

ATT Working Groups Summary Analysis Report

04 - 06 February 2020

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Working Group on Effective Treaty Implementation (WGETI)

04-05 February 2019

This year, the Working Group on Effective Treaty Implementation (WGETI) will be chaired by Ambassador Jang-keun Lee of the Republic of Korea. Building on the work of Ambassador Dallafior of Switzerland, who was the chair of WGETI in previous years, Ambassador Lee recalled the decisions taken by the Fifth Conference of States Parties (CSP5) regarding the WGETI including retaining the sub-working groups on Articles 6 and 7 (Risk Assessment) and on Article 11 (Diversion) and the replacement of the sub-working group on Article 5 (General Implementation) with a new sub-working group that will explore the implementation of Article 9 (Transit and Transshipment). Ambassador Lee also stressed that the working group will review its focus on arms diversion, in line with the priority theme of the Argentinian Presidency.

Sub-Working Group on Articles 6 & 7

The [agenda](#) of the sub-working group on Article 6 and 7 was as follows:

1. Review of Draft Multi-Year Work Plan
2. Methodology for unpacking concepts
3. Draft elements of a Voluntary Training Guide

1. Review of Draft Multi-Year Work Plan

Ambassador Ignacio Sanchez de Lerin of Spain, the new facilitator of the sub-working group on Articles 6 & 7 began deliberations by introducing the proposed [draft multi-year work plan](#). The ambassador explained that the purpose of this plan was to ensure a gradual and systematic approach that would culminate in specific and concrete outcomes. Delegates, including Switzerland and Canada, expressed general support for the multi-year work plan, noting its clarity and comprehensiveness but some states raised concerns regarding the timeline, development, and content of the voluntary training guide. Costa Rica and Mexico for instance cautioned that work on the multi-year work plan should not detract States Parties from the application of the provisions right now.

Canada welcomed the inclusion of the gender commitments as agreed at Fifth Conference of States Parties (CSP5) in the work plan and announced its intention to develop national criteria for the inclusion of gender in the risk assessment process under Articles 6 and 7. Both [Control Arms](#) and the Women's International League for Peace and Freedom (WILPF) expressed concern that the gender and gender-based violence (GBV) commitments agreed to at the Fifth Conference of States Parties were not given sufficient attention this year.

2. Methodology for unpacking concepts

Ambassador Lerin also proposed a [draft methodology template](#) for unpacking key concepts found in Article 7 of the Treaty, in particular the terms “serious”, “facilitate” and “overriding” risk. The draft methodology provides a framework for a better understanding of how States interpret and these concepts, how they are incorporated into national legislation and how they are used by national control systems. Ambassador Lerin invited States to submit their views in under 250 characters before the next set of Working Group Meetings in April 2020, in order to enable the sub-working group to identify and propose common practice in the interpretation of these concepts.

Australia welcomed the template, underlining that striving for commonality is an important cause that will help achieve greater clarity of key concepts. Switzerland raised concerns over the 250 characters limit, a view which was echoed by other states including Canada which suggested allowing for 250 words instead of 250 characters. In this regard, ICRC noted that the aim of exercise should be to encourage the fullest possible participation of States Parties, and suggested that to balance brevity with the need for detail, states could provide their full explanation along with a short 250 summary. A majority of states encouraged full participation by the 105 State Parties and 50+ signatories to provide their full feedback on the information and concepts presented with Articles 6 and 7. Ambassador Lee clarified that contributions could be longer than the proposed limit, but asked delegates to be concise in their submissions.

Switzerland also urged the facilitator to include “having knowledge” in the template, as a term that needs further unpacking by States. This proposal received support from Belgium, Canada, Control Arms, and the ICRC. The ICRC also stressed that states should share their interpretation of the term “serious” in the context of Article 7, cautioning that it would be

challenging for states to share their interpretation of this term in isolation, a view that was shared by the United States and Belgium.

Japan expressed concern over complications of compiling 105 different interpretations and some states, including France and the UK, warned against setting standards, reminding that Treaty implementation and interpretation of Treaty provisions remain a national prerogative. Ambassador Lee clarified that there is no intention to impose any interpretations, but rather exchange information on the interpretation of key concepts in order to facilitate a common understanding of how to apply Articles 6 and 7.

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3. Draft elements of a Voluntary Training Guide

Ambassador Lee presented the elements and outline of the [voluntary guide to implement Articles 6 and 7](#) which received support from many representatives including the European Union (EU), Japan, and Palestine.

In response to questions from the UK and WILPF, the facilitator explained that while the voluntary guide was initially meant to focus on the GBV risk assessment, as per the recommendations of CSP5, the current outline seeks to make the guide more inclusive and useful in implementing Articles 6 and 7 overall, while incorporating a gender perspective across all topics. Control Arms [stressed](#) that the voluntary guide should reflect, where applicable, its contribution to the CSP5 decisions on gender and GBV and notes, along with the ICRC, WILPF, and others states, that the voluntary guide should make use of existing resources on implementation of articles 6 and 7, rather than duplicating efforts. In this regard, the EU noted that the recently updated User's Guide for the EU Common Position on Arms Exports could serve as a reference point for the drafting of the guide.

Control Arms also [expressed](#) concerns the proposed discussion in the multi-year work plan and the voluntary training guide appears to cover concepts and terms that are already clearly defined in international law such as genocide which already defined in Article II of the Genocide Convention and in Article 6 of the Rome Statute of the International Criminal Court. Control Arms argued that opening these definitions up for further debate in the context of the ATT would not only be duplicative, but it could also potentially complicate, confuse or even undermine long-accepted standards of international humanitarian law. Japan and Costa Rica echoed Control Arms' call to use existing definitions found in IHL and IHRL.

Sub-Working Group on Article 9

Meeting for the first time, the sub-working group on Article 9 on transit & transshipment was facilitated by Mr. Rob Wensley of South Africa. He proposed that discussions be guided by the five questions provided in his [background paper on transit and transshipment](#):

- 1) What would be common understandings under the term, “appropriate measures to regulate” under a national conventional arms control system?
- 2) How are these covered within regulatory frameworks?
- 3) How can the term “under its jurisdiction” be best defined?
- 4) What are the parameters/limits to the term “where necessary and feasible”, if any?
- 5) Which other ATT Articles should be considered by this sub-working group when considering the implementation of Article 9?

The meeting began with a [presentation](#) by Mr. Paul Holtom, Senior Researcher and Policy and Outreach Coordinator for Small Arms Survey, in which he defined the concepts of transit & transshipment. He also provided an overview of states’ current practice to regulate transit and transshipment, based on information compiled from the 61 publicly available initial ATT reports.

The facilitator then encouraged States parties to share national practices with regards to transit and transshipment controls in order to help “unpacking” concepts and identify good practices in the implementation of Article 9. States took the opportunity to raise the importance of further clarity on the implementation of Article 9 by providing posing questions that require further unpacking such as “If civilian aircraft transports military items, how do you actually get notice of that if you are landlocked country and just crosses airspace?” (Austria) and “Transit and transshipment and means of transport sometimes require different types of measures, for instance, the nature of items that are in transit - who is the end-user state, what type of control?” (Belgium). These early questions reflected the complex nature of the topic.

Discussion of national implementation measures and/or best practices

Switzerland noted the importance of appropriate regulatory mechanisms and national legislation in ensuring appropriate transit and transient controls. It also suggested penalties in case of violations of transit and transshipment controls, varying from monetary fines to prison sentences. Costa Rica explained that its council on security prohibited any transfer of small arms through its territory to avoid human suffering. Costa Rica also referenced the Control Arms Workshop on Diversion held the day before and spoke about the importance of due diligence and of quality information. Japan cautioned that the effectiveness of regulation depends on the resources available for each state, how goods are transported, as well as the volume of the goods transported.

Austria explained that different rules apply for commercial transfers (a license is required) and for sovereign transfers, such as for peacekeeping missions (there is no special procedure as

part of granting a right of passage). Citing the term “as appropriate” which allows for ambiguity, Austria stressed that Article 9 is not clear to many and requires further unpacking. Similarly, Control Arms [argued](#) that the term “ necessary” in Article 9 is unclear, allowing national discretion on which steps are taken to implement this provision. Control Arms noted that Article 9 is impacted by obligations under other ATT Articles, notably 6 (Prohibitions) and 11 (Diversion) and urged the sub-working group to consider the relationship between these three Articles and what this means for their implementation

Which other ATT Articles should be considered by this sub-working group when considering the implementation of Article 9?

A number of delegates took the floor to note the links between Article 9 and other provisions of the Treaty. The link between Article 6 and Article 9 was raised by the European Union, Japan, Palestine, Control Arms, and Belgium.

Belgium, Benin, and Japan among others referenced the link of Article 9 with Articles 12, 11, 7 and 5. The ICRC stressed the importance of Article 9 in preventing diversion (Article 11) and acknowledged practical challenges states face in monitoring goods, especially with lengthy unguarded borders or large territorial seas. Belgium, Benin, and Japan among others referenced the link of Article 9 with Articles 12, 11, 7 and 5. Japan, who cautioned that the effectiveness of regulation depends on the resources available for each state, highlighted the links between article 9 and articles 5(2) and 5(5).

Defining/ Interpreting of terms “under its jurisdiction” and “where necessary and feasible”

The State of Palestine warned that concepts such as “where feasible” should take into account the object & purpose of the Treaty in Article 1. Palestine also called for the implementation of Article 9 in a non-discriminatory manner, as prescribed in Article 5, noting that it is “ important to relate to art. 6 and 7 so that no state can interpret “ feasible” and “necessary” as a way out of Articles 6 and 7.”

Mauritania cautioned against defining terms that are already agreed upon in other conventions while Belgium reminded States that the Convention on Certain Conventional Weapons (CCW) offers a common definition of “transit operations” and urged the working group to use experiences and resources developed in other disarmament fora.

Sub-Working Group on Article 11

Building on multi-year work plan adopted at the fifth Conference of States Parties which seeks to discuss diversion at three stages of transfer: before the transfer; during transfer; and at or after importation/post-delivery, the first meeting of the WGETI Sub-working group on Article 11 focused on the first stage of the transfer – before the transfer. Facilitated this year by Ms. Stela

Petrović of Serbia, the discussions in the sub-working group on Article 11 were guided by an [agenda](#) that centered on:

- Assessing the risk of diversion - Participants sought to explore the practicalities (including resource requirements and challenges) associated with assessing the risk of diversion of export and the possible establishment of mitigation measures.
- The role of the private sector in mitigating diversion risk, including arms manufacturers/industry and civil society, in mitigating diversion risk before the physical transfer takes place and the role of internal export control compliance programs .

Several states highlighted the importance of CSP6 theme of information sharing and transparency to prevent diversion, particularly in the 'before the transfer' phase.

A majority of states reiterated the importance of preventing diversion in achieving the object and purpose of the ATT and many took the opportunity to welcome the theme of the Argentinian Presidency for CSP6 - information sharing and transparency to prevent diversion. Highlighting good practice, the EU referenced risk criteria for diversion outlined in the EU Common Position on Arms Exports while Japan explained that national legislation, guidelines on export control and application procedures are publicly available on a government website. Switzerland, who noted that risk assessment on diversion is conducted on a case by case basis, explained that licensing officials liaise with Swiss embassies in destination countries as well as other government agencies in order to make a determination. Similar practices and procedures were described by Germany, Canada, and the UK.

Mexico outlined its struggle with the issue of diversion, citing an estimated 200,000 firearms flowing to Mexico, causing loss of lives and high-security costs. Costa Rica shed further light on the effects of arms diversion, noting aggravated levels of violence facilitated by the over one million light weapons currently in the hands of a population of five million. It also drew attention to the importance of due diligence and described many years of work in redefining its inter-institutional relations and mechanisms to help avoid diversion.

Benin highlighted the difficulties of transit and transshipment states such as itself in assessing diversion risk. In this regard, Benin called for clear links between the implementation of Article 11(5) with Article 15 on international cooperation as well as for authentic and reliable information to be shared with transit and transshipment countries. Jamaica described its experience as a transit state and noted that it has been active with all stakeholders to strengthen domestic processes and control to prevent diversion and reduce its lethal effects. A majority of states agreed on the importance of involving industry.

Conflict Armament Research (CAR) informed that in its analysis of EUCs, it found that many certificates were incomplete or lacked information, limiting states' ability to carry out their due diligence exercise. The Republic of Korea, Romania Argentina, Georgia, and Control Arms underlined the importance of verifying the authenticity of end-user certificates, with the Republic of Korea suggesting a standardized electronic system to eliminate wasted administrative time

and resources. Austria, Japan, and Romania drew attention to the Wassenaar Arrangement database and other similar surveys as useful tools for information exchanges.

Canada referenced the Diversion Workshop co-organised with Control Arms and Argentina on harnessing information sharing and transparency to prevent and respond to diversion, highlighting its promotion of good practices. Germany explained that a yearly seminar with industry is held in order to share updates on new legislation and to facilitate discussions between industry and the government. Argentina spoke at length on the importance of communication and coordination between government agencies as well as between States Parties, highlighting that regional and sub-regional coordination is one of the most important items that must be studied further.

Frank Slijper, on behalf of the Control Arms Coalition, [emphasized](#) that “The primary responsibility for identifying, addressing and mitigating diversion risk lies with states. And yet too often we see the lead being taken in identifying problematic practices by human rights or humanitarian organizations, journalists, other non-governmental actors... We will continue to do our bit, but imagine how much more effective we could be if governments themselves approached these issues with the same sense of priority and urgency as the non-governmental sector.”

Working Group on Treaty Universalization (WGTU)

05 February 2019

The Working Group on Treaty Universalisation (WGTU) resumed in the afternoon, facilitated by Ambassador Janis Karklins of Latvia, and CSP6 President Ambassador Carlos Foradori of Argentina. The session covered the following topics:

- the Presidency activities to promote the universalization of the ATT;
- ATT Secretariat update on the status of ratifications and accessions;
- Vice-Presidents activities to promote the universalization of the ATT;
- The efforts of civil society and industry to promote the universalization of ATT;
- Redoubling efforts toward 150 States Parties (ATT@150);
- Experiences of new States Parties to the ATT on the process of joining the Treaty.

In outlining his activities to promote the universalization of the ATT, Ambassador Foradori discussed activities carried out on a personal basis including bilateral meetings with non-States Parties. He cited reasons why some states have not yet joined, such as lack of political prioritization. Ambassador Foradori stressed that achieving ATT universalization can be

reached by making its ratification a priority for states not yet parties to the Treaty. He called on States to continue to keep the profile of the ATT high on the agenda of international meetings. Ambassador Foradori also thanked the Republic of Korea for translating the ATT universalization toolkit and welcome pack into different Asian languages and encouraged others to do so in their respective regions.

ATT Secretariat Head Mr. Dumisani Dladla provided an update on the “[Status of Participation](#)”, outlining the trends in ATT universalization. He began by outlining the 105 States Parties, 32 signatories, and 56 non-States Parties, before providing a regional and yearly analysis. He reminded the plenary that the United States announced last year that it did not intend to become a party to the Treaty, and so is the only state that has signed the Treaty but does not intend to ratify it.

Ms. Raluca Muresan of Control Arms provided an [in-depth presentation](#) on the role of civil society in supporting ATT universalization, focusing on three key areas: 1) advocacy and promotion of public awareness, 2) technical support and 3) capacity building. She referenced, among others, the work done in Lebanon by the Permanent Peace Movement to raise public awareness and ultimately contribute to the Treaty’s ratification on 09 May 2019, the Cameroon Youths and Students Forum for Peace (CAMYOSFOP)’s work with the government of Cameroon to identify obstacles to the Treaty’s universalization, and Saferworld’s cooperation with Sierra Leone and Liberia to conduct assessments of national laws, regulations, structures, policies, and practices in order to identify the extent of, and gaps in, these countries current compliance with the Treaty’s obligations.

Ambassador Janis Karklins of Latvia thanked the Control Arms Coalition and other civil society organizations for their work to promote the ATT. He noted that without the support of civil society, the ATT would not have reached 100 States Parties as swiftly. He encouraged further efforts to promote the universalization of the ATT, as the road to 150 members will be a more difficult milestone to achieve than the previous 100. Ambassador Karklins also remarked that he is pleased to see that the documents adopted during CSP5 have started to flourish on their own.

Japan reiterated its commitment to continuing efforts towards Treaty universalization even after its CSP Presidency in 2018, citing an updated universalization pamphlet, work with parliamentarians, collaboration with the Centre for Armed Violence Reduction (CAVR) and more. Palestine expressed regret that large arms exporters are not yet party to the Treaty and called on them to do so as a humanitarian imperative that is essential for international peace and security. Palestine also advocated for a bottom-up approach to Treaty universalization, arguing that arms control education is important and calling for promoting the Treaty in educational institutions, and raising more awareness with the media and parliamentarians.

The Republic of Korea reaffirmed its commitment to translating the ATT universalization toolkit and Welcome Pack for new states parties to the ATT into other languages and announced that it already published the official translations of these documents in Korean. Australia announced

a universalization workshop to be held in Fiji later in 2020, and the Philippines expressed commitment to joining the ATT. Ambassador Karklins also welcomed the encouraging news from China of joining the Treaty.

Working Group on Transparency and Reporting (WGTR)

06 February 2020

Discussions were based on an [introductory paper](#) circulated by the Chairs of the WGTR, Mr. Tom Nijs of Belgium, and Mr. Alejandro Alba Fernández of Mexico in advance of this meeting. The paper unpacked the tasks set for the working group for the period between CSP5 and CSP6:

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

ATT Secretariat Head Mr. Dumisani Dladla provided an update to the “[Status of Reporting](#)”, highlighting progress and shortcomings in ATT reporting. On initial reports, he noted that 74 total reports were submitted (75% of States Parties were due to report), 25 states missed the deadline, 12 States Parties (16%) chose to keep their reports confidential and 62 (84%) used the reporting template. Regarding annual reporting, 31 States Parties (34%) of those expected to submit a report in May 2019, failed to do so, and an alarming increase of 11% being submitted confidentially from the previous year.

To enable an easier reporting experience, Mexico suggested the reporting template format and compared the current format with that of other treaties and instruments. They also suggested that new digital and virtual instruments as well as better communication between State Parties via workshops, for example, can improve reporting rates.

The EU delegation expressed serious concern with reporting rates. They noted that mandatory reporting contributes to ATT transparency and that without public reporting, it is impossible to know whether States Parties are effectively implementing the Treaty. The EU also offered to help states in need of assistance with establishment or improvement, via their outreach program.

The Control Arms Coalition [echoed](#) the EU delegation and Argentina by underlining the importance of reporting for transparency. Control Arms also welcomed the updated initial

reports submitted by Japan, New Zealand, Sweden, and Slovenia as an important means of demonstrating progress in implementing the Treaty.

States took this opportunity to provide updates to their reporting process or to share challenges and recommendations to meet ATT reporting obligations. Chad, for instance, noted that it has not yet submitted a report due to a lack of capacity among officials who were tasked with gathering the related information for reporting. Romania and Germany welcomed the open and discussions regarding challenges to reporting and the commitment of States Parties to identify concrete solutions, with Romania noticing that states do not lack political will but rather face other technical obstacles. Romania offered their assistance and reiterated its hope that this exchange would help reporting rates.

At CSP5, States Parties [agreed](#) to implement a system of voluntary practical bilateral and regional assistance with reporting (peer-to-peer), which was to be implemented by the ATT Secretariat and the WGTR. Ms. Sarah Parker of the ATT Secretariat [provided](#) an overview of the peer-to-peer outreach conducted by the Secretariat. Positively, fourteen states parties had expressed their willingness to offer assistance to other States Parties and 32 States Parties had expressed interest in receiving such support.

Co-chair Mr. Nijs also reminded that at CSP4 States Parties adopted the “[outreach strategy on reporting](#)” to tackle the low numbers of reporting. Last year, during the CSP5 preparatory process, the WGTR chairs begun efforts to effectively monitor the implementation of the strategy but received only “limited responses” to their calls for all ATT stakeholders to report on initiatives focused on enhancing compliance with reporting duties. In this regard, Ambassador Foradory as President of CSP6 will hold consultations in the coming weeks to advance on the implementation of the strategy.

Mr. Dladla of the ATT Secretariat also briefed participants about the ATT Secretariat’s outreach activities on reporting, noting that the ATT Secretariat raised awareness about reporting obligations through workshops and meetings in Kazakhstan, the United Kingdom (UK), South Africa, and Togo. He listed lack capacity, lack of effective national systems that can collect and process data needed for reporting as well as national security concerns as some of the key obstacles to reporting.

Zambia noted that it received assistance from the Voluntary Trust Fund (VTF) to improve its reporting capacity and took the opportunity to share some of its key challenges including lack of understanding and awareness of reporting obligations; lack of coordination mechanisms for report writing; lack of priority among key stakeholders, and lack of resources to bring all relevant stakeholders together to compile and validate the report. Following the VTF assistance, which was implemented in collaboration with the Small Arms Survey, Zambia submitted its initial report in 2019.

Ireland reported that in January 2020, they co-hosted the 8th Saferworld ATT Expert Group Meeting, in cooperation with Germany, which was attended by forty government and civil society experts. Participants discussed challenges to reporting, providing states the opportunity to work together on valuable peer-to-peer activities. Sweden shared that it developed a document that provides recommendations and procedures to streamline the reporting obligations under different instruments and avoid duplication of efforts.

Palestine noted that Israel impedes the exercise of its jurisdiction, leaving Palestine unaware of quantity and quality of arms exported in occupied territories. Speaking on the ATT's reporting obligations, Palestine suggested that annual reporting tools should not only reflect implementation but also compliance.

Concerning the project to facilitate the identification of the conventional arms in Article 2 (1) in the [Harmonized System](#) of the customs classification of goods, the WGTR co-chairs stated that they will formulate a concrete document for the next meeting in April, which will include a table with conventional arms listed in the ATT and possible customs codes. This document will provide a basis for further analysis.

Regarding organizational means for information exchange, the EU delegation reiterated the importance of information exchange during and outside the WGTR meeting. Reiterating the importance of reporting for transparency, the EU stressed that electronic tools can help facilitate information exchanges between State Parties. Control Arms likewise [spoke](#) on the importance of information exchange, elaborating that the information provided by and between State Parties proves critical in arms transfers decision-making and is beneficial for those states that aren't part of regional arms control mechanisms.

Concerning the information exchange platform in the restricted area of the ATT website, the Chair noted that the [introductory paper](#) includes suggestions for its use including as a tool for the Co-Chairs preparation for WGTR meetings, as well as to facilitate the work of the ATT working groups more generally, allowing for more interactive intersessional exchanges.

During discussions surrounding the reporting templates, Mexico stated that the annual report template could be more user-friendly. They suggest the addition of tables with further information, yet not so extensive as to make the report unnecessarily long. Mexico also suggested that the report be modeled after other templates from similar instruments on arms control in order to allow for more homogeneity and enable State Parties to complete all reports in the same manner.

Control Arms [encouraged](#) states to use these templates to develop common understandings of reporting trends and contribution to standardization of the data that will provide a baseline for comparability. On a separate note, they also discussed certain limitations of the template, noting that for initial reports, the template doesn't provide a process to update initial reports.

It was concluded during the meeting that further outreach would need to be conducted and that improvements should be considered for VTF activities. The State Parties must use tools at their disposal and all parties should use all these instruments so we can improve implementation of the Treaty.
