would impair states' ability to acquire arms for national defense purposes. Ambassador Gberie also said that the lack of resources and expertise to review and amend legislation and export control are reasons for not joining the ATT, and stressed that the Voluntary Trust Fund (VTF) is a key mechanism that offers prospects for cooperation and assistance for states with these concerns.

Ambassador Villegas informed that in March, together with Ambassador Gberie, an open and transparent exchange of views on the ATT took place with a representative of a country "important in the global arms trade". He expressed hope that by CSP7 they'll have "positive news" on this subject matter.

Dumisani Dladla of the ATT Secretariat updated on the [status of ratification and accessions](#) to the Treaty. Amongst others, he recalled that there are currently 110 states parties. He informed that 31 states have signed the Treaty but haven't yet ratified.

Dladla then offered an overview of regional distribution of the ATT membership and concluded his presentation with an overview of rates of universalisation per year, and rates of universalisation of the Treaty by region. In response to the latter, the president observed that in West Africa, only one country was left to join the Treaty but that there were strong indications that the country will participate fully in the coming months.

Various states took the floor to comment on different aspects of Treaty universalisation.

Ambassador Gberie, the European Union (EU), Germany, and Japan welcomed new states parties Namibia, China, Niue, São Tomé and Príncipe, and Afghanistan. Control Arms welcomed that China has committed itself to regulate all military goods through the development of a nationally comprehensive legislation, and said it was pleased that China has started to apply ATT criteria to all its arms exports since becoming a state party.

Participants expressed differing concerns about different obstacles to universalisation. Mexico and Germany, for instance, regretted the declining rate of universalisation in general. China, Mexico, Panama, and Japan urged all countries that haven't yet done so to join the Treaty as soon as possible. China noted that the Treaty is increasingly recognised but that major arms exporters are yet to accede to the Treaty. It regretted that the largest exporter of conventional weapons, the United States (US), didn't only fail to ratify but took a backward step and withdrew. It called on the US to rectify this and to return to the Treaty as soon as

possible. Panama also said that ratification efforts should be targeting major exporter and importer states.

A few participants offered ideas to improve universalisation outreach. Germany for example suggested to improve burden sharing even more amongst states parties and to better coordinate efforts amongst each other. It suggested to hold informal meetings on universality in Geneva ahead of CSP7. Control Arms welcomed Germany's proposal. China said that it understands that some countries face difficulties in terms of capacity, and encouraged others to provide assistance and cooperation to help others join the Treaty. Mexico made similar observations. Mexico further observed that universalisation activities could be more efficient if they enjoyed more support from political authorities and parliamentarians, and civil society organisations. Panama and the EU also stressed the key role of civil society in achieving universalisation and implementation. Argentina said it was important to explore synergies and complementarity with other mechanisms dealing with the arms trade, including the Group of Governmental Experts (GGE) on ammunition as well as the UN Programme of Action (UNPoA) on small arms and light weapons. It stressed that due to the UNPoA's universality, it could help to promote the ATT as a tool to strengthen export control mechanisms. The Philippines encouraged to reach out to Asian states to better understand why they are not joining the Treaty. Control Arms reiterated the Philippine's call. Control Arms argued that the situation in Myanmar is one of various reasons why ASEAN countries should be more informed about the benefits of the ATT.

Various participants reported back on their universalisation efforts. Panama explained that it has made recommendations to states, such as

Libya, Myanmar, and Nepal, to ratify the ATT, in the course of UN Human Rights Council Universal Periodic Reviews (UPR). It said it will continue to do so as it can lead to tangible results. Control Arms informed about upcoming training on the ATT, including in the African region, which are made possible by the VTF, and thanked the VTF for its flexibility due to uncertainty related to COVID-19. Japan said that when it co-chaired the WGTU it often heard from states that documents in their own language would be instrumental, resulting in the universalisation toolkit and welcome pack, translated into all UN languages. The EU announced that it will fund the printing and publication of the toolkit as part of its universalisation efforts, to be published ahead of CSP7.

The Republic of Korea (RoK) shared that it translated these resources into ten Asian languages. Japan expressed gratitude for the RoK for its initiative, describing it of great importance to advance universalisation in the Asian region.

The Philippines, as signatory, reaffirmed its commitment to ratifying as soon as possible, and said, amongst other efforts towards ratification, that it was in the process of harmonising local laws to ensure compliance with the ATT.

Next steps

- The co-chairs of the WGTU will coordinate to re-double efforts towards universalisation, including outreach initiatives in the lead up to CSP7. They encouraged the entire ATT community to collaborate on this collective effort.

SUMMARY: UPDATES TO THE CSP6 PRESIDENT'S PAPER ON TRANSPARENCY AND INFORMATION EXCHANGE

Katrin Geyer | Women's International League for Peace and Freedom

The president of the sixth Conference of States Parties (CSP6), Ambassador Villegas, presented revisions to the working paper *Transparency and exchange of information: its role in the prevention of diversion* (ATT/CSP6/2020/PRES/611/Conf. TransplnfExch.Rev2). The paper, presented at CSP6 as draft decision 17, was among the documents that were not adopted via silence procedure at CSP6, a conference that took place exclusively in written format due to COVID-19. The president's paper had come under strong criticism from civil society and a few states parties.¹

The Ambassador informed that he undertook bilateral consultations to resolve existing concerns, and based on these consultations, explained amendments to the working paper. He explained that a few chronological updates were made. With respect to recommendation 7, addressing the role of civil society participation in helping cases of diversion detection, he stressed the crucial role of civil society in supporting the ATT's implementation and providing research on diversion, and underscored that amendments sought to keep the spirit of the Treaty itself on the role of civil society. As a result, a caveat was introduced with "where appropriate," and examples of cooperation with civil society can be found in the *terms of reference* of the Diversion Information Exchange Platform (DIEF). He explained the amendment

in recommendation 8, which reflects that some states feel uncomfortable to share intelligence in a context that does not provide sufficient confidentiality, and therefore decided to delete the last part of the last sentence in recommendation 8.

Peru was the only country responding to the amended paper, stressing that it did not prefer the introduction of caveats with respect to civil society participation in diversion detection in light of the crucial role of civil society, academia, and international organisations in these efforts. However, Peru acknowledged that the text aspires a balance of different positions, and in this spirit, Peru said it was able to support the revised version.

Next steps

- Ambassador Villegas expressed hope that the working paper, as amended, will be adopted at CSP7.

1. For detailed analysis of concerns, see *ATT Monitor*, 13.4, 27 August 2020.

SUMMARY: WORKING GROUP ON TRANSPARENCY AND REPORTING

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

The Working Group on Transparency and Reporting (WGTR) met over 28-29 April under the co-chairpersonship of Iulia Vladescu of Romania and Alejandro Alba of Mexico. The WGTR has an extensive mandate of standing agenda items and recurring and specific tasks, some of which have been challenging to make progress on during the pandemic than others. In order to organise and advance work during the April 2021 meetings, the co-chairs circulated an **introductory paper** in which they identified which **agenda items and tasks** would be open for discussion during the virtual meetings and invited written comments and submissions on others. Annexed to the paper are the versions of the voluntary ATT report templates containing changes proposed during the CSP6 meeting cycle, but updated to include explanatory notes throughout from the co-chairs.

During the meetings, some participants combined and spoke on all agenda items within a single statement. The summary below has been organised to reflect points in relation to agenda items, regardless of under which agenda item the statement was delivered. Regardless of agenda item, virtually all statements underscored the importance of Treaty reporting and expressed support and appreciation for the work of the WGTR co-chairs.

Agenda item 1: State of play of compliance with reporting obligations

Under this agenda item, Sarah Parker of the ATT Secretariat provided an update on the status of received initial and annual ATT reports. Parker noted 80 of the 105 states parties that owe an initial report have submitted them, meaning that 25 are still outstanding and five more will become due this year for the most recent countries that have acceded to the Treaty. Seventeen states have asked for their initial reports to not be included on the publicly available part of the ATT Secretariat website. Annual reports are due by 31 May each year, for the preceding year. The rate of annual

report submissions has been decreasing since 2015 with only around 62 per cent of states parties having submitted one in 2019. Twenty per cent have asked to keep their reports private.

France and Control Arms expressed concern over the low reporting rates for both types of report.

France called on other states parties to comply with their ATT obligations on reporting and to make their reports public. Control Arms also expressed concern about growth in private reporting.

Nigeria explained that despite joining the ATT in 2013 and submitting an initial report in 2015, it has not submitted any annual reports. It outlined that this is owing largely to a poor understanding of the Treaty and capacity gaps among relevant stakeholders. Through support from the Voluntary Trust Fund (VTF), Nigeria is initiating a project that will build capacity within the government to meet reporting requirements, including through a training manual and workshop.

Control Arms noted that through analysis done by its ATT Monitor project, it has found that the pandemic may have impacted the ability of states parties to submit their reports. It will be looking into this further in an effort to identify ways to increase resilience. Control Arms highlighted that the diversity of states who were still able to submit reports on time during the pandemic indicate that political will remains a significant impediment. It highlighted the lack of updates being made to initial reports.

China, a new state party, noted that work is underway for its initial report and annual report and that it is willing to consider making its future reports public. It appreciates the voluntary templates having been translated into Chinese and supports steps to improve the reporting system of the Treaty. Regarding the proposed changes, China suggested deleting the reference to the Wassenaar Arrangement and the European Union (EU)

Common Military List in section 1.I of the revised initial report because these mechanisms and their control lists are not widely representative. It said that relevant countries could voluntarily provide this information, however.

Agenda item 2: Challenges concerning reporting—challenges to submitting timely and accurate initial and annual reports

The EU stressed that transparency and reporting are key elements for confidence building between states, and that reporting is a core Treaty obligation. It regrets the decline in reporting rates and stressed that it is ready to support states in meeting reporting requirements with assistance, including through its Outreach Programme, which has been extended for another year. It pointed to the 2020 EU Annual Report on the exports of military technology and equipment as a positive example of transparent reporting. The report is publicly available in the form of a [searchable online database](#) on the European External Action Service website. It hopes that all ATT states parties decide in favour of non-confidential reporting in order to facilitate accountability.

Switzerland strongly encouraged states parties to submit their reports and to make them public. It emphasised that annual reports should at least include a similar level of information as those submitted to the UNROCA, and that the disaggregation of data is crucial to allow for meaningful assessments of data contained therein.

Mexico recognises that this pandemic has provided obstacles to the usual working of states parties and that each state party is facing its own circumstances. In its own experience, interagency cooperation helped to facilitate the submission of Mexico's reports. Earlier in 2021, Mexico and Control Arms launched the Spanish version of the ATT Monitor's 2020 Report

through a virtual event for Latin American countries. Mexico urged listening to national authorities involved in establishment of reports, in order to learn what that obstacles are. There is a need to improve national capacity to comply with reporting obligations, and to see what benefits can be obtained from international cooperation with

other programmes such as those mentioned by the EU.

Nonviolence International Southeast Asia (NISEA) spoke from its experience working with governments in Asia and noted that the primary difficulty that developing countries face is in relation to information collection, which is sometimes scattered across different governmental agencies. It stressed that in providing assistance to states, interagency cooperation is important and that local civil society organisations are poised to work with governments.

Belgium described that in the context of the ATT Webinar Series that it had organised in 2020, one webinar was focused on the annual report and included assistance for report preparation. This is available on [YouTube](#).

The Republic of Korea (RoK) expressed concern about the continuous decline in annual rate reporting and hopes that all states parties can fulfill their obligations as soon as possible. It found that the peer-to-peer assistance provided in various languages during the WGTR meeting held during the CSP6 meeting cycle was very useful. It suggested that having such an event online would be cost saving but just as effective.

South Africa noted that it is already a challenge for some states parties to submit timely reports, and to be careful of imposing more obligations.

Agenda item 2: Challenges concerning reporting—discussion on the possible update of the reporting templates

The co-chairs opened this agenda item by reading through each of the explanatory notes that are now provided in the documents containing the proposed changes and updates to the voluntary reporting templates. These have been added since the changes were first proposed in 2020 in order to help explain the rationale behind each one, including in light of an inability to meet and discuss these proposes thoroughly during the CSP6 meeting cycle.

Japan welcomed the explanatory notes and saw that some of its comments have been reflected in the updated draft. It has a few more technical comments that it will provide in writing.

Japan understands the importance of updating the templates to be more user-friendly but is concerned that this will make chronological analysis difficult. It also flagged that making updates require time and effort so it expects that once these the changes are finalised and agreed to, it will be used on a long-term basis. Japan welcomes the decisions of the EU to provide financial support for capacity building, including in the area of reporting. It called on all states parties to submit their reports in a timely manner.

Mexico said that the explanatory notes provide clarity and facilitate understanding of the proposed changes. It subscribes to the proposal for changes because doing so will solve the gaps and add elements that are needed in the template. Mexico called on delegations to support efforts of the co-chairs in proposing these changes.

The **Women's International League for Peace and Freedom** (WILPF) identified several of the proposed changes that it welcomes and noted that in general, the proposed changes could help to address some of the transparency and reporting challenges facing the ATT community. In particular, WIPF welcomed the modification in how the option of keeping reports is now articulated; greater specificity and a reminder of what the article 6 prohibitions are; changes to Section 3E that might help to improve understanding of and capacity to implement article 7.4 on gender-based violence (GBV) prevention; and encouragements to provide updates to initial reports.

Control Arms reminded that its ATT Monitor project can be a resource to the co-chairs as they continue to assist states parties in overcoming reporting challenges. It believes that the proposed amendments to the report templates will be helpful, and welcomes the work undertaken. However, Control Arms noted that more work will be needed to comprehensively address the reporting challenges posed by templates. It gave the example of data aggregation, which the format of the annual report lends itself to and makes

it difficult or even impossible to understand significant numbers of reported items. It supports the recommendation of the Stimson Center to disaggregate the weapons included in the report template category of small arms and light weapons (SALW) but noted that this hasn't actually been proposed as of yet.

Ireland expressed concern over the state of overall compliance on reporting and acknowledged that many states parties are experiencing difficulty in meeting reporting requirements including because of lack of capacity and internal coordination. It hoped the proposed changes will facilitate timely responses. Ireland took note of the proposed adjustments and looks forward to supporting them, in the belief that they will reverse the trend of private reporting.

Argentina underscored that it is essential to keep the list of national contact points available and updated. It described how in the MERCOSUR working group on firearms and ammunition, the development of a regional code to develop common language on the exchange of controlled goods has helped to improve information exchange and sharing, because goods are sometimes called by different names in different countries. It highlighted that it should be remembered that in specific cases of diversion states have a right to not make their information public.

South Africa reminded that reporting is a mandatory aspect of the Treaty with great relevance to its functioning. It commended the initiatives of the WGTR but cautioned against not imposing any additional burden on states. It noted that the original mandate provided by CSP5 to explore updating the reporting templates was made to take into account the inventory of suggestions on the templates, and to consider adjustments deemed necessary to address uncertainties and inconsistencies between the online reporting tool, and the proposed searchable database. The mandate was meant to focus on user-friendliness and address quality of reporting. South Africa will study the proposed changes and submit additional comments.

Australia, in a statement delivered under a different agenda item, said it is supportive of

adjusting the templates to improve transparency. France, in a statement delivered under another agenda item, said it had no comment on the proposed changes to the voluntary reporting templates but noted the proposed section in the annual report that would authorise the UN Office for Disarmament Affairs (UNODA) to use pertinent information as a basis for reports to the UN Register on Conventional Arms (UNROCA), so as to encourage researcher synergies which may also improve the response rate.

There was some discussion in the chat about how the ATT defines certain types of weapons referenced in the annual reports, in particular assault rifles, and if ambiguity on definitions is a hindrance to proper reporting.

The co-chairs closed this agenda item by stating that they want to finalise the discussion as soon as possible, because uncertainties and inconsistencies affect quality of reporting.

Agenda item 3: Substantive reporting and transparency issues

The WGTR co-chairs reminded that this agenda item is not about the right of states parties to keep information private. However, it is meant as a forum for states parties to indicate why they have chosen to do so. The co-chairs had invited two countries, Greece and Mauritius, to present on their experiences in this regard.

Due to technical difficulties, Mauritius was unable to deliver its presentation. The representative of Greece, Stelios Zachariou, lost connectivity during his remarks, so the summary below can only reflect what was heard by meeting participants.

In it, he outlined the various frameworks and forums to which Greece reports and how the scope of these differ somewhat, as does the composition of membership in those fora (i.e. not all NATO countries are ATT states parties, but all EU states are). The option of confidential reporting is one of the components of capacity-building within the ATT membership, which in turn strengthens the prospect of universalisation, in Greece's perspective. He stressed that from a national perspective, information submitted in

ATT reports only pertains to military transactions. Information regarding issuance of export licenses for commercial goods are collated and go into annual national report based on obligations of the EU Common Position, as well as reports to the Organisation for Security and Cooperation in Europe. Zachariou said that he feels there is momentum on the proposed changes to the templates and that as has been indicated, there are some aspects that would benefit from greater clarity.

The co-chairs also explained that the agenda item on the disaggregation of data is a new item and not intended to analyse whether or not this is an obligation (it is not) but rather is meant as a response to the interest expressed by many on the challenges states face in reporting. The co-chairs believe that data disaggregation is not only a matter of comparability.

A **presentation** from Himayu Shiotani of the UN Institute for Disarmament Research (UNIDIR) focused on the aggregation of data in ATT annual reports. In it, he reiterated that good guidance on reporting already exists, such as the FAQ-style guidance document but that national practices vary considerably and data aggregation, or its disaggregation, is one of those variances. He described a common challenge is that pertaining to national recordkeeping and information management systems. The presentation highlighted a few points that could be useful to discuss further: what hinders collection of data at a domestic level; how data is used domestically; the challenges that come with desensitising information; how the categories of SALW are disaggregated; data access; and data collection and management practices with industry or other actors; among others. Shiotani emphasised that reporting practices should include information that helps to inform the implementation and realisation of the ATT's transparency and confidence-building objectives.

Mexico asked, in UNIDIR's experience, how best to strike a balance between access to information and reserving information for national security purposes. Shiotani responded to say that there is no obligation to give information but understands that this question is an important one. The decision

on whether or not to classify data is a sensitive one, but that sometimes what is considered sensitive domestically may not be as sensitive when shared bilaterally, or among groups of like-minded countries.

In a statement delivered under an earlier agenda item, Mexico had said that states parties can help to accomplish the objectives of transparency and cooperation by reporting annually with disaggregated data.

In a statement delivered under an earlier agenda item, South Africa reminded that reporting is a mandatory aspect of the Treaty. It cautioned that discussions about public availability of reports can have unintended consequences, for instance states that had previously kept their reports private might leave out information if they were to make them public.

WILPF welcomed that the co-chairs had made time in the agenda to discuss why some states choose to keep their reports private and encouraged states to participate in this conversation. WILPF further outlined some of the ways in which it uses information contained in ATT reports. This has included for research purposes, public engagement, and also for submissions to human rights mechanisms such as the Universal Periodic Review, and to engage in national parliamentary oversight activities. In this context, better comparability and detail can be very important.

NISEA agrees that the disaggregation of data into more specific categories of items would be beneficial for comparative analyses and improving transparency. It noted that states must then gather the necessary information during all stages of weapons life cycle, which may require updating templates, forms, and processes. Countries with less capability to collect and centralise information might encounter difficult and could be an area for assistance.

Agenda item 4: Organisational means for information exchange

This agenda item opened with a presentation from Tom Nijs of Belgium, who is the chairperson of the Diversion Information Exchange Forum (DIEF) which was constituted by a decision of

CSP6. He explained that the DIEF now has its own webpage on the website of the Secretariat, which is where its terms of reference are posted. The first meeting of the DIEF was mandated to take place in this meeting cycle, but because of the pandemic this is becoming difficult. The sensitivity of the information to be exchanged and discussed makes a virtual meeting not possible. If it's not possible to hold the first meeting before CSP7, then the decision to review the Forum's usefulness at CSP8 (in 2022) will be pushed out to CSP9 in order to still cover and assess two cycles. Nijs also spoke to the role of civil society participation in the Forum. While it's a confidential body, he is aware that some organisations work with states to investigate diversion and he hopes that these organisations will be able to share information and cases in Forum meetings. Nijs reiterated that there is no intention to conduct policy discussions on diversion in the DIEF—those will still occur in the sub-working group on article 11.

Belgium referred to the suggestion it presented at CSP6 about needing to complement the existing platform in the restricted part of the ATT website versus the public part, to allow for additional exchange among all ATT stakeholders. However, this would need to take into account budgetary and technological realities.

Australia said it has been exploring other avenues for capacity-building during the pandemic, in particular online training courses. It, with Canada, was able to support the capacity-building course on the ATT that is convened by the Geneva Centre for Security Policy (GCSP). More than 80 participants joined the course in 2021, and it is a good example of a structure mechanism and format to facilitate info exchange in context of ATT.

Canada hopes that the DIEF can meet in-person at CSP7 and believes that the ATT can be a space for states parties and signatories to exchange information on diversion.

In a statement delivered under an earlier agenda item, NISEA reiterated the need for effective mechanisms, whether multilateral or bilateral, to facilitate information exchange. This was echoed strongly by states participating in the regional seminar it held September 2019 in Cambodia.

Agenda item 5: Reporting and transparency functionalities of the IT platform

Sarah Parker of the ATT Secretariat reviewed Annex 3 of co-chair's introductory paper, which sets out "considerations for a searchable online database". In order to progress on a database the Secretariat wants to hear from states and other stakeholders on expectations and parameters. This would be used to obtain a cost estimate.

Mexico said it would be important to bear in mind different types of data that would need to be included (i.e. value of imports or exports, public information or non-public information, etc.). The purpose of the database needs to be determined.

Canada fully supports efforts that have been made regarding the database and believes it will be very useful, although cautioned that it should be a reasonable cost. Canada will submit further comments in writing.

Switzerland, Ireland, South Africa, and RoK referenced the database in statements delivered under other agenda items. Switzerland welcomed the background paper prepared by the ATT Secretariat regarding a searchable online database, contained in Annex C of the introductory paper. It supports a database that is publicly available, user friendly, sophisticated and able to perform calculations and produce visualisations of data. It believes that the benefits of a database would be enabling better comparison of data, boost transparency, and would be global in its coverage (other databases are limited in region, for instance).

Ireland proposed having the option of a second national point of contact as a redundancy measure, if necessary. South Africa said that it supports creating a searchable online database but that the costs should be considered. The RoK appreciated the preparation of the background document about an online database, and it will need to take a closer look at the cost-benefit of such a database including how it would be different from existing ones.

Agenda item 6: any other business

Under this agenda item, **Control Arms** expressed concern about the "growing interest in closed processes that exclude the voices of key ATT stakeholders." This includes the restricted area of the ATT website, and the manner in which the Dief was established. The Control Arms statement further brought attention to issues concerning how "non-state experts" may be invited, and approved, to speak or contribute to Dief meetings which would be on an invitation, non-objection basis and meeting requirements of expertise. Control Arms urged states parties to revisit Paragraph 7 of the section 'Possible Recommendations for Approval' in the draft CSP6 President's Paper Revised version 2, and to take measures to safeguard the participation of civil society in the ATT process.

Next steps

As outlined in the introductory paper, certain WGTR tasks and standing agenda items are on pause until the CSP8 meeting cycle. For those under consideration in this cycle and which were discussed during the meeting, or are open to written proposals and inputs, some next steps include:

- Comments received on the proposed changes to the reporting templates will be reviewed with an aim to finalising the changes in order to propose their adoption or endorsement.
- Based on comments received regarding the online searchable database, it will be necessary for states parties to decide on the database's purpose, with a possible next step of analysing the cost-benefit analysis.
- States can continue to submit proposals regarding updates to the "FAQ-style guidance document" via email or the information exchange platform until 9 July 2021, to discuss in the CSP8 cycle.

SUMMARY: INFORMAL PREPARATORY MEETING FOR THE SEVENTH CONFERENCE OF STATES PARTIES

Katrin Geyer | Women's International League for Peace and Freedom

The first informal preparatory meeting for the Seventh Conference of States Parties (CSP7) to the Arms Trade Treaty (ATT) met virtually on Friday, 30 April, and covered multiple agenda items.

Agenda item 2: Status of CSP6 decisions

Dumisani Dladla of the ATT Secretariat reported on the progress of implementation of decisions taken at CSP6. Dladla recalled that out of **17 decisions** submitted at CSP6, eleven were adopted and are currently under implementation, and the remaining six will be submitted for adoption at CSP7.

Adopted decisions

Dladla noted that all eleven decisions are being implemented, including: the adopted ATT budget for financial year 2021 (decision 2); the endorsed standing agenda items and tasks of the Working Group on Transparency and Reporting (WGTR), which are now guiding the work of the WGTR (decision 12); Tom Nijs of Belgium was appointed as chair of the Diversion Information Exchange Forum (DIEF), and current options for the Forum to meet are currently explored, depending on the evolution of the pandemic and the format of CSP7 (decision 13). With respect to decision 14 for the ATT Secretariat to continue with the administration of the sponsorship programme, he noted that due to the pandemic, no participation of states party representatives could be supported. The date (30 August-3 September 2021, decision 7) and venue (Geneva, decision 6) have also been confirmed, and it is hoped the meeting can take place in-person, subject to COVID-19 developments.

Decisions not adopted

Dladla informed about the status of the decisions not adopted. Regarding draft decision 17, a revised working paper, based on consultations, was presented to this meeting, and will be submitted for adoption at CSP7. With respect to draft decisions

9-11 on the multi-year plans of the Working Group on Effective Treaty Implementation (WGETI) states parties welcomed the revised documents through a silence procedure.

With respect to draft decision 15 on the Management Committee's (MC) mandate extension to revise draft guidelines for financial rule 8.1 (d); it was agreed, through silence procedure, to extend the MC's mandate. With respect to draft decision 16 on the application of financial rule 8.1 (d), Dladla explained that the MC is working on the draft guidelines, and it was agreed that no state shall be prejudiced of application of 8.1 (d) from applying to the Voluntary Trust Fund (VTF) or the sponsorship programme while the MC is working in the draft guidelines.

Agenda item 3: Updates from subsidiary bodies

Update on the Voluntary Trust Fund (VTF)

The Chairperson of the VTF Selection Committee, Ambassador Dell Higgie of New Zealand as well as Dladla reported on the status of operation of the VTF. Ambassador Higgie reported that since the first call of contributions in November 2016, more than \$9 million USD from 28 states have been received in voluntary contributions, from a wide range of regional groups. She thanked all donors, encouraged further contributions, and said that the continuity and diversity of financial contributions is critical for the sustainability and credibility of the VTF.

Due to the pandemic, New Zealand reached out to all applicants to confirm if they wished to proceed with their project, and if they were able to meet health and safety requirements. Ambassador Higgie noted that all nine projects approved last year are progressing well.

In terms of outreach, the pandemic has impacted New Zealand's ability to hold in-person outreach

activities, such as a VTF side event at UN General Assembly First Committee which didn't take place in 2020. It held a practical workshop on the application process in January 2020, and produced a series of instructional videos to assist applicants in preparing for VTF funding, available on the VTF website.

For the current cycle, the VTF received 21 applications from 20 states, and applicants will be advised of the outcome of their application by 11 June 2021.

Dladla offered complementary information on the VTF's status of funding, and provided an overview of funded projects over the years. He noted that Germany and New Zealand provided additional funding for VTF outreach and marketing, to attract as many applicants and contributors as possible.

A few Latin American states commented on the presentations. Mexico underscored the importance of lessons learned from the different projects, and asked the Secretariat to share these lessons to improve the impact of the VTF.

Chile, on behalf of Colombia, Small Arms Survey, and Chile, informed that they are submitting a project. Together, they will strengthen national institutions and inspection and confiscation of weapons, and advance the implementation of the ATT. Chile called on the members of the VTF to approve the project. Colombia took the floor to assert that while it hasn't ratified the Treaty yet, it doesn't affect its commitment, and will continue to find avenues to implement the ATT in its entirety.

Update from the Working Groups

The chairpersons of the three ATT working groups (on Effective Treaty Implementation (WGETI), Transparency and Reporting (WGTR), and Treaty Universalisation (WGTU)) provided a summary of discussions held earlier in the week. Please see the summary reports elsewhere in this edition of the *ATT Monitor*. The chairs/facilitators made several announcements following discussions within the different working group sessions, noted in the summary reports also.

Participants were given the opportunity to respond to the chairs' and facilitators' presentations. Only one participant took the floor under the WGETI. The Regional Centre on Small Arms (RECSA), an organisation mandated by states to improve implementation of the Maputo Protocol, emphasised the importance of regional organisations in achieving effective implementation of the ATT. It asserted it will continue its outreach and assistance activities to build capacities and raise awareness about the ATT. It recommended, amongst others, to enhance continuity of efforts and guidelines relating to gender.

Update from the Management Committee (MC)

Prior to the discussion about financial rules and the related proposal of the MC, Dladla of the ATT Secretariat provided an overview of the ATT finances. He explained factors considered for calculating assessed contributions; outlined the sources of revenue, and explained the financial management process, including details of the implications of rollover of total uncommitted balance of appropriations and cash flow projection. He noted that outstanding contributions amount to currently almost \$148,000 USD for the financial year 2021. There is a total deficit of almost \$533,000 USD, and the payment rate has decreased gradually, from 93 per cent in 2019 to 86 per cent in 2021. Dladla warned that the ATT is heading into a financial crisis in light of a decreasing number of states paying their assessed contributions. He also noted that the voluntary ATT Reserve Fund, established by CSP5 to address this problem, hasn't received any contributions as of yet.

Sponsorship programme

Dladla said that the programme has received a total of \$837,000 USD from Germany, Ireland, Netherlands, Portugal, Sweden, Switzerland, ROK, Canada, and Australia. In 2019, the programme was able to support 58 delegates but wasn't able to support participation in 2020 due to the pandemic. Against this backdrop, he informed that donors allowed for a rollover arrangement of available funds for the next meeting when in-person participation is possible again.

Argentina took the floor to express concern about the financial situation of the ATT but urged that measures taken to address this should be cautious, and shouldn't imply the loss of rights or higher financial burden to states parties.

Catalina Devandas of Costa Rica and Peter Beerwerth of Germany, as members of the MC, presented progress on the status of application of financial rule 8.1 (d). At CSP5, states parties had requested the MC to prepare guidelines on the issue of "arrangements with the Secretariat in relation to the discharge of its financial obligations." In accordance with this decision, the MC prepared draft guidelines on financial arrangements for CSP6 (draft decision 15) which wasn't adopted.

The proposal to extend the mandate of the MC to revise the draft guidelines was agreed by silence procedure on 1 March 2021. The MC representatives reminded that states parties decided that no state party shall be prejudiced by financial rule 8.1 (d) in applying to the VTF or the sponsorship programme until CSP7 when the matter will be carefully considered.

Both Devandas and Beerwerth said that the **revised proposal** takes into account all views and concerns, and they were hoping that the proposal could be accepted, and be adopted as is at CSP7.

Stefan Nivelstein of Germany offered an overview of the **proposal**. He reminded again why this process was needed—to clarify how the ATT should handle processes with respect to states parties in arrears. Nivelstein explained that the proposal, informed by other mechanisms in the UN, sets out a proposed process to enter into financial arrangements in case states parties haven't paid their dues for two or more years. States parties in arrears for two or more years should write a note verbale to the ATT Secretariat, with the proposed content: a multi-year payment plan of a maximum six years, with a payment calendar, so that the Secretariat can plan financial influx. Early settlement is possible if conditions allow for this. Following the note verbale, the ATT Secretariat will then prepare a proposal for a decision to be taken on the proposal of the state in arrears at the next CSP. When adopted, and the first installment

has arrived, all applied measures in financial rule 8.1 (d) will be waived. The ATT Secretariat will then monitor compliance with the financial arrangement. In case of non-compliance, the state party would need to explain its reasons. If the explanation isn't satisfactory, measures will be re-applied immediately, as laid out in rule 8.1 (d). Nivelstein concluded his presentation by noting that the decision can also be taken intersessionally, to rule out states have to wait for a decision until the next CSP.

The MC's proposal provoked a lot of responses amongst states parties.

Various delegations, including Sierra Leone, the United Kingdom (UK), the European Union (EU), and Mexico expressed concern at the large number unpaid contributions. The UK, the EU, Switzerland, South Africa, and China called on all states parties to meet their financial obligations on time and in full.

Mexico, the UK, Republic of Korea (RoK), South Africa, Switzerland, and the EU welcomed the proposal. Mexico said that it allows for equal treatment of all states parties, and provides an opportunity to establish constructive dialogue about states' obligations. The RoK said that clarifying ambiguity will help the application of measures of the financial rule in an objective manner, and will incentivise states parties to pay their contributions. The UK expressed support for the proposal in principle but noted that further clarification would be beneficial, such as in cases of non-compliance as outlined in paragraphs 11 and 12.

Sierra Leone welcomed the president's efforts sending letters with reminders to those states parties in arrears, and supported calls for states in arrears to pay their dues. It reiterated that until CSP7 has taken a decision on rule 8.1 (d), it remains inoperative. Sierra Leone expressed concern over proposals 10-13, and cautioned that the development of guidelines that may limit access to the VTF and sponsorship programme could adversely impact the participation of states in the regions of the world where it would most be needed. Mexico said that the decision about restricted access to the VTF and sponsorship

programme should be dealt with separately to this discussion. Panama agreed with Mexico. The UK noted that it can't see a contradiction between paragraphs 10 and 12, as pointed out by Sierra Leone.

Panama noted that it preferred the proposal submitted to CSP6 and expressed its reservations regarding paragraphs 10 and 13. It argued that paragraph 10 seems to indicate that rule 8.1 (d) will come into effect as soon as a state has been in arrears for at least two years but that once a state party contacts the Secretariat to draft an arrangement, rule 8.1 (d) should be suspended. Panama suggested to recover paragraphs 10 and 11 of the previous version submitted at CSP6, arguing that they aligned more with the financial rule. Panama noted that paragraph 13 should be further clarified. Ghana informed that it will submit its concerns about the proposal in writing.

Mexico said that states should be as flexible as possible to find solutions, and consider various factors, such as states' economic situation, instability, different calendars of parliaments, etc. China recommended for states to strengthen their planning and to improve the financial efficiency of contributions. It promised to fulfil its financial obligations and that it will make a positive contribution to alleviate the financial difficulties.

Agenda item 4: Consideration of the CSP7 draft agenda

The president drew attention the **draft agenda** items proposed for CSP7, and participants were invited to comment on these.

The Women's International League for Peace and Freedom (WILPF) and Control Arms welcomed the president's and Secretariat's efforts to conduct the preparation process for CSP7 in an open and transparent manner, and urged them to continue doing so.

WILPF further urged to continue implementing decisions on gender and gender-based violence, adopted at CSP5, including by encouraging gender diverse participation through any letters to states parties from the president, chairpersons, and facilitators; and encouraged states to report back

on efforts taken to implement commitments at the national levels. Control Arms made similar remarks, suggesting, in addition, to consider nominating a woman president for upcoming CSPs. The president regretted that as a "gender champion," the omission of including gender in his draft paper is "unforgivable," and said this won't happen again.

Both WILPF and Control Arms stressed the importance for the ATT community to assess compliance with the ATT's provisions, with WILPF reminding of the continued or resumed arms transfers by ATT states parties and signatories to Yemen or Libya.

China expressed its commitment to the Treaty and to the upcoming CSP7, and urged that due consideration be given to current and future context of the pandemic when planning CSP7, to ensure the full and effective participation of all while respecting possible COVID-19 restriction rules. Similarly, Japan noted that constraints due to the pandemic should be considered when selecting the content of draft decisions for CSP7, urging that these shouldn't be too ambitious on substantive issues as there is still uncertainty if the meeting will be hampered by the pandemic.

WILPF, Argentina, and Control Arms urged states parties to introduce an additional CSP7 agenda item to review all past CSP commitments, including commitments on gender and GBV from CSP5, or commitments to explore and implement synergies between the 2030 Agenda on sustainable development and efforts to combat the proliferation of small arms and light weapons (SALW). WILPF and Control Arms underscored that these decisions need to be implemented, and reviewed yearly, if the objective and purpose of the ATT is to be realised.

Next steps

- The president announced that there will be a remote consultation period from May-June instead of a second preparatory meeting to finalise documentation arising from the preparatory meetings. Based on this meeting and written consultations, documents will be submitted for consideration and adoption.

SIDE EVENT REPORT: THE SITUATION IN MYANMAR—HOW IRRESPONSIBLE ARMS FLOWS FUEL THE CRISIS

Paula Soumaya Domit | Control Arms

On Wednesday, 28 April, Amnesty International and Control Arms hosted a side event to the Arms Trade Treaty's (ATT) intersessional meetings titled "The situation in Myanmar: how irresponsible arms flows fuel the crisis." The event brought together representatives of governments and civil society to discuss the gravity of the situation in Myanmar and consider how ATT states parties can work together to stop irresponsible arms flows from reaching Myanmar in response to the unchecked human rights violations perpetrated by the Myanmar military.

Opening remarks from Ambassador Sang-beom Lim from the Republic of Korea emphasised the need to act with regard to the situation in Myanmar. As chair of the ATT Working Group on Effective Treaty Implementation, Ambassador Lim shared that the ATT's effectiveness must be measured by its impact on the ground, as it was intended to be an instrument to reduce human suffering, especially in cases of such egregious violations of human rights as are occurring in Myanmar. "The current situation in Myanmar puts to the test the effectiveness of the [Arms Trade] Treaty in achieving its purpose in the field," he said. "Keeping in mind the Treaty's humanitarian purpose and objective, this is even more important."

Via a pre-recorded video address, Jose Ramos-Horta, Nobel Peace Prize co-recipient and former President of Timor-Leste, encouraged ATT states parties to definitively condemn the coup and "freeze all weapons deliveries to Myanmar." In calling for a comprehensive arms embargo, Ramos-Horta warned "when we do not condemn a coup—we set precedent, if it is accepted in Myanmar, it will be accepted in the ASEAN region and beyond." He urged the UN to speak quickly and forcefully against it and commended the Burmese people on their fight for democracy.

Following Ramos-Horta's address, Wai Hnin Pwint Thon, a Burmese Human Rights Defender with

Burma Campaign UK, gave a chilling account of the current situation in Myanmar. Her own father, an inter-faith reconciliation activist, was arrested and detained on 1 February, charged with hate speech. Wai Hnin called the response to the coup in Myanmar one of the biggest non-violent civil disobedience movements in the country's history and noted that it continues despite the increasing violence perpetrated against the protestors by the military. Apart from the indiscriminate killing of protesters, Wai Hnin noted reports of torture and sexual abuse from prisons and other serious violations of basic human rights faced by those involved in civil disobedience. Her testimony concluded with an impassioned call for countries to help stop the violence by any means necessary. "Military violence hasn't stopped people from speaking out. There are many measures you can take to help people in Myanmar—help us win our freedom."

Patrick Wilcken from Amnesty International provided the practical connection between the situation in Myanmar to the Arms Trade Treaty. Wilcken noted positively that most, but not all, ATT states parties and signatories have in place arms embargoes against Myanmar, and that many other states have de facto embargoes or have recently placed a freeze on existing licenses for sales to Myanmar. According to research conducted by Amnesty International, however, Serbia, Russia, China, Turkey, India, and Ukraine continue to supply the Myanmar military, despite well-documented use of this equipment in connection with atrocity crimes and grave human rights violations. Wilcken noted that, in addition to small arms and combat aircraft, much of the imported equipment being used by the military is dual-use, like armoured vehicles and surveillance drones. In response, Wilcken called on all states to support the adoption and implementation of a comprehensive UN Security Council arms embargo and, in the absence of this, for ATT states parties to ensure that their risk assessments cover the broadest possible

range of military, policing, and dual use equipment and do not permit arms to reach Myanmar. In particular, with diversion and re-export in mind, Wilcken called on states to act with extreme caution when transferring weapons to neighboring states or to those with a history of re-exporting weapons to Myanmar, citing that continuing weapons flows into Myanmar will risk deepening the crisis and threaten its spread across the entire region.

The discussion and Q&A session that followed the presentations was largely centred around specific arms used in the coup and against protestors and the role of the ATT in addressing the situation in Myanmar. Ambassador Sang-beom Lim and

Cindy Ebbs, Co-Director of Control Arms, echoed the previous statement that the situation in Myanmar is an opportunity for ATT states parties to work together to reduce human suffering of the Burmese people by reviewing the security of their own arms transfers.

In closing, the speakers reiterated the need for a global arms embargo on Myanmar, noting the danger that inaction would pose to the Burmese people, the region, and international peace and security. The evidence that the military is using weapons to attack their own people is abundant and clear, therefore individuals, civil society organisations, and the ATT community must support the call to action.

SIDE EVENT REPORT: IMPLEMENTING THE GENDER-BASED VIOLENCE, TERRORISM, AND TRANSNATIONAL ORGANISED CRIME PROVISIONS OF ARTICLE 7

Jillian Rafferty | Women's International League for Peace and Freedom

How can ATT states parties ensure a complete and robust implementation of the article 7 export risk assessment? In practical terms, how should states parties assess the risks of gender-based violence (GBV) in their arms control processes? How should states understand, interpret, and implement the risk assessment provisions on international law relation to terrorism and transnational organised crime? Panellists addressed these questions during a lively discussion, cohosted by Control Arms, SaferWorld, the Harvard Law School's International Human Rights Clinic, and the Stimson Center on 29 April. André Mittmann, from Switzerland's State Secretariat for Economic Affairs, chaired the event and moderated an engaging question-and-answer session following panelists' presentations.

Emma Tobin, from Ireland's Department of Foreign Affairs, discussed the prevalence of GBV worldwide, its deleterious effects on gender equality, sustainable development, and lasting peace and security, as well as the strong correlation between small arms proliferation and GBV. She also discussed the importance of robustly

assessing the risk of GBV in the article 7 export risk assessment, as well as Ireland's work as a gender champion in promoting and supporting work on this topic.

Verity Coyle, from the Stimson Center, and Anna Crowe, from Harvard Law School's International Human Rights Clinic, then presented their [new paper](#), *The Arms Trade Treaty's gender-based violence risk assessment: A questionnaire for information sources*. They explained the paper's work in outlining key questions that export licensing officials should ask of their own information sources when assessing the risk that export arms could be used to commit or facilitate serious acts of GBV, as required by Article 7. Coyle and Crowe emphasised the many forms GBV can take, the dramatic underreporting of GBV around the world, the myriad ways weapons can be used to facilitate GBV, and the challenges all of that poses in assessing risk.

Stephen Singo Mwachofi, from Kenya's Security Research Information Centre (SRIC), then presented on the reality of arms-committed and

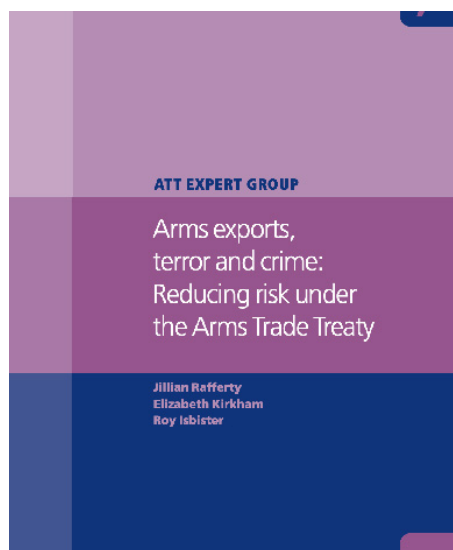
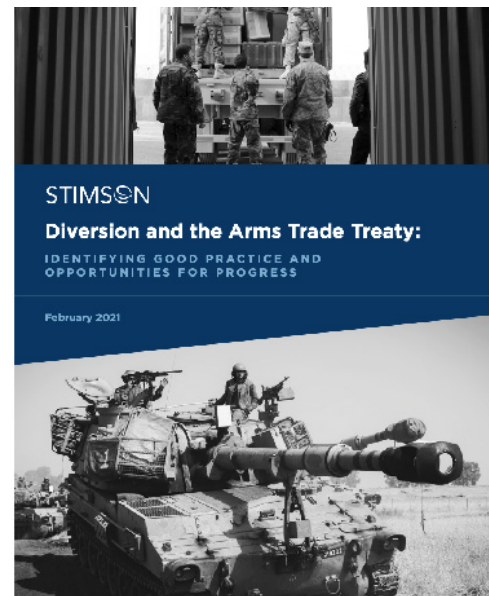
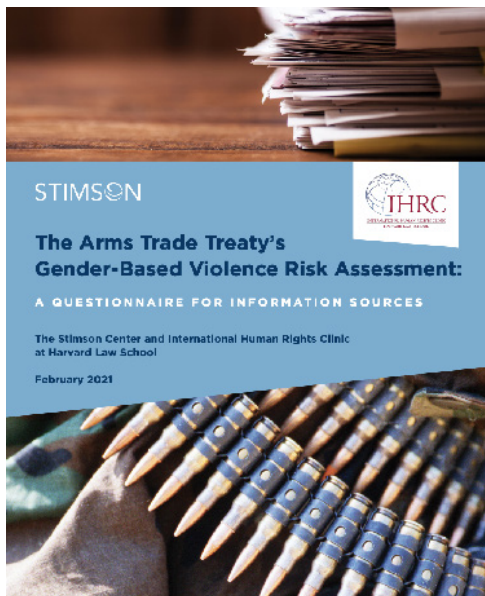
arms-facilitated gender-based violence in Kenya. He outlined the results of a recent SRIC survey that examined Kenyans' perceptions of the causes and consequences of gender-based violence.

Grisselle Rodriguez, of Panama's Permanent Mission to the United Nations in Geneva, then opened the second half of the side event with a presentation on terrorism and transnational organised crime in the Panamanian and broader Central American contexts.

Jillian Rafferty, from the Women's International League for Peace and Freedom, and Roy Isbister, from SaferWorld, then presented SaferWorld's **new report**, *Arms exports, terror and crime: Reducing*

risk under the Arms Trade Treaty. They reviewed the paper's work to provide a legal analysis of the provisions of article 7 on international law relating to terrorism and to transnational organised crime, in an effort to help states parties understand how to implement those provisions of the treaty as an integral part of the export risk assessment.

The question-and-answer session following the presentations was lively, with attendees from states and from civil society posing thoughtful questions to all of the event's panelists, digging deeper into themes raised during their presentations.



ATT MONITOR

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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