

Working Group Meetings
Geneva, Switzerland
06 – 09 February 2016

SUMMARY

Overall, the first meeting of the three Working Groups had a somewhat disappointing level of engagement. Attendance varied between 50 – 150 people. The majority of States were from WEOG (Western and Others Group), with far fewer representatives from Africa, Asia, Pacific or Caribbean. Interventions were predominantly from WEOG States.

Control Arms had a small cross-regional delegation with representatives from Africa, Asia, Caricom, Americas and Europe.

The overall sense was that too much time had been allocated for meetings which could have taken place with a sharper focus in a shorter time period. The Working Group on Universalisation in particular struggled to fill the time, with several interventions from Control Arms members, but very little discussion or engagement from States.

Overall, discussion was fairly conservative, with States showing little appetite to engage in more substantive discussions. While Control Arms had approached all of the co-chairs with suggestions of presentations from civil society to help start some of the discussions, these offers were mostly declined.

In the margins, there was a sense that many shared Control Arms view that the scheduling of the Working Groups and PrepCom, spaced over two weeks, rather than one week, mitigated against diverse representation.

It remains unclear how the April and June meetings will be structured. The Reporting and Transparency Working Group is not planning a further meeting before the CSP, although the other 2 Working Groups will (but not yet clear if this will be both in April and in June, or just one of these).

Working Group on Effective Arms Trade Treaty Implementation (WGETI)

06 - 07 February 2017

The first meeting of the Working Group on Effective Treaty Implementation (WGETI) focused on the exchange of knowledge, challenges and good practices on issues related to the national implementation of the Arms Trade Treaty (ATT), and aimed to identify priority areas for capacity building and outreach.

The meeting opened with an overview of the status of the Treaty's implementation. Dumisani Dladla, Head of ATT Secretariat, reported that of the 91 ATT States Parties, 72% (56 States) have provided their initial reports. He stressed the importance of reporting as a great way to identify good practices and develop strategies for the Treaty's implementation and compliance. He also stressed the importance of establishing a clear national point of contact that can provide follow up information to the ATT Secretariat and to other ATT States Parties, a point supported by Sweden, Netherlands and New Zealand. BAFA (Germany's Export Control Office) highlighted changes of personnel in partner countries following elections, limited inter-agency cooperation, and a lack of common understanding of obligations within a partner country as some of the main challenges encountered in ATT implementation projects. The Geneva Center for Security Policy (GCSP) too drew attention to the lack of inter-agency cooperation but also named the lack of cooperation between governments, civil society and industry, the lack of resources, the complexity of norms (different UN and regional instruments) as well as reporting fatigue as challenges to the Treaty's implementation. Representing civil society, Saferworld shared reflections on the Treaty's implementation experience in Liberia. In cooperation with the Liberia National Commission on Small Arms, Saferworld developed and delivered a successful ATT implementation project which included exploring information about Liberia's involvement in the international arms trade, identified relevant ministries and government agencies, reviewed existing legislation, assessed existing legislative provisions needed for ATT implementation and conducted inter-agency workshops.

During the second session, focused on States' experiences on the Treaty's implementation, a number of states (Australia, Switzerland, Belgium, New Zealand, Costa Rica, Zambia, Romania) underlined the importance of establishing an interagency process that facilitates cooperation. In this context, Australia and New Zealand stressed the need for a single coordinating agency to avoid duplication of efforts. States also shared experiences and challenges related to risk assessment. Sweden and Australia for instance noted that the risk assessment criteria is applied in a uniform manner to all recipients. New Zealand highlighted that it developed its export assessment criteria after ratifying the Treaty, to include the gender based violence (GBV) provision. Similarly, Switzerland established more clear definitions of terms and provisions of the Treaty, such as the level of information required for 'knowledge' in Article 6 and "overriding risk" in Article 7. Stressing the difficulty of establishing effective transit and transshipment controls, New Zealand, Belgium and Netherlands called for further discussions and information exchanges on this topic. Belgium, who only has transshipment controls in place – i.e. only goods that pass through Belgium with a change in the means of transport are subject to controls - introduced transit controls and regulations in order to be in full compliance with Article 6 of the Treaty.

Several states (Finland, Switzerland, France, Austria, Netherlands, Sweden) highlighted the importance of using wide national control lists, such as the Wassenaar Agreement or the EU Common Military List, which can fill potential gaps and can facilitate better coordination among countries. New Zealand, as a smaller state, noted its preference for a leaner list that fits the region's needs and which will not take away additional resources to apply it. To this end, it highlighted its collaboration with Control Arms in developing a model National Control List for small island states. Bob Mtonga for Control Arms highlighted the importance of developing national control lists and urged African States to make them publicly available. Mexico, echoed by Sweden, Netherlands and Finland,

proposed the development of general principles that would facilitate cooperation and exchange of information among ATT States Parties. Several states (Switzerland, Sweden, Austria, Bulgaria) also noted the important role played by embassies in providing essential information that serves to complete the risk assessment and prevent diversion.

Discussing mechanisms and structures needed to make licensing decisions, several states mentioned the need for guidelines to applying the GBV criteria, a new element in the export control process. New Zealand highlighted Reaching Critical Will reports on GBV as valuable guides while Sweden informed participants that it provided GBV specific training to export control officers. ICRC noted the importance of having a national control system that enables states to make licensing decisions based on facts and evidence. Control Arms members including Amnesty International reminded states that the robust application of Art. 6 (Prohibitions) and Art. 7 (Risk Assessment) will directly help meet the main objective of the ATT “to reduce human suffering”. Amnesty International shared its concern that *“some states appear to (...) require overwhelming (...) evidence that arms have been used for serious violations of IHRL and IHL before making any decision to deny new exports, rather than basing their decision on whether there is an overriding risk that arms could be used to commit or facilitate such violations”*. Frank Slipjer of Pax, referred to the landmark judicial review case taking place this week in the UK to determine the legality of the British government’s arms transfers to Saudi Arabia, saying *“it is a poor situation where NGOs must go to court in an effort to force a government to adhere to its legal obligations”*.

Measures and structures to regulate transit and transshipment and brokering as well as to prevent diversion were discussed at length in the fourth session. Switzerland and Bulgaria highlighted the importance of having a chain of transit, delivery notifications and other relevant paperwork in place, in order to help exporting state keep track of goods and prevent diversion. Bulgaria also noted the need for a thorough risk analysis when considering licenses applications including looking at the importing state’s track record and its capacity to properly store the goods. Sweden attributed the lack of diversion in its arms exports to legislation that allows exports only to end user countries (to authorized recipients). As such, Sweden requires importing countries to sign end-user certificates that guarantee that the goods will not be exported further. In case of diversion, both Sweden and Bulgaria noted their reliance and cooperation with civil society to recreate the chain of transit and identify the point of diversion.

On initial and annual reports some states (Sweden, France, Mexico, USA) underlined the importance of recordkeeping and reporting to better identify trends in arms transfers. Control Arms reminded states of existing resources developed by civil society to facilitate reporting, including the ATT Baseline Assessment Project which provides analysis of initial and annual reports and the ATT Monitor which provides measures that need to be put in place by states parties in order to report.

The Working group on Implementation concluded with several states calling for more interactive discussions in the future. Noteworthy suggestions were holding thematic or technical sessions (Sweden, France, Control Arms, Switzerland), regional discussions (New Zealand, Austria, Control Arms, Zimbabwe, Mexico, Sweden), breakout groups (UK), or online forums (New Zealand) to facilitate not only enhanced participation of global south states but also more substantive discussions. France recommended the establishment of sub-working groups focused on key cross-cutting issues - e.g. transit, record-keeping, diversion, control lists - and argued for their incorporation in and support from the Voluntary Trust Fund committee.

Working Group on Transparency and Reporting (WGTR)
Geneva, Switzerland, 8 February 2017

The meeting of the WGTR was co-chaired by Sweden (Amb. Beijer), and Mexico (Guillaume Michel). Eighteen States took the floor during discussions, as well as contributions from Control Arms members.

Dumisani Dladla, Head of the ATT Secretariat, provided a breakdown of reporting rates so far. Key findings included:

Initial Report

- 72% of the 78 States Parties who were due to submit their initial reports have done so (a total of 57 States, including one that wasn't due yet).
- 96% of reports have been made public, only four are private.
- Lowest regional rates of reporting were in Latin America and the Caribbean (11/20 States who were due to report haven't done so yet), and in Africa (8/16).

Annual Report

- 77% of the 61 States Parties due to submit annual reports have done so (a total of 49 States, including two that weren't due yet).
- Only one report has not been made public.¹
- Again, the lowest rate of reporting compliance was in Latin America and the Caribbean. Half of those due to report (eight States Parties) have not done so. Four of the seven African States Parties due to report have not done so, while two European States Parties have also not submitted annual reports.

Paul Holtom, of the ATT Baseline Assessment Project (ATT-BAP), updated states on efforts to develop resources that will help States to meet their reporting obligations under Article 13. He also shared findings from regional consultations on challenges affecting reporting capacity, including the need for countries to identify a national point of contact with the authority to access the necessary information to complete an accurate report.

Control Arms highlighted the importance of public reporting, and outlined strategies that the WGTR could undertake to improve the quality and consistency of reporting, including through adopting a peer review, or peer support mechanism. Control Arms also shared a short paper in advance of the meeting.

The substantive discussion focused on proposals outlined by the Co-chairs of the WGTR in an [issues paper](#). In this paper, the chairs suggested several areas of work for the WGTR (countries speaking in favour of each proposal in bold)

1. Considering further changes or amendments to the reporting templates. **(Peru, Philippines)**
2. Support the ATT Secretariat in developing a web-based format for reporting. **(Belgium, Finland, US)**
3. Improve compliance with mandatory reporting obligations, through web tutorials or other centralized support services. **(Belgium, Bulgaria, Czech, Germany, Japan, Netherlands, Switzerland, UK)**
4. Looking into synergies between reporting obligations to the ATT and other relevant instruments. **(Bulgaria, Czechia, Finland, Germany, Japan, Switzerland, UK)**
5. Develop an online platform to coordinate technical assistance and match with needs. **(Bulgaria, Guatemala, Philippines, Switzerland, UK)**
6. Address issues with the quality of reports. **(Bulgaria, Czech, UK)**

Broadly, most States argued that reporting templates should not be amended further in the short term, but should be revisited in a few years after more practical experience had been gathered. Peru and

¹ Slovakia, who have confirmed to Control Arms that their 2016 annual report will be made public. Slovakia has submitted a publicly available report for 2015 to the UN Register of Conventional Arms. <https://www.unroca.org/slovakia/report/2015/>

the Philippines were the only States to offer an alternative view. Peru argued that states should report on their application of Article 7 criteria to strengthen the link between arms transfers and human rights, while the Philippines argued that templates should be further refined to reflect unique national contexts.

Many speakers noted the complementarity between proposals 3-6. There was strong support for the WGTR to focus on improving compliance, and that this could be achieved by building technical reporting capacity, and through a more interactive online set of tools. While there was support for exploring synergies in reporting obligations as a way of easing the burden on relevant authorities, several states raised concerns about what this involved.

States also discussed proposals for work that could be done in the broader area of encouraging greater transparency. There was broad support for a proposal for their to be a more structured means of information exchange, with Belgium, Germany, Guatemala, Mexico and the US speaking in its favour. Mexico and the US also addressed a proposal for States to explore information exchange on diversion (in accordance with proposals under Article 13.2), but it was noted that the original report template proposed in July 2015 by Argentina has not since been revisited, and that a more interactive forum may be more appropriate.

The WGTR discussed in detail proposals for the ATT Secretariat to develop the website, and to build a more interactive online reporting platform. The Secretariat was advised to learn from the experience of civil society and the UN Register of Conventional Arms, and to schedule any revamp so as not to interfere with the upcoming annual reporting deadline on 31 May 2017.

It was agreed that the co-Chairs would develop a mandate proposal for the WGTR, and that there would likely be another meeting of the group before CSP 2017.

Informal Working Group on Treaty Universalization (WGTU)

09 February 2016

The Informal Working Group on Treaty Universalization (WGTU), following recommendations from the [Initial Work Paper](#), focused on analyzing the universalization situation and activities by region/sub-region, sharing views and experiences on the Treaty's universalization and identifying potential obstacles and solutions.

Dumisani Dladla, Head of ATT Secretariat updated countries on the Treaty's universalization status (91 States Parties and a further 43 Signatories). He noted that one potential reason for lower universalization rates in the recent months could be attributed to the fact that many countries no longer have the option of signing the Treaty. They now must accede to it, meaning that they become States Parties committed to implementing it.

The ATT Secretariat stressed the need for tailored approaches towards universalization not only by region but by country as well. In an analysis of the Treaty's universalization trends so far, it found that:

- 41% of African member states are now ATT States Parties, 31% have signed it and 28% have not yet joined. However, ratification rates in West Africa are much higher (14 States Parties, 1 Signatory and 1 non-State Party) than in East Africa (4 States Parties, 8 Signatories and 6 non-States Parties)
- 8% of Asian member states have joined the ATT, 26% signed and 66% are outside the ATT
- In Europe 91% of countries are now States Parties, with only 1 country remaining a signatory and 1 a non-State Party
- Latin America and the Caribbean are also leading in universalization rates, with 63% of countries as States parties, 20% Signatories and 12% as non-States Parties

and by top exporters/importers:

- Of the top 20 largest arms suppliers in the world, 12 countries are States Parties to the ATT, 3 are signatories and 5 have not yet joined the Treaty
- Of the top 20 largest recipients only 3 are States parties, 5 are signatories and 12 have not yet joined.

Sierra Leone recommended focusing universalization efforts in Africa on those countries who voted in favour of the ATT resolution but not yet signed the Treaty (7 countries) and those that voted yes but not yet ratified (14 countries). Anna Macdonald reinforced the need for tailored assistance in universalization efforts, sharing Control Arms recent paper on Universalisation in Africa identifying various obstacles including political prioritization, lack of prioritization due to crisis, technical, capacity or procedural challenges as well as reticence. She highlighted the importance of facilitating exchanges of information and experiences among these countries through regional workshops and the Voluntary Trust Fund.

Ambassador Korhonen shared some steps taken towards promoting the Treaty including a recent [article](#) published in Financial Times and written by the Ministers of Foreign Affairs from Finland, Australia Bulgaria, Guatemala and Sierra Leone as well as a recent outreach visit by the ATT Bureau in Eastern Africa.

Several countries took the floor to share their experience with the universalization process. Guatemala and South Korea shared the bureaucratic procedures that were completed in advance of joining the Treaty, which impeded a speedy universalization, despite commitment and political will towards the ATT. Zambia noted some of the challenges it faces, including lack of inter-agency cooperation and well as lack of consistency in personnel working on this issue. Zambia also had to bring its national legislation in line with the scope and provisions of the ATT, to establish national

control lists, and harmonize the legislation with other regional instruments. They also stressed the importance of international assistance in overcoming these obstacles, a point supported by Palau who noted the importance of UNSCAR, the Voluntary Trust Fund and other donors for small states in understanding and implementing the ATT. Australia and Palau noted that “universalization is a team effort” and recognized the supportive and complementary role of civil society in supporting universalization efforts.

Control Arms members took the floor to share their experience and views and well as efforts and updates on progress from each region. Sara San Martin urged Brazil, Colombia and Chile, countries where the ATT is currently being reviewed, to become more active in the ATT process. Folade Mutota of CDRAV, highlighted the successful collaboration between governments and civil society as a key factor in the Treaty’s speedy universalization among CARICOM member states. Cesar Villanueva of Transcend Pilipinas and Pax Christi Institute shared activities from the region and welcomed progress made towards the Treaty’s universalization.

ICRC called for a broadening of the scope of discussions and collaboration in other multilateral forums, especially the UN and the Human Rights Council to ensure that the Treaty is understood as complimentary to other instrument, especially the 2030 Agenda.

The Working Group were broadly in support of the Draft Initial Work Plan, with some suggestions made of where objectives and bullet points could be combined. The meeting somewhat faded out in the afternoon session, with very few interventions, and an agreement for at least one more meeting before CSP 2017.