

Summary Analysis of CSP 2019 Working Group Meetings

Geneva, Switzerland

29 – 31 January 2019

Working Group on Effective Treaty Implementation - 29 – 30 January 2019

Ambassador Dallafior of Switzerland, as Chair of the Working Group on Effective Treaty Implementation, introduced the session noting that dividing work into three sub-working groups worked well in bringing discussion on substance rather than process forward during last year's CSP cycle. As Chair, Switzerland re-established the three sub-working groups for CSP 2019. Ambassador Dallafior also stressed that the group should look at the priority theme of the Latvian Presidency, gender and gender-based violence, during all discussions.

Sub-working group on Article 5 (general implementation)

The agenda for the sub-group on Article 5 was as follows:

1. Opening remarks (reflections and way forward)
2. Basic guide to establishing a national control system
3. Legal and regulatory framework
 - a. Laws, regulations and administrative procedures
 - b. Case study: experience conducting a gap analysis
 - c. National control lists
 - d. Presentation on status of national control lists
 - e. Case study: experience in adopting a national control list
4. Institutions
 - a. Competent national authority
 - b. Case study: experience in establishing a national control authority
 - c. National points of contact
 - d. Case study: experience in establishing a national point of contact
5. Closing remarks (reflections and way forward)

Ghana, facilitator of the Article 5 sub-working group, stated that work for CSP 2019 will build on the work undertaken and progress made during the previous cycle. In this regard, the discussion was focused on elaborating a basic voluntary guide that can assist States to establish a national control system, relying on the elements endorsed by CSP 2018. The first working group meetings then considered the following aspects of the guide: a) what is a national control system? b) Why is a national control system necessary? c) What are the elements of a national control system? This includes legal regulatory framework, institutions and national points of contact.

The facilitator introduced the draft guide to establishing a national control system, which includes definitions, detailed information on legal and regulatory frameworks, institutions, and national points of contact for national control systems. Not all elements of the guide endorsed at CSP 2018 were included, but he made the recommendation that the guide be established as a voluntary document to be updated regularly.

Ghana mentioned that in practice, States Parties have established their national control systems, including through the adoption of legislation, which requires states to take appropriate measures to implement the Treaty. Each state must determine whether and to what extent its existing legislation provides a sufficient basis to comply with the Treaty. This requires an analysis of existing arms trade legislation to identify any gaps and weaknesses. States approach this task in different ways. Roy Isbister of Saferworld presented a case study on identifying these gaps which emphasised the importance that

the process is owned and driven through political commitment, as well as the need for active leadership within one agency in the government. One size does not fit all, and the requirements of a large country developing arms manufacturing will be different for small countries. This point was echoed by Austria, Japan and Norway. After laws are in place, there then needs to be consideration for the legal framework that's applied to identify who's responsible, who does what, and what a risk assessment looks like. Germany highlighted institutional assistance provided by the EU's ATT Outreach Project, as well as the ATT Voluntary Trust Fund. The ICRC made clear that national legislation that gives effect to IHL treaties could be added to the list of legislation that should be reviewed and assessed during gap analysis.

Discussion on national control lists began with the facilitator's comments on the definitional categories provided in the basic guide. The ATT Secretariat presented an analysis of national control lists submitted by States Parties in ATT Initial Reports. Of the 68 reports submitted, only 58 have national control lists. Most are based on the Wassenaar Agreement or the EU Common Military list, which was also highlighted by the EU, Norway, Austria and Germany. Ghana shared its experience of securing funding to help establish a national control list. Peru, Costa Rica, and Zambia shared challenges in setting up their control lists. Costa Rica cites the ATT as being a very critical step in its pathway toward compliance with all of its obligations.

In discussing competent national authorities, Benin and Liberia gave presentations on their experiences in establishing these authorities in the context of their control systems. Benin provided an overview of their current system, which includes about 150 entries of arms manufacturers. Liberia elaborated further on its experience establishing national points of contact, as part of the African Union and ECOWAS, the latter having an ECOWAS Common Position on the ATT. Liberia initiated an assessment on national compliance and domestication of the ATT, with support from Saferworld. With funding support from VTF, they expanded the mandate of the Liberia National Commission with primary authority to address compliance with the ATT. Austria, Japan and Mexico also stressed the importance of national points of contact.

Sub-working group on Articles 6 and 7 (risk assessment)

The agenda for the sub-group on Article 6 and 7 was as follows:

1. Presentation and discussion on working methods to implement Article 6 and 7 by the Serbian export control authority
2. Panel presentation and discussion on Article 7.4

After Sweden, as facilitator, called attention to the Treaty's purpose of reducing human suffering, sub-group discussions began with a presentation by Serbia on its export control system. This overview included elements of its legal framework based on international law and national legislation, its licensing process that includes end-user verification, transport and transit control that required cooperation with customs administration, outreach with industry, and penalties that may include criminal sanctions. It mentioned an end-user database that's managed with cooperation from the MFA, and its information exchange with other EU countries, as examples of good practice. It mentioned timing of license-issuing, as well as changes in license applications and the risk of diversion as challenges Serbia faces. Moving forward, Serbia will seek to increase regional cooperation, update its end-user database annually, and solicit international support on equipment, awareness, and exchange of experience.

Netherlands, Japan and Norway asked about Serbia's experience with license denials. Serbia made clear that licenses have been denied in the absence of regional end-user certificates. If the license application is for a re-export, the importing state needs to provide an end-user certificate. Without it, licenses have been denied. In relation to Article 6 and 7, EU Common Position criteria that overlap with these obligations, are implemented on a case-by-case basis, and prohibitions are implemented in the same stage.

The ICRC asked about challenges when Serbia applies the criteria consistent with the EU Common Position in relation to Articles 6 and 7. Sweden and Japan both mentioned specific processes for particularly sensitive cases, as example. Serbia cited exports to Saudi Arabia as one of its biggest challenges among EU member states. It was made clear that Serbia has no legal grounds to deny the exports and is waiting for the 'big players' in this field to make a decision. If a final decision on prohibiting that export were made at the international or United Nations level, Serbia would be ready to respect it.

Discussion on the implementation of Article 7.4 began with a panel presentation from Ambassador Gaffey of Ireland and Verity Coyle of Control Arms. Ambassador Gaffey began by thanking Latvia for choosing gender and gender-based violence at the theme for CSP 2019, and by highlighting GBV as a consequence of war that has always existed despite the only recent recognition of the problem. He stressed that moving forward, this recognition needs to be comprehensively included in all aspects of work, notably in objective and non-discriminatory risk assessments within the ATT. Verity Coyle presented Control Arms' *How to use the Arms Trade Treaty to Address Gender-Based Violence: A Practical Guide*, which includes a definition of GBV, sources and indicators export officials can use to address GBV, as well as Article 7.4's link to IHL, IHRL, and other elements of Articles 6 and 7.

In the discussion that followed these presentations, 16 governments provided comments, along with one civil society organization, and one international organization. Questions ranged from considerations of GBV from a regional perspective (Australia), examples of mitigation measures (Canada), what government agencies are conducting risk assessments (Finland), which categories of conventional weapons relate to GBV (Switzerland), and definitions of gender and gender-based violence (Austria, Latvia).

Some States Parties mentioned license denials specific to Article 7.4. Netherlands, for example, said that licensing officers will look at the guidelines and consider GBV as part of violations of IHL and IHRL, drawing on the EU Common Position, where states publicly report denials and the reasons for them. If a license is denied specifically due GBV concerns, it would be reported. However, so far no licenses have been denied specifically based on GBV considerations.

Sweden and Germany drew links to other international agreements, including the Geneva Conventions, and violence to life and person, torture, personal dignity, and degrading treatment, as well as the Rome Statute, in which GBV acts are considered war crimes. In Switzerland's national assessments, it has been found that instances of GBV covered in Article 7.4 are usually covered by Articles 6.3 or 7.1. In that sense, Article 7.4 serves as a reminder that GBV must be considered in all aspects of the risk assessment. Germany referenced the UNSC Women, Peace and Security agenda, and asked if national action plans related to GBV include initial implementation, national implementation, and an entirety of ministries involved, such as youth, women and internal defence agencies. Ireland reiterated that multiple government agencies should be involved in the risk assessment.

Mexico commended Control Arms on selecting GBV as one of the themes for its "ATT Academy" trainings in Latin America. Poland reflected on the different types of GBV, noting that examples discussed during the working group meeting were only very serious examples. Poland also noted that there are more common forms of GBV that may not qualify as serious but are important nonetheless, specifically displaced women and forced displacement. Current conflicts affect traditional societies and communities in which women play a central role in maintaining households. Perpatrators are aware that destroying these households results in GBV or violence against women. The ICRC proposed a range of indicators states should take into account in assessing risk that arms transfers will be used to violate IHL and IHRL, including GBV. This includes measures to reduce or cease violations, steps to draft legislations, regulations, doctrines, and trainings, as well as necessary legal measures to repress serious violations of IHL and IHRL.

The United Kingdom mentioned that a key issue it is grappling with is how to apply GBV provisions in practice and in relation to Articles 6 and 7. In doing so, the UK acknowledges that GBV is recognized as a

stand along obligation under the Treaty. Inconsistently, however, the UK noted that in its risk assessment an act of GBV is relevant only if covered in Article 7.1 or somewhere in Article 6. The UK also claimed that while ATT has a role to play, at some point it might be the case that other tools are more relevant.

Ambassador Gaffey, Control Arms, and Sweden all concluded that they were encouraged by almost two hours of discussion on this topic.

Sub-working group on Article 11 (diversion)

The agenda for the sub-group on Article 11 was as follows:

1. Introduction of multi-year work plan
2. UNIDIR presentation on end-user certification
3. Bulgaria presentation on experience in managing export documentation

To achieve concrete results and support the implementation of Article 11, there is a need to prioritize areas for focused discussions and develop a longer-term plan. To that end, Jamaica, as facilitator, put forth a multi-year plan to guide the discussions on diversion. It is a two-year plan, derived from Annex D to WGETI's report to CSP 2018, 'Possible Measures to Address Diversion'. It focuses on points in the life-cycle of a weapon, looking at the different points where diversion can occur, while identifying challenges and possible mitigation measures.

Switzerland, Japan, Mexico, Australia, Republic of Korea, Costa Rica, France and Norway all were in favour of the multi year plan. Belgium, Costa Rica, and Netherlands noted the importance of sharing real cases of diversion as part of discussion. Paul Beijer Consulting Limited made clear the importance of information sharing, as well as an argument for closed meetings in which cases of diversion can be shared. Australia, Serbia, and France referenced the important role that industry can play in addressing diversion. For Serbia, this was specifically relevant in the context of maintaining records of end-user certificates by industry. France also thanked Control Arms for its ambitious input in this area.

Germany noted that it just had its fourth post-delivery control visit in Indonesia, with other control visits being planned. The post-shipment control system has been of great value as a shared effort to prevent diversion, to build trust between exporters and importers, and to answer questions of civil society. Germany is ready and available to share these experiences with States Parties interested in this tool.

Control Arms stressed the importance of involving export officials and customs agents, experts and civil society researchers in discussion. The ICRC highlighted the important role of risk assessments in preventing and addressing diversion. The ICRC also acknowledged that while confidential information-sharing may be helpful in some cases, and encouraged States Parties to ensure that all information exchanges are open and transparent, including open sharing of decontextualized information.

UNIDIR's presentation drew from research done with Small Arms Survey and Conflict Armament Research (CAR) on end-user certification (EUC) as an important tool in combating diversion and in the broad context of control systems. UNIDIR noted that diversion should not be seen in isolation of the risk assessment process. In recent studies, UNIDIR looked to identify differing definitions, roles and functions such as authentication, verification content, cooperation and information exchange. Seeking to find how important EUCs are, UNIDIR looked at how many states confirm receipt of items, as well as how many states are willing to include on-site inspections. They found that many states are willing to share only up to a certain point. Further research will continue to answer these questions.

Next, Bulgaria shared its experience in managing export documentation. In order to comply with ATT obligations, Bulgaria had to look at their legal framework, including national legislation and international law, UNSC resolutions that include embargoes, the EU Common Position, OSCE, ECOWAS Convention, UNSC peacekeeping missions, and IHL and IHRL. Individual licenses are considered against a list of

defense-related products and require a long list of documents. Bulgaria also noted that it has clear definitions of 'transfers', 'brokering', and other terminology important to the process.

In the discussion that followed, states addressed the problem of differing definitions of diversion (Ghana) and the different ways in which governments request information for end-user certificates (Austria). Serbia put forth the suggestion that templates for EUCs could be shared among states. Jamaica pointed out the important role of transit states. On the issue of import documentation and roles and responsibilities of transit states, Jamaica strongly believes that transit states also have a crucial role to play in information exchange processes and the verification of shipment documentation.

Conflict Armament Research (AR) spoke to its vast experience documenting diversion. After UNIDIR mentioned the lack of common approaches on transfer documentation, CAR echoed its position that the range of practices among states regarding assurances for re-exports are varied and it is a particular area where ambiguity does not serve States Parties' interests. This was highlighted as a potential area for further scrutiny from this sub-group, along with post-shipment verification as an area of future work and research.

Working Group on Treaty Universalization

30 January 2019

The agenda for the WGTU was as follows:

1. Activities of the Presidency
2. Universalization Toolkit and Welcome Pack presentation and discussion (see Annex A and B)
3. Civil Society's efforts in promoting ATT universalization
4. Update on universalization activities by other ATT stakeholders
5. Celebrating 100 States Parties and the update on the status of ratifications, accessions, and signatures

Ambassador Kārklīnš of Latvia, as Co-Chair of WGTU, began the meeting by thanking all the states that co-sponsored of the [ATT Resolution](#) during the 2018 UNGA First Committee. Ambassador Kārklīnš also provided an update on the outreach he was able to conduct during First Committee. Japan, as Co-Chair provided an update on the efforts that were taken in reaching 100 States Parties. To that end, Japan developed a list of countries to target for universalization, including VTF beneficiaries, signatories, and those who changed positions or took positive steps towards joining the Treaty.

The ATT Secretariat presented on the status of the Treaty's universalization, indicating that the rate of universalization will now be measured beginning in June 2013. This allows for an annual comparison of progress or lack thereof. The ATT Secretariat found that ATT rates are comparable to other fora.

The WGTU then shifted discussion to the development of a proposed [Universalisation toolkit and Welcome Pack](#) for prospective and new States Parties. The ATT Secretariat presented the document and provided rationale for its decision to include two separate documents meant for two distinct audiences. It was noted that there would inevitably be overlap between the two documents. The ATT Secretariat explained that the current draft does not seek to answer all questions previously raised by States Parties or take into account all suggestions that had been made. It is a living document, and it is not conclusive. It is meant to evolve over time as States Parties continue to answer questions that define and illustrate ATT processes. The information provided in the toolkit came from existing sources, particularly the work done by the Centre for Armed Violence Reduction (CAVR). Japan noted that while Toolkit was useful in bilateral meetings on universalization, its practicality could be increased if it were translated into different languages.

Control Arms [stated](#) that these documents would be stronger if they were merged into a single document, creating a longer Welcome Pack and including an executive summary. Control Arms also raised its concern over the lack of reference to the object and purpose of the Treaty as laid out in Article 1 in the Toolkit. Additionally, Control Arms [pointed out](#) that the toolkit has a significant focus on the illicit transfers of weapons and the use of those weapons by criminal organizations or non-state actors, and stressed that the regulation of licit transfers should be included as well. More comments and suggestions were submitted in writing by Control Arms to the Co-Chairs of WGTU. Similarly, the ICRC expressed concern that the documents do not reference IHL.

A panel presentation from civil society included Stephen Singo, from the Security Research and Information Centre (SRIC), who drew on his experiences in [pushing for universalization](#) and effective implementation of the ATT in Africa. He cited examples of activities that took place in DRC as part of the Sprint to 100 Campaign. He also highlighted contributions made by civil society to the development of security policy, particularly through research and advocacy on the key drivers of armed violence and insecurity including proliferation of armed groups, radicalization of the youth and the linkage between SALW proliferation, GBV, arms diversion and terrorism. María Belén Gallardo Rivas, of SEHLAC [drew attention](#) to civil society's efforts in support of the Treaty's universalization in Canada, Asia and Latin America. She stressed that in Latin America, Control Arms remains determined to support local civil society engagement and work to demonstrate how adherence to the Treaty can improve the security of all states in the regions. This presentation ended with a call for States Parties to reflect on the consequences of their role in the crisis in Yemen as a means of addressing the credibility of the ATT and the long-term prospects for its meaningful universalization.

The State of Palestine stressed that there should never be universalization without effective Treaty implementation. Palestine encouraged States Parties and civil society to tackle any selective application of the Treaty's norms that threaten to undermine the credibility and effectiveness of the ATT and other relevant treaties. Costa Rica echoed this concern.

The EU and other stakeholders also provided updates on their universalisation activities. The EU, speaking also on behalf of Turkey, Montenegro, Serbia, Albania, Bosnia and Georgia, congratulated all stakeholders on the 100 States Parties milestone, and pledged to promote the ATT through diplomatic efforts, including providing support to non-States Parties to facilitate accession to the Treaty.

Australia noted the lack of regional participation in the ATT process from Oceania and Asia. The Republic of Korea shared information about its visit to the Philippines for bilateral consultations and to sign a memorandum of understanding. Korea is continuing outreach, as part of an ASEAN project, and will hold an international conference on defence export controls in June. Samoa also mentioned low membership in the Asia Pacific and made reference to a regional framework that reinforces the importance of peace and security.

Netherlands suggested States Parties be encouraged to engage in universalization efforts when in bilateral meetings, and welcomes new efforts by New Zealand and Australia at increasing universalization in the Pacific. To that end, Latvia noted that all States Parties are ATT ambassadors.

The session was followed by a panel to celebrate the achievement of 100 States parties through the ratification of Mozambique, with remarks from Latvia, Japan, Mozambique, the United Nations Office for Disarmament Affairs (UNODA), the International Committee of the Red Cross (ICRC), and Control Arms. This event showcased the [#100ReasonsWhy video](#), which featured diplomats, campaigners and public figures giving their reasons why the Treaty is important. During this panel, the ICRC welcomed news of Lebanon's imminent ratification, saying: the "great surge of support attained by the ATT immediately following its adoption has now become a steady stream. Each ratification helps stem the flow of arms and ammunition into the wrong hands."

Working Group on Transparency and Reporting

31 January 2019

The agenda for the WGTR was as follows:

1. State of play of compliance with reporting obligations
2. Challenges concerning reporting
3. Substantive reporting and transparency issues
4. Organizational means for information exchange
5. Harnessing information generated by mandatory reporting
6. IT platform: reporting and transparency functionalities
7. WGTR mandate in the period between CSP4 and CSP5

WGTR Co-Chairs, Belgium and Mexico, began by introducing the ATT Secretariat who gave its '[state of play](#)' presentation, which showed that only 74 per cent of Initial Reports and 61 per cent of Annual Reports have been submitted. In terms of Annual Reports, there is a steady decline in the reporting rate from year to year. Positively, the Dominican Republic has already submitted its 2018 report ahead of the deadline.

Serbia then gave a [presentation](#) on how it reports on arms exports. She noted that good record keeping is crucial for good reporting, and that involves maintaining national records on export authorizations or actual exports for the last ten years. In Serbia, companies and ministries keep these records. Serbia always makes its reports public and does not withhold commercially sensitive or national security data, as a means of contributing to transparency. Serbia also submits voluntary regular reports to the UNROCA, and the UN PoA. In terms of challenges, Serbia mentioned reporting authorized versus actual deliveries, reporting the final importing state when exports are made to a foreign military base, and categorization of weapons.

Serbia was asked a wide range of questions, including whether or not industry secrets are divulged when Serbia reports to various international bodies (Austria), whether ten years was sufficient for record keeping given the lifespan of weapons is often longer (Paul Beijer Consulting Limited), if data gathered for actual exports comes from industry and if they are given a deadline to send it over (Romania), and whether there is a requirement that Serbia present this information to its parliament (Norway).

Serbia made clear it is not breaching any sensitivity with industry in its reporting and archives its records after ten years instead of destroying it. In terms of data gathering, it comes from industry, customs administration, and other sources. If industry does not provide necessary information within 15 days, they are sanctioned.

Belgium, as Co-Chair, then opened the floor for States Parties to share challenges from the national level. Peru shared that despite challenges it faces at all stages in reporting, it has established specific internal procedures that involve many arms control authorities, and has allowed them to submit their reports. Costa Rica also shared challenges, but outlined its creation of a national authority and national control list has helped to make submission of reports possible.

Peru, Costa Rica and Japan all recognized the importance of reporting.

Belgium noted that the reporting rate is still disappointingly low, and this is a matter for concern. The measures adopted at CSP 2018 are good but need to be implemented, and they call on states that have not reported to do so. Belgium stands ready to do its best to contribute to this effort, as competent authorities stand ready to offer basic support to states with difficulty meeting reporting obligations. Romania also offered basic support to states facing challenges to reporting. Similarly, the ATT Secretariat

mentioned its efforts in letting new States Parties know about their reporting obligations, including seminars hosted in various regions in the past year.

Belgium, as co-chair, then opened discussion on the reporting templates. A decision was made not to update the templates for a number of years while reporting rates stabilize. However, increased feedback on the complexity of the templates suggests a discussion on this matter is welcomed.

Netherlands expressed a preference for States Parties to report on actual deliveries versus authorized deliveries. Austria and Peru mentioned that reporting templates in some cases were too elaborate. On the other hand, Switzerland, United Kingdom, South Africa, and France believe they should be kept as they are, in order to make information comparable from year to year and to allow additional time for reporting practices to settle.

Belgium, as Co-Chair, moved on to a discussion about amending the World Customs Organization (WCO) customs codes in the 'harmonized system' to include codes for conventional arms covered in the scope of the ATT. This would be feasible in 2027 when the codes are up for amendment.

For Norway, this discussion has been ongoing for many years and involves control lists that also include category codes for the Wassenaar agreement. They always come up short because exporters have the ability to classify goods on their own, which may not be accurate.

Overall, Costa Rica, Belgium, Norway, Bulgaria, Mexico and Austria supported the Co-Chairs' recommendation that the WGTR works towards contributing to the WCO amendment process. Mexico pointed out that its control list already includes WCO harmonized codes and that it is working with other states on issues similar to what is proposed by the WGTR.

In addressing Republic of Korea's concern that including WCO codes could undermine the speed at which some governments compile and submit ATT Annual Reports, and this might discourage new States Parties from joining, Austria observed that the codes are relatively universal and should not deter universalization efforts.

After discussion, Belgium, as Co-Chair, concluded that the WGTR has the mandate to move forward with a WGTR contribution towards an amendment to the World Customs Organization harmonized system that gives codes for conventional weapons in the scope of the ATT. He moved the discussion to the topic of an information exchange platform within the IT portal on the ATT Secretariat website as a means for States Parties to share information on diversion. Additionally, information and real cases of diversion could be shared at an informal meeting on the margins of the April Working Group meetings.

Norway and Costa Rica were in favour of both methods of information exchanges. Costa Rica mentioned the important contributions of civil society in this area, with reference to the side event on the Middle East which covered Yemen and IHL and IHRL violations. Similarly, Norway was in favour of an informal meeting to discuss diversion, but also felt that risk assessment should also be part of that conversation.

Austria, Paul Beijer Consulting Limited, and Control Arms expressed caution in closing the meeting and excluding important input from all stakeholders, including civil society.

Switzerland and Netherlands were in favour of the meeting but thought more preparation should be given in determining its parameters. Belgium, as Co-Chair, said this discussion will continue in April, with the intention of holding an informal meeting at a later date.

In the afternoon session, Mexico and Belgium, as Co-Chairs, invited technical feedback, particularly in regards to ATT Initial and Annual Reports. Belgium mentioned the creation of an accessible database on the IT platform, as well as other tools to address the content of Annual Reports.

CAVR highlighted its database that is designed to help States Parties prepare reports and, at a low cost, use a system that can help track data needed for reporting. The ATT Secretariat then introduced its IT

platform that allows States Parties to submit reports online. To help create the best system for web-based reporting, the ATT Secretariat formed a consulting group to test the tool. After the new platform was established, only 25 people have registered from 12 states.

Netherlands, as a member of the IT consultation group, inquired as to whether the group will continue to provide input as the ATT Secretariat moved into the next stage of developing a searchable database of information submitted in Annual Reports.

Overall, feedback on the ATT Secretariat's IT platform was positive. ICRC said it's extremely easy to navigate compared to platforms for other treaties, and Paul Beijer Consulting Limited said it was a 'quantum leap' from the old website.

Belgium, as Co-Chair, raised the feasibility of including livestreaming and videos uploaded to the platform given the additional cost of doing so. The United Kingdom hoped to consider which meetings would be livestreamed, including closed meetings. Switzerland noted that livestreaming would increase passive participation.

Side Event: The Gendered Impact of Explosive Weapons Used in Populated Areas in Yemen

Panelists included Cesar Jaramillo (Ploughshares), as Chair, Anna Macdonald (Control Arms), Laura Boillot (Article 36/INEW), Roos Boer (PAX), and Martin Butcher (Oxfam).

Using Yemen as a case study, this side event looked at the use of explosive weapons in populated areas, with a focus on their gendered impact. The discussions in this side event also highlighted the connection to ATT risk assessment obligations, including those in Article 7.4 on GBV.

Martin Butcher shared Oxfam's recent work on the gendered impact of these weapons. He highlighted the indirect impact of explosive weapons on women and girls, including spontaneous miscarriage, lack of access to medical care, spread of disease due to lack of clean water, and increased domestic violence. Research in places like Iraq and Syria show that where families are displaced, women become more vulnerable to different types of violence. In one study, 92 per cent of women interviewed reported having suffered or witnessed domestic violence. For those selling arms, these considerations should form part of the risk assessment.

Roos Boer went through PAX's work on defining characteristics of explosive weapons, giving examples of Paveway bombs used in Yemen that have wide-reaching impacts, including shrapnel that breaks windows and leave people to live in the cold. The inaccuracy of mortars, and the use of multiple warheads when trying to effectively eliminate a target, are put people at risk in Yemen and in other conflicts.

Laura Boillot of Article 36 spoke about the documented pattern of humanitarian harm as a result of these weapons being used in populated areas. Effects are seen on power supplies, water, sanitation, and treatable injuries become life threatening. People are forced to flee, causing displacement. The ICRC estimates that 50 million people bear the brunt and consequences of war in cities. This serious pattern of harm is demonstrated even when weapons are used on military targets. To address this, Article 36 is working with others on a political declaration that highlights these concerns and suggests practical commitments states can make when they join.

Anna Macdonald of Control Arms linked the use of these weapons to their supply, while issuing a reminder of the ATT's purpose to reduce human suffering. Responsibility for the impact of these weapons should also put on those countries that grant licenses to all warring parties, undermining peace and security. She also stressed that understanding the gendered impact is an important part of understanding the scope of humanitarian harm that is taking place.

In discussion, one state recognized the coherence of States Parties' response to the Yemen conflict has been an issue and suggested that the ATT could be used to talk about the appalling conflict in Yemen, while also drawing a connection to the Human Rights Council. Saferworld and Anna Macdonald commented on the need for ATT States Parties that have made decisions to stop granting licenses for arms transfers to warring parties in Yemen, to make a direct link between to the ATT when explaining the reasons for such denials. Martin Butcher echoed this call, arguing that it will build norms and strengthen the Treaty in ways legal analysis cannot.

Side Event: ATT Implementation and Universalization in the MENA Region

Panelists included Anna Macdonald (Control Arms), as Chair, Marc Finaud (GCSP), Giovanna Maletta (SIPRI), and Fadi Abi Allam, (Human Security Advisor to the Prime Minister of Lebanon).

This side event explored the reasons and challenges that make ratifications and accessions to the ATT in the MENA region more challenging than in other regions. Panelists also talked about a range of assistance options being offered to potential States Parties.

Fadi Abi Allam began with an overview of Lebanon's security concerns in the context of a history of armed conflict, wars and the Arab-Israeli conflict. He noted that MENA countries believe the ATT does not account for their security concerns, and does not adequately ensure their right to self-defence. In that regard national security is a big concern, as is the ability to import weapons. He noted that while some MENA governments strongly oppose the Treaty, other governments are opened to participating in the Treaty process, but face pressure at the national level, related to the trade of firearms. As solutions, Fadi Abi Allam recommended supporting civil society to raise national awareness and share technical expertise about the ATT, and to help countries amend their legal frameworks to be more compatible with ATT requirements. Cooperation between international organizations, regional organization, the ATT Secretariat and the UN would also be helpful.

Giovanni Maletta presented SIPRI's ATT assistance database which now covers capacity-building activities in arms transfers and SALW controls in the MENA region. With the expansion of this database in 2018, it identified a need for the development of effective controls for post-conflict diversion, transfers to non-state actors, military build-ups, and weak state capacity. An analysis of the database shows that there are more assistance activities happening in North Africa, focused mostly on general aspects of arms transfers and SALW controls. There is a noticeable gap in activities around legal or legislative assistance.

Marc Finaud spoke about GCSP's main training activities. In GCSP trainings, the ATT is not the only topic addressed but is included as one of the multilateral aspects of regional security. When integrating the ATT into its broader training, GCSP tried to take into account the specific viewpoints of different regions, as well as conflicts and a lack of transparency.

Discussions began with a comment from the State of Palestine who stressed that arms control is a matter of collective security for all states. Palestine cautioned against overlooking when states choose to selectively adhere to their ATT obligations. It stressed that states need to show a commitment to stopping arms transfers to states committing violations of IHL, and that provisions of the ATT reflect that it is not necessary to wait for states to ratify treaties to ensure there is political will to ensure principles are adhered to. Effective implementation must come with universalization.

Further comments focused on regional security, prompted by a question from Paul Bayer Consulting Limited. In response to the question, Fadi Abi Allam mentioned the culture of arms, violence, open borders and lack of regional treaties and regulations to effectively control borders in the Gulf. He suggested that perhaps discussions in the ATT preparatory process could lead to ideas that would help develop an ATT universalization strategy for the region.

Side Event: Supporting Effective Implementation of the ATT

Panelists included Japan, as Chair, Marc Finaud (GCSC), Giovanna Maletta (SIPRI), Benjamin King (SAS), and UNIDIR.

This side event discussed relevant assistance for States Parties still struggling to create and implement ATT compliant mechanisms. Programs discussed included the ACCESS Project, which provides support to sub-Saharan Africa, funded by Japan and implemented by Small Arms Survey. SIPRI and SAS presented on their process of planning ATT implementation projects, while GCSC and UNIDIR spoke on the effectiveness of these implementation projects.

Giovanna Maletta began with a general overview of SIPRI's Mapping ATT-Relevant Cooperation and Assistance Activities Database. In addition to an overview of the development of the project, she mentioned that all information collected is open source and comes from implementing organizations, websites, newsletters, and activity reports. Contacting implementers and engaging with stakeholders is crucial to the success of the database. SIPRI's long-term objective is to achieve global coverage, to turn the database into a 'live tool' so implementers can submit activities directly online, and to expand the focus beyond SALW control activities.

Small Arms Survey presented its Arms Control Capacity and Support System. To help support implementation, this project provides a variety of categories of support including strategic planning, development of national action plans, stockpile management and capacity management, project planning, and fundraising. In particular, SAS found that there is a lot of value in helping states with planning and being able to articulate ideas clearly. Some states have a good idea of what the main issues are but not the capacity or ability to define that and put it into a formula that will work for a donor.

Marc Finaud then gave an overview of a GCSC research project that looks to assist in the Treaty's effective implementation while looking specifically at the implementation of Articles 6 and 7. Over 300 people have been trained as part of an inclusive approach that gives opportunities to all stakeholders, participants, and a diverse group of experts to input during training programs. Participants in these trainings identified challenges to the Treaty's effective, including lack of resources, domestic interagency cooperation, and a real need for 'train the trainers' courses.

UNIDIR presented research it has done on how states and industry can address the challenges of diversion. UNIDIR found four key areas that could help build a common understanding between states to help strengthen end-user certification and prevent diversion, including defining key terms, the role and function of end-user certification, different types of assistance, and state practices in providing information to export control authorities.

Norway then pointed to the expectation that industry be more responsible. He cited freight-forwarders and transportation firms as an example of companies that have their own internal compliance policies that might provide information in support of preventing diversion. Norway stressed the need to consider parts and components, noting that in this digital age it is easier to ship components over the internet. This view was echoed by UNIDIR, who also emphasized the importance of dual-use goods.

Side Event: Lessons Learned from ATT Reporting

Panelists included Rachel Stohl (ATT-BAP / Stimson Center), Deepayan Basu Ray (Centre for Armed Violence Reduction), Katherine Young (Control Arms / ATT Monitor), and Tom Nijs (Government of Flanders, Belgium).

As WGTR has set improve reporting compliance as its priority, this side event explored a timely topic. The event was opened by Rachel Stohl who noted that with four years of reporting completed, ATT reporting

compliance rates vary. She stressed that many States Parties continue to experience difficulties meeting their ATT reporting requirements.

ATT-BAP has examined trends in ATT reporting to identify good practices as well as challenges to comprehensive reporting and will launch its report “Lessons Learned from Arms Trade Reporting” to support the work of States, WGTR, and the ATT Secretariat. Initial findings indicate that reporting trends include incomplete reporting compliance, limited public transparency, and a lack of information on updates to national control systems.

Katherine Young presented key findings from the ATT Monitor Annual Report 2018, including an overview of the discrepancy analysis that shows that 91 percent of imports and exports reported in the ATT annual reports submitted by States Parties are not comparable. Reasons for this include reporting on authorizations versus deliveries, states withholding sensitive national security information, and aggregating data.

Deepayan Basu Ray presented lessons learned from the National Arms Transfers Database, a low-cost database available which aims to assist States to issue transit permits, keep records, and track the status of conventional arms transfers. Following an overview of the database, Deepayan Basu Ray addressed challenges to bridging WCO harmonized systems codes with other national control lists, as well as sharing information between different national agencies.

Tom Nijs gave an overview of WGTR efforts to enhance compliance with ATT reporting obligations. This included the Working Group’s outreach strategy on reporting, which calls on States Parties and civil society to consider organizing regional information sessions for national authorities responsible for reporting. The WGTR also requests that the CSP President and/or ATT Secretariat reach out to States Parties proactively if they have not fulfilled reporting obligations to help, and where possible, identify reasons or difficulties related to submitting reports.

Paul Beijer Consulting Limited raised the question of whether it was worth to continue the discrepancy analysis in the ATT Monitor if it paints such an incomplete picture. Ghana expressed interest in CAVR’s database, noting that a similar would be beneficial for its needs.