

Seventh Conference of States Parties to the Arms Trade Treaty (ATT)**31 August 2021****Geneva, Switzerland****Agenda Item 5 - Treaty Universalization**

- Despite the loss of momentum on Treaty universalization as evidenced by there being no new States Parties over the past year, there continues to be strong support for this area of work.
- Haiti, Turkey and the Philippines provided updates on their efforts towards joining the ATT. The United States announced that its Conventional Arms Transfer (CAT) Policy was being reviewed and this would determine its position on the ATT.

The **Secretariat** presented an overview of the status of participation in the ATT. Progress on universalization has slowed significantly and Asia has made the least progress in this area with 56% of the states in the region not yet having joined the ATT. The **Chairs of the Working Group on Treaty Universalization (WGTU)**, Ambassador Geberie of Sierra Leone and Ambassador Villegas of Argentina, presented the [Working Group's report](#). Over the past year, the President of Sierra Leone wrote to his counterparts in non-States Parties to urge them to join the Treaty, and the Chairs met bilaterally and convened informal consultations with two groups of non-States Parties. The Chairs expressed their appreciation for the work of civil society in promoting universalization, especially Control Arms. The Chairs' recommendations on universalisation were adopted.

[Cameroon](#) supported ATT universalization as a means for promoting peace and security and called for increased support on stockpile management and record keeping. **China** referred to one of the largest exporters remaining outside the Treaty and the need for all states to come onboard. In expressing its support for universalization of the ATT, [Honduras](#) spoke on its efforts to regulate conventional weapons, which included a new regulation on firearms and bilateral law on the borders, and along with updated procedures for stockpiling weapons. [Japan](#) thanked the Republic of Korea for translating the [ATT Universalization Toolkit](#) into a number of Asian languages and its role in co-hosting the Asia-Pacific Roundtable along with Australia, New Zealand and Control Arms. The **Republic of Korea** expressed its commitment to continue promoting universalization of the ATT. **Mexico** believes that a useful strategy is to convince parliamentarians of the benefits of joining the ATT. It praised the efforts of civil society for promoting universalization of the ATT. [New Zealand](#) spoke on its efforts to encourage Pacific Island countries to join the ATT and the concerns raised about the burden of national reporting. In this connection, New Zealand welcomed the work undertaken by Mexico and Romania to make the reporting templates more user-friendly. **Poland** believed that universalization efforts should focus on signatory states and major exporters and importers. [Spain](#) underlined that universalization of the ATT will prevent the illicit trade and diversion of conventional weapons. The [European Union](#) called for a stepping up in efforts on universalization, for there to be increased advocacy at a high level in bilateral contacts and welcomed the announcement by the Gambia of its decision to join the ATT. [Control Arms](#) spoke in support of increased coordination between all stakeholders on universalization and regional approaches. The [ICRC](#) has been engaged with states on joining the ATT in Europe, Latin America and the Pacific. It was also organising a conference on international humanitarian law in Africa.

Haiti explained that given its dysfunctional government and other challenges, joining the ATT was still a long way off. The [Philippines](#) spoke on the work it is conducting to improve the regulation of strategic goods, implement UNSC 1540, and harmonize its laws on conventional weapons with the ATT. Hearings on the ATT in the Philippines' Senate have resumed. [Turkey](#) outlined all of its efforts on conventional

weapons and said that it is working towards ratifying the ATT. The [United States](#) announced that it is revising the Conventional Arms Transfer (CAT) Policy, which sets out the US approach to arms transfers. When this is completed the United States will use the policy framework to review specific arms transfer issues, including “determining the proper relationship of the United States to the Arms Trade Treaty”.

Agenda item 6 - Treaty implementation

- While a number of states expressed their support for the work of the WGETI, there were cautionary statements on the way forward with some States Parties expressing a preference for a compendium of national practices.
- There was good support for the Voluntary Paper on assessing the risk of diversion and the CSP6 President’s paper on the role of transparency and exchange in preventing diversion. Overall there is a strong emphasis on diversion.
- A number of states referred to the link between the arms trade and gender based violence.

The **Chair of the Working Group on Effective Treaty Implementation (WGETI)**, Ambassador Sang-beom Lim of Korea (RoK), presented the Group’s work and [report along with the “Voluntary Paper Outlining the Elements of a Process for Assessing the Risk of Diversion”](#). Also, as President of CSP6, **Ambassador Villegas of Argentina** presented the Working Paper titled [“Transparency and Exchange of Information: Its Role in the Prevention of Diversion”](#). Both this paper and the voluntary paper on diversion were adopted.

[Bulgaria](#) supported the work on diversion and proposed that there be a discussion on the criteria applied by ATT States Parties when assessing diversion risks and related threats. Such a discussion could contribute to the early prevention of diversion. [Canada](#) spoke on its efforts to implement the ATT. In 2020, Canada declined five exports licences for the reason that they risked violating Articles 6 and 7 of the Treaty. These decisions are publicly available. Canada is working on a paper on post-delivery verification, which they are seeking further input on and will present at a future ATT meeting. **China** stated that its export controls are based on principles such as self-defence and non-interference and it requires end-user certificates. It supports the work on Article 9 as the regulation of the transit and transshipment of weapons is an important means for preventing diversion. China will submit initial and annual reports. [Finland](#) spoke on its work to combat small arms and light weapons proliferation through its strategy for Africa, welcomed the focus on stockpile management and underlined that the ATT was the first Treaty to recognise the link between the arms trade and gender-based violence. Finland’s emphasis on the connection between the arms trade and gender-based violence was supported by **Montenegro**, which spoke on its own work in this area. [France](#) supported the recommendations of the WGETI report, which it underlined are no substitute for national legislation. Export decisions are made on the basis of national legislation. **Ireland** welcomed the voluntary paper on diversion as a practical document that could assist universalization, expressed support for engagement in the Dief and argued that preventing and eradicating the illicit trade of arms is key to furthering gender equality. While supporting the work of the WGETI, [Japan](#) argued the focus should be on building a compendium of national practices, not to create new norms or standards. **Mexico** spoke on its work to implement the ATT and expressed thanks for Argentina’s working paper. It acknowledged that civil society can provide important assistance on implementation. **Norway** noted that sexual and gender-based violence increased in the lead-up to conflicts and continued with the re-establishment of peace. [Belgium](#) and the **Republic of Korea** supported the paper on diversion, the establishment of the Dief and Argentina’s working paper. As a new State Party, **Namibia** was working on implementation with the support of the VTF. [New Zealand](#) supported the work of the WGETI and was reviewing its own system of export controls. Despite being occupied by Israel, **Palestine** remained committed to the implementation and participated in the WGETI’s

“unpacking exercise” and welcomed the paper on diversion. [Peru](#) supported prioritizing work on diversion and encouraged the exchange of information on this issue. [Switzerland](#) welcomed the progress made in the WGETI, especially on Articles 6 and 7. It supported the work to develop understandings of state practice especially concerning serious violations of IHL and international human rights law. The **United Kingdom** supported the proposal for the Dief to only be convened when in-person meetings were possible and supported the voluntary paper on diversion.

Following the review of the EU Common Position on arms exports in 2019, the [EU Member States](#) developed a searchable online database to consult and analyse the data on Member States’ arms exports in a user-friendly manner and established a uniform approach to the export of small arms and light weapons (SALW) and their ammunition. This second area of work included developing a set of common features to which end-user certificates for the export of SALW and their ammunition must conform. The EU is also working on a database for licensing officers which will contain relevant information on destination countries to be used in the licensing decision-making process.

The [ICRC](#) underlined that the reduction of human suffering can be realised through the implementation of Articles 6 and 7. States supplying the means by which wars are fought are participating in human suffering. [Control Arms](#) underlined that there is a clear need for States Parties to share information on how they apply the ATT to individual licensing decisions and discuss problematic arms transfers. [WILPF](#) remained concerned that the number of states contributing to work on Articles 6 and 7 is small. Preventing diversion is an objective of the ATT, but not the only one.

Agenda item 7 Matters pertaining to the Secretariat: The Head of the ATT Secretariat, Mr. Dumisani Dladla, spoke on the financial challenges which were due to currency fluctuations. The Secretariat tried to reduce the budget, but due to the exchange rates, the 2022 budget has increased.

Side Events

The ATT Voluntary Trust Fund (VTF): VTF Projects in the Time of COVID

Organized by: New Zealand and the ATT Secretariat

Chaired by Ms. Charlotte Skerten of New Zealand, this side event sought to provide guidance to states interested in applying for funding from the Arms Trade Treaty (ATT) Voluntary Trust Fund (VTF), in light of the challenges associated with the COVID19 pandemic.

The Voluntary Trust Fund (VTF) was established in August 2016 to assist States with the implementation of the ATT. States can apply for assistance for different areas of work, including national or regional workshops, capacity building, updating national legislation and developing recordkeeping and reporting practices.

The VTF, which seeks to help states apply the Treaty more effectively, is managed by a Selection Committee composed of 15 members. To date, the Fund has had 28 donor states that contributed a total of \$10.1 million USD. Since its establishment in 2016, there were four VTF funding cycles, of which 34 projects have been completed, and 18 projects are still underway. For 2021, 13 projects have been provisionally approved for funding.

The next round for VTF funding will run between October 20th, 2021 to January 14th, 2022 and is open not only to States Parties but to any states who can demonstrate political commitment to ATT. There is a \$100,000USD cap on all projects, and the project duration must be less than 12 months in length.

To apply for funding, states must complete the grant application form, the budget form, and guidance documents. There are instructional videos and notes available on the [VTF webpage](#). Looking ahead, the sustainability of the VTF must be ensured through increased outreach to donors and applicants and improved quality of proposals.

Upholding legal obligations under the ATT: The Case of the Palestinian People Organized by the State of Palestine

Ambassador Mxolisi Nkosi of South Africa opened the meeting by recalling the work of the “Truth and Reconciliation Commission” which undertook to investigate human rights abuse committed in South Africa between 1960 and 1994. The Commission's work and its human rights centred policy reforms still serves as a moral compass for South Africa's foreign policy today. The side event, he explained, sought to explore options to prevent human rights abuses in Palestine, combat irresponsible trade of conventional arms and increase adherence to international legal frameworks. Ambassador Ammar Hijazi of Palestine detailed the violations committed by Israel against his country, referencing the Human Rights Watch report titled “[A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution](#)”. He argued that the Israeli occupation remains in place due to lack of accountability and irresponsible arms trade. He explained that although there is documented evidence that Israel has used arms to commit war crimes and crimes against humanity, a number of countries, including Australia, Czech Republic, Germany, and the United Kingdom, have continued to export arms to Israel, in violation of their obligations under the ATT. Expressing regret over the fact that not all states are yet party to the ATT, Ambassador Hijazi urged non-states parties to join the Treaty.

Shirine Jurdi, from the Permanent Peace Movement and the Women's International League for Peace and Freedom (WILPF) Lebanon spoke at length on the gendered impact of irresponsible arms transfers, especially in situations of armed conflict. Explaining that the implied threat of arms is sufficient to have a negative impact on society, she noted that the widespread availability of conventional arms has facilitated the Israeli occupation, including the most recent forced evictions from the West Bank. The possession of arms changes the balance of power and enables the occupier to exert control, explained Jurdi. She urged ATT States Parties to comply with their obligations under article 7.4 by considering the risks that the weapons exported to Israel might be used to commit or facilitate gender-based violence or violence against women and children. She also encouraged civil society organizations to collect gender-disaggregated data and monitor compliance with the ATT.

Cindy Ebbs, Acting co-director of Control Arms then spoke about the importance of ATT universalization, especially in the MENA region where there are only two ATT States Parties and two signatory states yet the region has seen the largest growth in conventional arms imports in recent years. The ongoing conflicts in this region, including the Saudi-led war in Yemen, the civil war in Syria, the conflict between Israel and Palestine, and the fight against terrorism, which continue to generate high demand for arms and ammunition, are prime examples of why there is an urgent need for states to prevent illicit and irresponsible arms transfers. But she also noted that while universalization is a critical element to the success of the ATT, its purpose cannot be achieved without consistent and effective implementation. She urged ATT States Parties to lead by example and apply risk assessments -- in good faith and without prejudice -- to all potential arms transfers using accurate and relevant indicators. She recalled that the "ATT is built on the premise that, as part of the decision-making process, States Parties are obligated to assess the risk that arms could be used to commit or facilitate violations of international humanitarian law and human rights law, and then deny arms export licenses and halt weapons transfers that could be used to commit or facilitate such violations".

Speaking on behalf of Amnesty International, Verity Coyle and Saleh Hijazi presented recent research which documents the human rights abuses which occurred in Palestine and were committed or facilitated with weapons covered under the scope of the ATT. Coyle stressed Amnesty International's call for the United Nations Security Council (UNSC) to immediately impose a comprehensive arms embargo on Israel, Hamas, and other Palestinian armed groups until effective mechanisms are in place to ensure that weapons, munitions, and other equipment and technology will not be used to commit serious violations of IHL or HRL. Hijazi then presented violations documented by Amnesty in Palestine, including systematic, unlawful, and arbitrary killings, the suppression of protest, violation of the right to mobility, illegal house searches and pattern of lethal use of force against medics and human right defenders. He noted that in 2014 and 2021, Amnesty found strong evidence that Israel has committed war crimes in the State of Palestine. Verity Coyle then went on to explain how these violations of international human rights and humanitarian law are covered under ATT Articles 6, 7, and 11. She identified the United States (US) as the largest military exporter of security and police equipment to Israel, followed by several ATT states parties including, Germany, Italy, and other Eastern European states. Coyle concluded by explaining that given the body of evidence which points to ATT violations, it is unclear how those arms transfers could have been approved.

Michael Lynk, UN Special Rapporteur on the situation of human rights in the Occupied Palestinian Territory (OPT) explained that international law not only permits the international community to take meaningful measures to hold Israel accountable for its grave violations of international human rights and humanitarian law and international criminal law, but it also requires them to do so. He went on to outline Israeli non-compliance with several international laws including Article 1 of the Geneva Convention and Article 25 of the Charter of the United Nations and articles 6(3) and 7(1) of the ATT. Professor John

Dugard, Professor of Public International Law, University of Leiden and former UN Special Rapporteur on the situation of human rights in the OPT, recalled the UNSC Resolution 418 which imposed an arms embargo on South Africa following increasing violence by the apartheid regime, and compared it with the failure of the international community to take similar action in the case of Israel. Prof. Dugard explained that in the absence of action on the part of the UNSC, the UN General Assembly could play a role in taking action to stop illegal and irresponsible arms transfers to Israel

During the Q&A section of the event, Martin Butcher of Oxfam shared that a coalition of civil society organisations based in the UK called on the Committees on Arms Export Controls of the UK House of Commons asking for an investigation into the government's arms sales to Israel and its arms transfer policies. Ambassador Hijazi welcomed this initiative, reiterating that it is extremely important that states are held accountable for violations of international law

Side Event: Analysing Diversion Dynamics: Lessons Learned

Organizers: UNIDIR, Stimson Center and Conflict Armament Research

Rachel Stohl, the Vice President of Research Programs at the Stimson Center opened the meeting by emphasizing the importance of addressing the diversion of SLAW under Article 11 of the ATT. The side event introduced the "[Arms Trade Treaty Issue Brief 3: Diversion Analysis Framework](#)", an analytical tool developed by UNIDIR, Stimson Center and Conflict Armament Research for interested States and relevant stakeholders to enhance their ongoing efforts to prevent, detect, eradicate, and address diversion. Using this resource, the side event also explored factors that facilitate diversion and sought to provide practical tools and recommendations that national authorities can utilize to address diversion.

Rainer Schmiedchen, the Head of the Export Control, Conventional Arms and Dual Use Goods Division of the German Federal Foreign Office, welcomed the Diversion Analysis Framework as an excellent tool which can provide states with a comprehensive checklist to systematically assess the risks of diversion and identify appropriate measures to prevent them. When putting in place measures to prevent diversion, Schmiedchen recommended post-shipment controls and on-sight verifications a good practice. He shared that during the pandemic, post-shipment verifications could be performed virtually. Stela Petrovic of Serbia, Chair of the WGETI sub-Working Group on Diversion provided an overview of the work undertaken over the past year in this area, including the [Voluntary Paper Outlining The Elements of a Process for Assessing the Risk of Diversion](#). Petrovik noted that the paper outlines key elements and actions to be followed by states in order to appropriately assess risk elements for possible diversion, including establishing a legal regulatory framework and a national control systems, sanctions for violations, clear administrative procedures, or develop training for personnel, outreach strategies to industry. The paper also provides best practice for the application process and documents for an export authorization, guidance on the authentication of documents, considerations of risk indicators and mitigation measures that can be taken to prevent diversion.

Himayu Shiotani, the Head of International Policy at Conflict Armament Research (CAR) highlighted red flags or risk indicators which not only identify and verify parties involved in a transfer as well as facilitates monitoring of assurances between the parties. He clarified that diversion risks and challenges can be classified into the following areas: end use/r documentation (not verified or authenticated), sensitivity, capacity, reliability of entities involved in the supply chain, and post-delivery monitoring. He also identified concealment methods that can be used by unauthorized end users included procurement irregularities,

fake ID, real company, fictitious staffing, plausible non-military end use application. After discussing different examples, Shiotani noted that red flags can occur throughout the transfer chain, and emphasised the importance of promoting information exchange and dialogue between parties involved to support verification efforts.

Alfredo Jose Malaret Baldo of UNDIR introduced the [Diversion Analysis Framework](#) (DAF), an analytical tool which seeks to unpack the issue of diversion by analysing over 200 cases of diversion. He explained that the DAF is a conceptual categorization of four interrelated elements that lead to the diversion of arms and related items: 1. diversion-enabling factors; 2. points of diversion throughout the transfer stages and life cycle of the arms and related items; 3. methods used at the points of diversion; and 4. actors involved in diversion. This framework provided by this tool can be used to structure case studies for sharing with other states, to construct national databases for analysing patterns of diversion and then leveraging findings to design effective counter-diversion strategies or to build a comprehensive evidence-base across different contexts.

Tom Nijs of Belgium, the Chair of the Diversion Information Exchange Forum (DIEF) concluded this panel discussion by highlighting ways in which the diversion analysis framework could contribute to the DIEF's work. Nijs explained that the DIEF hopes to encourage states to share information regarding cases of diversion with other states for the purpose of empowering licensing and enforcement officials in preventing diversion from occurring. He noted that the confidential DIEF discusses operational information related to diversion cases such as names of actors involved, risky locations, vessels etc. He welcomed the [Diversion Analysis Framework](#) as a resource which can enable states to structure their presentations of cases of diversion as part of the DIEF in order to ensure that details related to these cases are comprehensive and useful to other states.

A recording of this side event can be found [here](#).

**Side Event: See you in court! Yemen-linked arms export litigation and its implications,
Organized by Saferworld**

In this side event Saferworld presented its most recent report from its Arms Trade Treaty Expert Group "[Domestic accountability for international arms transfers: Law, policy and practice](#)". Roy Isbister of Saferworld opened the discussion with an overview of the new report, which discusses 10 legal cases seeking to stop arms supplies to the warring parties to the ongoing conflict in Yemen. He noted the particular urgency of the questions the report seeks to answer given the humanitarian crisis in Yemen. Sabine Visser of the Netherlands welcomed the opportunity of discussing how the ATT is applied in practice, including in cases that are or have been litigated. As implementation of the ATT is a matter of national responsibility, Visser explained that accountability on how the ATT is applied must be given to national courts, parliaments and the courts of public opinion. In the Netherlands, court cases as well as the work of civil society were instrumental in raising the profile of the ATT, which in turn improved the government's policies.

Vito Todeschini of the International Commission of Jurists honed in on the idea of the domestic accountability process and its role within the ATT and other branches of international law, in particular international human rights and humanitarian law. Given that the ATT does not include provisions regarding the establishment of a monitoring or enforcement mechanism, he explained states' responsibilities under international law to ensure accountability for international crimes. He focused in particular on the issue of oversight, including the importance of ensuring that actors within their territories

do not engage or assist in human rights violations or other international crimes, and the duty of providing access to justice for those harmed. Mr. Todeschini then went on to explain how international human rights law includes provisions on the right to remedy, ensuring that victims have the right to seek justice in courts or other review bodies and are entitled to reparations.

Valentina Azarova of Global Legal Action Network, and co-author of the report launched at this event, discussed the practical dimensions of ATT implementation through domestic proceedings as a necessary dimension of the enforcement of the ATT. Reviewing the legal 10 cases covered by the report, Azarova provided an initial taxonomy of the main patterns of access-barriers to judicial oversight in the ATT context. She noted two types of access barriers: 1) procedural barriers which include transparency with regards to licensing decisions and transfers and material jurisdiction of courts, and 2) substantive barriers such as transparency in court (closed proceedings) standard and scope of review and ATT applicability.

Hans Lammerant and Atilla Kisla discussed ATT oversight efforts in Belgium and South Africa. Lammerant mentioned the legal challenges which took place in Belgium in an attempt to halt arms exports to warring parties in Yemen. A key takeaway was the evolution of the court's decision-making process. If initially the courts based their decisions only on procedural deficiencies in the government's process, in later challenges the court adopted a more substantive approach. Presenting one of the newest legal challenges to arms transfers to the Saudi/UAE coalition, the case in South Africa was presented by Atilla Kisla of the Southern Africa Litigation Centre. Kisla provided an overview of the factual background, the legal framework, the status of the current proceedings and challenges faced so far. Despite factual and evidentiary challenges posed by a lack of transparency in arms export licensing decisions by the government, Kisla noted that his organisation's legal strategy, which included presenting multiple options when seeking relief, has proven effective to date.

The side event concluded with a question and answer session which focused on how lessons learned from these legal challenges could be applied to other ongoing or future cases to ensure compliance with the ATT. Participants also discussed the responsibilities of industry as well as strategies to increase transparency in arms transfer decision-makers.

A recording of this side event can be found [here](#).