

Fourth Conference of States Parties to the ATT Tokyo, Japan 20 - 24 August 2018

Daily Summary: Day Two - 21 August 2018

The second day of CSP 2018 continued the General Debate from the first day. One State Party, Mali, six Signatory states (Singapore, the Philippines, Malaysia, Thailand, Colombia and Israel), four non-State Parties (Botswana, China, Canada and Fiji) as well as the Wassenaar Arrangement and ECOWAS took the floor. Botswana announced that it will deposit its ratification instrument in September during the High Level Opening Week of the UN General Assembly while Canada noted that it is improving its export control system in advance of its accession date. Fiji condemned any arms transfer that violates or undermines the ATT.

The President of the CSP abruptly stopped the General Debate after international organisations, despite there being four civil society organizations on the speakers' list, including Control Arms.

Implementation

Nineteen States as well as the European Union, the International Committee for the Red Cross , Control Arms, and two other NGOs took the floor in the implementation session. Switzerland, as the Chair of the Working Group on Effective Treaty Implementation, provided a brief report of the Working Group's meetings in Geneva as well as the three subgroups on General Implementation, Articles 6 and 7, and Article 11 on Diversion.

Ghana as facilitator of the sub-working group on Article 5, provided a brief overview of the discussions which included the establishment of competent national authorities for ATT implementation; national control lists, discrepancies in the development of control systems. He noted that more attention is required to explore these topics, including the development of the "Welcome Pack" for new States Parties ([Annex F](#)). This sub-working group also developed a list of possible reference documents that can assist states with the general implementation of the ATT ([Annex A](#)) and a list of elements that must be considered to establish a national control system ([Annex G](#)).

The sub-working group on Article 6 and 7 facilitated by Sweden engaged in practical discussions including the structure of the export control process and the role of different governmental bodies involved in arms transfer decisions (customs, police) and developed guidance documents. The sub-working group is putting forward for consideration a list of available resources that can assist states in conducting the risk assessment ([Annex B](#)) and possible guiding elements to implement the obligations in Article 6 ([Annex E](#)).

Discussions in the sub-working group on Article 11 facilitated by Australia shared national experiences, considered information exchanges, and stressed that diversion can happen at any stage of a weapon's life cycle and at any point in the transfer chain. To assist States Parties in implementing Article 11 and addressing diversion, the sub-working group on Article 11 also developed a list of available resources that can assist states in preventing diversion ([Annex C](#)).

as well as a list of measures States may take to mitigate and address diversion ([Annex D](#)). Going forward, this sub-working group seeks to focus on: risk assessments, end-use, transfer states, private sector, re-transfer, information exchange..

The majority of those speaking (the European Union, Norway, Australia, South Africa and Republic of Korea, Ireland, Switzerland, Palestine, Mexico and New Zealand) expressed satisfaction with the progress made by the Working Group and lend their support to the documents put forward for consideration by the three sub-working groups. Switzerland, UK and Ireland stressed that these should be living documents, updated regularly while South Africa and the Republic of Korea stressed their voluntary nature. Belgium cautioned that the “Welcome pack” can only be descriptive and should therefore not prescribe approaches to implementation, while Mexico stressed the need for further clarification and strategies on what and how states need to implement these guidelines while the Republic of Korea expressed interest in hearing from States Parties about the practical application of these documents in their risk assessments. Norway noted its support for the inclusion of “national relevant experts” from “relevant national institutions” in the deliberations of the working group.

Noting that “recognition is insufficient without action”, Ireland stressed that the successful implementation of the GBV provisions should be a priority for CSP 2018. Ireland also noted its support for the Control Arms practical guide on the implementation of the GBV provisions. References to the importance of advancing the implementation of the GBV provisions were also made by Switzerland and Mexico.

Georgia, New Zealand and El Salvador made references to new legislation adopted by their governments in order to implement the ATT with New Zealand stressing that they will provide an update to their ATT initial report once the new brokering legislation is adopted. This is significant as to date, there have been no updates to any ATT initial reports, despite many governments referencing legislative changes to implement the ATT in the working group meetings.

Ali Jameel of Mwatana Organization for Human Rights delivered a statement on behalf of Control Arms, noting that he had travelled all the way from Yemen to Tokyo to implore governments directly to stop supplying weapons to the warring parties in his country. He called on ATT States Parties to rigorously apply the criteria in Articles 6 and 7 and prevent arms transfers that are in violation of international humanitarian and human rights law. Jameel noted that *“it is of great concern that, since the ATT entered into force, States Parties and Signatories have transferred arms to countries committing grave violations of human rights. This raises concerns around Treaty adherence.”* Similar concerns were raised by ICRC which stressed that “strict implementation is critical to building legitimacy of the Treaty.”

Belgium and Switzerland recommended that the co-Chairs of the working groups be nominated early in order to facilitate the progress of working group.

Diversion

For the thematic focus on diversion a panel on this issue shared information about challenges as well as best practices, measures, and policies adopted by states to address diversion. The panel was chaired by Mr. Yann Hwang, France and featured remarks from Ambassador Miguel Ruiz Cabañas of Mexico, Mr. Jonah Leff of Conflict Armament Research, Mr. Paul Holtom of Small Arms Survey, BG Hery Emma Rene Randriamiramanana of Madagascar and Ms. Lyndal Nixon from the Australian Export Control Office.

Noting that diversion occurs when there is a break in the legal chain of transport, when buyer states do not abide by their contract or when goods are stolen, Ambassador Ruiz Cabañas of Mexico emphasized that all stakeholders share the responsibility of preventing diversion. He also underlined the importance of direct information exchanges as well as the cooperation of financial, technical and legal assistance needed to enable the governments to identify loopholes and fill the gaps. Conflict Armament Research provided an overview of the iTrace database and its potential contribution to addressing diversion while Small Arms Survey shared infographics on diversion and emphasize potential preventive measures before shipment. Costa Rica shared its experience with a case of diversion in 2016 as well as information regarding measures taken to address it and to mitigate diversion risks in the future.

The European Union shared information about the EU Common Position which includes explicit point on diversion. It also noted that diversion was evoked 150 times in 2017, denying licenses in an online system which allows EU member states to update information on denials, including information about brokers and manufacturers. The UK shared information about its licensing application process which considers the risk of diversion. It also stressed challenges with post-shipment diversion, a concern that was raised by Spain as well.

BG Hery Emma Rene Randriamiramanana of Madagascar shared information about the existing legal framework and government programs which seek to address and mitigate the risk of diversion of arms to organized crime. Australia shared a list of elements that governments and industry can work together on to prevent diversion, including end user certificates, route security plans, delivery verification, maintenance contracts, post-shipment verification and awareness raising.

Netherlands stressed that the most important instrument to prevent diversion is the risk assessment prior to export while Japan maintained that mapping specific cases of diversion would be helpful in identifying good measures and practice.

ICRC and Austria reminded States that the diversion risk assessment should be part of the border risk assessment under Article 7. ICRC also stressed the importance of applying the same prevention measures to mitigate the diversion of ammunition and parts and components. Control Arms called for increased action, resources and co-operation in order to prevent and combat diversion at all stages of the transfer chain and arms lifecycle. Control Arms also stressed the importance of detailed information-sharing on real-world risk-assessments and experiences of diversion, and on lessons learned for prevention or mitigation measures. Control Arms made practical recommendations, including voluntary peer reviews of national systems for

risk assessment and risk mitigation to prevent diversion, pooling resources to increase information available for selected aspects of risk assessments, as well as updated ATT initial reports describing recent measures which seek to prevent diversion.

Side events

Four side events were hosted on the second day of CSP 2018.

Enabling the Adoption and Practical Implementation of the Arms Trade Treaty co-hosted by the governments of Australia, Switzerland and CAVR which discussed three important resources:

- The National Arms Transfer Database – a practical implementation tool;
- Reinvigorating the Narrative: The Broader Benefits of the Arms Trade Treaty;
- Implementing the Arms Trade Treaty and the UNPoA – A Guide

The panel also discussed ways to overcome implementation challenges particularly in low-capacity states.

The governments of Mexico, France and Control Arms hosted a side event on “*Preventing the Diversion of Legally Transferred Weapons*” which provided a forum for governments and civil society to discuss the effects of diversion as well as potential measures taken to address diversion. Mexico shared challenges with tackling the diversion of arms from the US into Mexico. It also provided simple but practical solutions to mitigating some of these risks including a signed declaration by the purchaser that the firearms will remain in the US. France stressed the importance of promoting complementarities between different instruments to strengthen efforts to tackle diversion and expressed interest in having an assistance programme on diversion. Amnesty International discussed cases of diversion from the UAR to proxy forces in Yemen and stressed the importance of ensuring the reliability of the potential trade partner and of imposing end-use(r) restrictions. Centro de Estudios Ecumenicos discussed the legal and illegal trafficking of weapons in Mexico and offered suggestions for ways to address diversion in the country.

“*Advancing the Implementation of the Arms Trade Treaty: The Voluntary Trust Fund (VTF)*” was organized by Germany and the ATT Secretariat and outlined the role, achievements and current status of the VTF, highlighting its priorities. Ghana presented its experience as a beneficiary of the VTF while the Philippines underlined the advantages of implementing partners working with states to implement ATT projects funded by the VTF.

The ECOWAS Commission hosted a side event which explored the complementarities between the Arms Trade Treaty and the ECOWAS Convention.