

Seventh Conference of States Parties to the Arms Trade Treaty

Working Group on Effective Treaty Implementation Sub-Working Group on Article 6 and 7

26 April 2021

Delivered by: Mr. Ivan Marques, Chairperson of the Board of Control Arms

Thank you, Ambassador.

In the interest of time, I will keep my statement short and a longer version will be submitted to the ATT Secretariat in writing. Control Arms is pleased that the multi-year work plan was ultimately adopted by ATT States Parties in March of this year, providing us the opportunity to move forward toward achieving effective and consistent implementation of Article 6 & 7 by all ATT States Parties. We also extend our thanks to ICRC and Professor Andrew Clapham for their informative and insightful presentations that provide firm ground for this discussion.

Control Arms supports efforts to develop common understandings of concepts and terms that may be ambiguous or open to interpretation, such as “facilitate”, “overriding risk” and “knowledge at the time of authorization”, as these have either none or several definitions or interpretations in international law.

Considering the term “facilitate” for example, we note the range of these initial responses may prove a useful start-point for further discussion, and certain explanations we see as clearly helpful in taking the issue forward -- such as the response from four States Parties that consider “whether the weapons to be transferred make a violation easier to commit, including through intimidation.”

Other responses submitted here would benefit from further elaboration. For instance, eight States Parties “consider the EU Council Common Position 2008/944 CFSP” in their interpretation and application of the term “facilitation”. However, as the EU Common Position makes no mention of facilitation, without further reference, it is unclear what function the Common Position serves here.

Control Arms also welcomes States Parties’ interpretation of “serious acts of gender-based violence and serious acts of violence against women and children” as its use in an international legal instrument of this kind is a novel one -- and, as such, draws your attention to existing resources produced by international and civil society organizations, some of which you will find listed in our written statement.

On the other hand, Control Arms is wary of applying this unpacking process to concepts that are already well-established and understood in international law. Established legal terms and definitions, where they exist, as outlined so very clearly by the ICRC and Professor Andrew Clapham in this session, must be observed by all States Parties in the implementation of the ATT. Opening up the definition or interpretation of terms that are already determined, codified or commonly used risks weakening existing international legal norms. **Existing law, whether codified or customary, cannot be disregarded.**

We are also concerned with the proposal to close the methodology template exercise, when only 20 States Parties -- 18 percent of the total -- have responded to date. This cannot be a high enough response rate to move to the next stage in the process. This is exacerbated by the fact that, as we have

today heard which of the 20 States Parties have contributed, we can now see that the responses are uneven with regard to geography as well as role in the international arms trade. Control Arms urges the sub-working group to extend the timeframe of the current exercise until more States Parties, and a more representative range of States Parties, are able to contribute.

Control Arms thanks Ambassador Sanchez for listing those stakeholders in his introductory presentation. In addition to the list of participants, public disclosure of the full responses and their sources is important. This will enable States Parties and civil society to encourage further engagement in these important discussions, and will signal a critical and valuable shift back toward the ATT's stated purpose: to promote transparency.

As the focal point for the implementation of Article 6 &7, Control Arms urges this sub-working group to engage in open and constructive discussion concerning Treaty compliance, both its successes and challenges. Including concrete examples of risk assessments will allow this sub-working group to contribute not only to policy development but to the practical development of the "highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms."

Thank you for your attention.