ATT Working Group and Informal Preparatory Meetings for the Eighth Conference of States Parties to the Arms Trade Treaty

Working Group on Effective Treaty Implementation (WGETI)

16 February 2022

The Working Group on Effective Treaty Implementation (WGETI) is chaired by Ambassador Sang-beom Lim of the Republic of Korea. WGETI’s work is undertaken by three sub-working groups on the following topics: Articles 6 and 7 (prohibitions, export and export assessment), Article 9 (transit and trans-shipment), and Article 11 (diversion).

ATT Sub-Working Group on Article 11

The Sub-Working Group on Article 11 focused its session on two topics: (1) the role of transit and transhipment States in preventing diversion; and (2) the role of the private sector and civil society in mitigating diversion risk.

Key points from the discussions:

- Some State Parties (Cameroon, Belgium, and Malawi) identified the multiplicity of actors involved in transit operations as a major challenge faced by transit and trans-shipment States during transfer; the need to adopt a multisectoral approach with a view to addressing and preventing diversion including during transfer was recognized.

- The issue of cooperation, communication, and exchange of information between different Government departments and agencies at the domestic level as well at the international level was deemed to be crucial by many States Parties in order to address the risk of diversion during transfer.

- It was stressed by some State Parties (Costa Rica, Switzerland, and Zambia) that transit through air poses the greatest challenge.

- National transit risk management systems, post-shipment control and post-delivery verification were highlighted as the most effective instruments and tools to ensure effective national control systems with a view to preventing diversion during transit.

- While preliminary remarks were provided on the role of the private sector and civil society preventing diversion in transit and trans-shipment, more substantive discussions on this item will be held during the CSP8 preparatory meeting.
Ms Stela Petrovic’ facilitated the work of the Sub-working Group on Article 11. After a short introduction of the Background Paper on transit and transshipment in the context of preventing diversion, Ms. Petrovic called on States Parties to share their experiences.

Building on discussions undertaken in the context of WGETI Sub-Working Group on Article 9, Cote d’Ivoire and Ghana stressed the effectiveness of the 2006 ECOWAS Convention on Small Arms and Light Weapons in preventing diversion. It was also recalled that the Convention bans transfers of weapons to non-state actors (NSA) that are not explicitly authorized. In accordance with the ECOWAS exemption regime, all ECOWAS Member States must agree with arms being transited through the territory of any other ECOWAS Member State. The regional dimension of diversion is thus well addressed in the Convention itself, with the result that – since the Convention has entered into force – the percentage of SALW that have been diverted within the region is close to zero. However, there remains the issue of diversion of SALW from national stockpiles. Moreover, the scope of the ECOWAS Convention is limited to SALW. Ghana’s National Commission on SALW, much as other National Commissions, also engages in information exchange at the regional level with a view to preventing diversion including during transfer.

MAAT for Peace presented some unofficial statistics, according to which between 2016 and 2020 the transit of arms increased by 25% at the global level and of 33% in the Middle East region. The organization encouraged the production of regular reports on the relative estimation of conventional arms diverted; to this end, building capacities of civil society organizations (CSOs). MAAT deemed it crucial that the ATT Secretariat undertake this exercise.

Some State Parties gave a comprehensive overview of national measures transit and trans-shipment States could take to reduce the risk of diversion during transfer. For example, France referred to, among other things, the need to identify all the various actors involved in the operation, the need to set in place a prior authorization system, and the need to capacitate customs authorities and confer them with the powers needed to effectively carry out their mission. France also suggested it should be possible for all the authorizations to be suspended or withdrawn. Switzerland stated that its national system strictly ensures that no arms are transited by air without proper authorization by fostering cooperation between the National Aviation Authority and the National Licensing Authority. End use/r certificates are mandatory and as soon as a discrepancy is found, investigations are carried out. Switzerland as well as Ghana referenced the key role that Points of Contact (PoC) play in facilitating the exchange of information on shipments. Ghana also encourages the ATT Secretariat to develop guidelines on exchange of information related to issues of shipment.

Following up on a point made by Switzerland on the risk of diversion in transit by air, Control Arms underlined that diversion is not only a risk ‘en route in the territory of States where the goods are transiting or trans-shipped’ (as described in the Background paper), but also can occur in international waters and airspace. Control Arms welcomed the focus on all actors involved in the transfer chain, since all actors have a role to play in preventing diversion; states and the private sector must work closely together and routinely share information concerning arms transfers. China stressed that it attaches a particular importance to the implementation of
Article 11 by requiring the Government of the recipient country to provide an end use/r certificate. Moreover, China highlighted as important the cooperation between relevant authorities including law enforcement officials.

**Costa Rica** expressed its willingness to impose a general moratorium for the transit of arms throughout its jurisdiction and presented an illustrative case of denial of an air transit on the basis of Article 6.3 of the ATT. While several State Parties (Cameroon, Costa Rica, Ghana, and Mexico amongst others) highlighted the importance of cooperation and information sharing between States, including in the framework of the Diversion Information Exchange Forum (DIEF), Mexico underscored that there are limits that may apply to the exchange of information, typically in cases of open criminal investigations,. Belgium, Switzerland and Control Arms expressed their support to include diversion experiences in the transit phase within the framework of the DIEF. ATT stakeholders also noted a key question that would be useful to address in more in depth - the type of information that domestic agencies involved in transit control could or should share with each other.

In the SADC region, as stressed by Zambia, the issue of regulation of brokers is key to addressing and preventing diversion during transfer. Zambia thus encouraged enhanced information sharing and sharing of good practices between governments on how to regulate brokering through effective legal mechanisms.

**Germany** highlighted that post-shipment controls and post-delivery verification are new but highly relevant components of Germany’s national control systems; post-shipment controls, in particular, have become more and more important internationally over the last few years, as studies and publications on the topic confirm. They can be seen as useful tools not only to prevent diversion, says Germany, but also to strengthen confidence between exporting and importing States and to improve national export control systems overall. A first side event on post-shipment controls was held on February 15 (open only to ATT States Parties) and a follow-up one will be organized in April (open to all ATT stakeholders, including civil society) to provide further insights.

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**Working Group on Treaty Universalization (WGTU)**

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The Working Group on Treaty Universalization session included a review of the work of the CSP8 Presidency on universalization, an update on the status of ratifications and accessions by the ATT Secretariat, and an update on the activities of the WGTU co-Chairs to promote universalization. These were interspersed with and followed by interventions from states and civil society outlining their efforts and progress towards ATT universalization.
Key points from the discussions:

- A number of State Parties (including Palestine, Argentina, and China) as well as the European Union urged states, especially exporters and importers, to accede and/or ratify the ATT.
- Individual State Parties (Cameroon, Japan, the Republic of Korea and Sierra Leone) and the Civil Society (Control Arms and MAAT for Peace) are engaged in promoting universalization at the regional and international levels; based on several interventions, it is clear that working with members of national Parliaments is also instrumental in achieving universalization goals.
- The Co-Chairs and several states that took the floor welcomed the efforts undertaken by the Philippines, who is poised to ratify and become an official ATT State Party. The Co-Chairs and many states also welcomed The Gambia's concrete progress toward acceding to the ATT.
- A crucial issue that emerged is the need for enhanced cooperation to ensure the technological transfer and the transfer of equipment to states that have a need in those areas (Mauritania); disarmament education was also pointed out as a key factor to promote universalization (Palestine).
- Some states indicated that efforts to universalize the ATT should be expanded from the ATT CSP fora and into the United Nations (Barbados).
- Appreciation was given to civil society by State Parties (Mexico, Mauritania, Cameroon, and the Republic of Korea) for their work to promote universalization and highlighted the need to grow the role of civil society in these efforts.

Co-Chairs, Ambassador Thomas Göbel of Germany and Ambassador Lansana Gberie of Sierra Leone led the session on Universalization. As explained by Ambassador Göbel, Germany facilitated the preparation and processing of the 2021 ATT Resolution during the First Committee of the General Assembly; within the General Assembly, 162 states voted in favour of the Resolution. This result may be considered as a strong indicator of broad support of the Treaty, beyond its 110 States Parties.

Mr. Rainer Schmiedchen, Head of Division of the Expert Control, Ministry of Foreign Affairs, Germany described the activities undertaken by Germany in its role as President of CSP8. Germany led a comprehensive Démarche Action (‘Démarche’) in 17 countries earlier this year. The Démarche mainly focussed on states that signed the ATT in 2013-2014, which hitherto do not belong to the signatory states. In preparation of the ‘Demarche Action’, German diplomatic missions in various locations joined hands with their counterparts of the respective EU delegations as well as with the Embassies from several countries. While not all these States could join the Demarche, the large number of States Parties participating is an illustrative example of willingness to move toward universalisation of the ATT. However, while nearly all States’ representatives the Démarche underlined the general commitment of their governments with regard to the overall aims of the ATT, Germany stressed that challenges still exist. For instance, some Signatory States are in need of support and more information concerning the reporting obligations of ATT State Parties and the costs associated with becoming and remaining an ATT State Party.
Palestine expressed its support for all universalization outreach activities and it is concerned that a number of major arms exporters and importers have yet to join the ATT. Palestine also encouraged work towards universalization in the Middle East and North Africa region, and stressed that arms control and disarmament education are important factors in advancing universalization of the Treaty.

Ambassador Gberie of Sierra Leone, reiterated Sierra Leone’s firm commitment to strengthening the ATT, provided an update on the universalization efforts and welcomed efforts undertaken by Germany around the world, particularly in the Pacific region. Ambassador Gberie also described some of the activities undertaken by his Presidency during CSP7 to promote universalization, such as maintaining close contact with states who were considered to be close to joining the ATT based on progress seen at the national level. This is reflected in The Gambia, who is in the process of completing the required actions to advance the accession process. Another example provided by Ambassador Gberie was a series of consultations with another African country interested in joining the Treaty which resulted in the participation of this country as an Observer State at CSP7.

Sierra Leone and other ATT stakeholders referenced the importance of parliamentary engagement, which includes global engagement efforts to raise awareness of the ATT among national lawmakers. The Inter Parliamentary Union announced its efforts in this regard, such as inviting parliamentarians to discuss the challenges their countries face which prevent them from successfully joining the Treaty. Mexico underscored the critical nature of continued work with parliamentarians, importers and exporters to improve understanding of the Treaty and provide legal and technical capacity where requested.

With regard to universalization efforts undertaken by individual State Parties, Cameroon organized a number of workshops in Africa to promote universalization. Japan highlighted its universalization work with key embassies in the Asia-Pacific region, and also shared having organized Asia and Pacific-focused roundtables with Control Arms, New Zealand, and Australia. The Republic of Korea shared that it plans to promote the ATT and the important role of the ‘export control regime’ at the Export Control Workshop to be held in July 2022 as a side event of the commemoration of the 2022 Trade and Security Day, in which relevant agencies, industries and other key stakeholders are expected to participate.

The Gambia stated that it remains engaged with partners to make adjustments at the national level to be in a position to fully implement and comply with the ATT. In terms of accession, The Gambia will undertake an assessment and develop an action plan to address any gaps that may be identified; it also stated having submitted a project proposal to the VTF to help support this assessment process. In the same vein, Fiji reasserted that it continues to work on finalizing their internal processes in order to materialize its membership to the ATT.

Mr. Dumisani Dladla, Head of the ATT Secretariat, presented an overview on the state of universalization. The Secretariat detailed that many states that have signed the ATT, have also indicated they have no intention of ratifying it. The number continues to be 110 States Parties and 31 Signatory States, thus leaving 54 members of the United Nations who still have not
engaged with the ATT. The majority of ATT State Parties are concentrated in Europe, followed by Africa and the Americas, Asia and lastly Oceania. He also stated that given the decrease in ratification and accession numbers, the Secretariat called on the WGTR to set specific target numbers for ratification and accession, as it was the case back in 2018, 2019 and 2020.

**MAAT for Peace** intervened to emphasize the role of civil society, which is key both for the prevention of illegal arms trade and the universalization of the ATT. MAAT for Peace has carried out activities to promote the ATT, one of which is an Arabic initiative, and concluded by urging states to do more work in the Middle East and North Africa region.

**China** expressed its recognition of the ATT objectives. In 2017, **China** stated that it officially acceded to the Treaty as a reflection of its firm determination to support multilateralism. **China** called on states that have not joined the Treaty to actively accede as soon as possible and encouraged capable countries to enhance their international cooperation and assistance to benefit countries in need who seek to accede to the Treaty. In the same vein, **Mauritania** reaffirmed the country’s commitment to the implementation of the ATT, and to work hand in hand with other state parties to promote universalization. The **Philippines** stressed its being the first country in South Asia to have signed the Treaty, with the goal to finalize the ratification process soon in 2022. The **Philippines** is prepared to carry out all requirements to incorporate the ATT into domestic legislation and to submit its initial report.

**Control Arms** expressed its support for the ratification and accession of new States Parties and emphasized that universalization must be tied to effective implementation of the ATT by all States Parties, current and future. **Action Sécurité Ethique Républicaines (ASER)** indicated that some countries such as France and the UK continue to export arms to the Saudi-led Coalition supporting the war in Yemen, and reiterated that the best method to implement universalization is to comply with the spirit and objective of the ATT.

**Malaysia** shared that it has been actively working with Malaysian agencies and ministries to review their legislation in an effort to ratify the Treaty. It stressed its focus on raising awareness of the importance of the ATT among its government officials, including engagement with workshops to enhance knowledge about the Treaty and its implementation. Malaysia concluded by thanking Japan, EU countries, GCSP, and Control Arms for their efforts to continue providing training and assistance.

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