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Arms Trade Treaty  
**Tenth Conference of States Parties**  
Geneva, 19 – 23 August 2024

**ATT WORKING GROUP ON EFFECTIVE TREATY IMPLEMENTATION  
CHAIR'S REPORT TO CSP10**

**INTRODUCTION**

1. The Draft Report to the Tenth Conference of States Parties (CSP10) is presented by the Chair of the Working Group on Effective Treaty Implementation (WGETI) to reflect the work conducted by the WGETI since CSP9 and to put forward recommendations for consideration by CSP10.
2. The draft report includes the following [annexes](#):
  - a. [Annex A](#): Draft Voluntary Guide to implementing Articles 6 & 7 of the ATT; and
  - b. [Annex B](#): Draft Multi-Year Workplan for the WGETI Sub-working Group on Exchange of National Implementation Practices, including attachment with practical implementation questions.

**BACKGROUND**

3. The Third Conference of States Parties (CSP3) decided to establish a *standing* Working Group on Effective Treaty Implementation to operate under the Terms of Reference contained in Annex A of the Co-chairs' report to CSP3 ([ATT/CSP3.WGETI/2017/CHAIR/158/Conf.Rep](#)), including a mandate to serve as an ATT continuous platform to:
  - a. exchange information and challenges on the practical implementation of the Treaty at the national level;
  - b. address, in detail, specific issues set by CSP as priority areas (topics) to take Treaty implementation forward; and
  - c. identify Treaty implementation priority areas for endorsement by CSP to be used in Treaty implementation support decisions e.g. ATT Voluntary Trust Fund.
4. The CSP9 adopted a proposal on the WGETI configuration and substance contained in Annex D of the Co-chairs' report to CSP9 ([ATT/CSP9.WGETI/2023/CHAIR/767/Conf.Rep](#)).<sup>1</sup> This proposal sought to shift the focus of the Working Group from theoretical discussions to practical

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<sup>1</sup> Also see paragraphs 18 and 19 of the Management Committee Draft Proposal on the Review of the ATT Programme of Work ([ATT/CSP9.MC/2023/MC/765/Conf.Prop](#)) that was also adopted by CSP9. This proposal also addressed the future configuration and substance of the work in the working groups, including the alignment of the work in the other working groups with the mainstream work of the WGETI.

Treaty implementation issues and to progressive discussions on national implementation measures and exchanges on national implementation experiences, thereby focusing on the cross-cutting support functions of international cooperation and assistance. To streamline the WGETI work, the proposal committed to specific working arrangements for the structured discussions of the Working Group, focusing on practical presentations by States Parties and other stakeholders, Q&A sessions and information exchanges. To operationalize this shift in approach, the Conference mandated the Working Group to develop a multi-year workplan for its structured discussions, based on priority stages/phases of implementation. As a complement to these structured discussions, the proposal also provided the possibility for more in-depth discussions and/or the elaboration of voluntary guidance documents or other tools to assist national implementation, if that would be deemed necessary about certain identified issues. In addition, the proposal provided the opportunity for States Parties and other stakeholders to raise any current Treaty implementation issue, and call for an *ad hoc* discussion on this issue.

5. To implement this proposal in practice and to organize the work of the Working Group in a manageable and transparent manner, it was decided to split the work in the following three Sub-working Groups that reflect the anticipated approach and working arrangements:

1. The Sub-working Group on exchange of national implementation practices;
2. The Sub-working Group on current and emerging implementation issues; and
3. The Sub-working Group on Articles 6 & 7.

6. The **Sub-working Group on exchange of national implementation practices** is the main Sub-working Group of the WGETI going forward. It will facilitate structured discussions about practical Treaty implementation on the basis of the above-mentioned multi-year workplan to be welcomed by CSP10. The **Sub-working Group on current and emerging implementation issues** will deal with issues that States Parties and other stakeholders have identified as requiring more in-depth discussions in the context of the structured discussions of the Working Group, as well as any other issue raised upon invitation of the WGETI Chair or as part of Conference decisions and/or recommendations. The **Sub-working Group on Articles 6 & 7** was kept to finalize the proposed Voluntary Guide on implementing Articles 6 & 7 in accordance with its multi-year workplan and thereby end its activities during this CSP10 cycle.<sup>2</sup>

### Appointment of WGETI Chair

7. On 08 December 2023, the CSP10 President appointed Ambassador Christian GUILLERMET FERNÁNDEZ of Costa Rica as Chair of the WGETI for the period between CSP9 and CSP10.

### WGETI Sub-working Groups and appointment of facilitators

8. The three Sub-working Groups mentioned above were led by facilitators as listed below:
- a. Articles 6 (Prohibitions) and 7 (Export and Export Assessment) facilitated by the WGETI Chair, Ambassador Christian GUILLERMET FERNÁNDEZ of Costa Rica.
  - b. Exchange of national implementation practices facilitated by the ATT Secretariat.
  - c. Current and emerging implementation issues facilitated by Ms. Grisselle RODRIGUEZ of Panama.<sup>3</sup>

<sup>2</sup> [Multi-year Workplan for the WGETI Sub-working Group on Articles 6 & 7 \(Prohibitions & Export and Export Assessment\)](#).

Ambassador GUILLERMET FERNÁNDEZ and the ATT Secretariat facilitated the work on Articles 6 & 7 and exchange of national implementation practices as an Interim arrangement throughout the

## 20-21 FEBRUARY 2024 WGETI MEETING

9. The WGETI Sub-working Groups held their only meetings of the CSP10 preparatory process on 20 - 21 February 2024. A letter of the WGETI Chair and documentation for the respective Sub-working Group meetings was circulated on 22 January 2024 (<ATT/CSP10.WGETI/2024/CHAIR/775/LetterSubDocs>).

### Sub-working Group on Articles 6 & 7

10. The Interim Facilitator introduced the draft elements for Chapter 3 (Article 7 (Export and Export Assessment) of the proposed Voluntary Guide to implementing Articles 6 & 7 (Annex A-2 of the WGETI Chair letter for the meeting). They were drafted to reflect and build on the presentations and interventions of delegations during the relevant sessions of the Sub-working Group, as well as the documents that were presented and/or noted in that context.

11. In the open discussion that followed, intervening delegations commended the draft elements and recognized that they constitute a good reflection of the exchanges on the obligations in Article 7 of the Treaty. Delegations were specifically pleased that the elements include many descriptions of practical implementation measures and challenges. This will make the Voluntary Guide a useful tool for capacity-building.

12. Delegations highlighted several aspects which they deem important for the practical implementation and application of Article 7. These included explanations about: i) the different nature of the respective obligations in Article 6 & 7; ii) the possibility for States Parties to adopt additional national export assessment criteria; iii) the need for assurances that are obtained as mitigating measures to be confirmed by practice; iv) the use of information sources in practice; v) the importance of relevant expertise with licensing officers; and vi) the specificities of the gender-based violence criterion. Delegations also used the opportunity to reiterate the crucial importance of the human rights and international humanitarian law (IHL) considerations not to be overridden by political and security considerations and of the human rights and IHL assessment to be done in a non-discriminatory manner.

13. Several delegations also addressed the nature of the document as a voluntary, non-descriptive and living document living document that can be reviewed and updated by the WGETI, as appropriate. In that respect, some delegations mentioned the importance of further presentations and practical discussions on the application of Articles 6 & 7, which can then be reflected in the Voluntary Guide. For that purpose, a suggestion was made to have the application of Articles 6 & 7 as a standing agenda item in one of the WGETI Sub-working Groups. Delegations further welcomed the clear mention that the Voluntary Guide does not create new obligations and that the Treaty allows flexibility and variation in establishing a national (export) control system, based on States Parties' national situation (as there is no "one-size-fits-all structure").

14. A few delegations provided minor comments and /or proposals for amendments regarding specific text in the draft chapter. One delegation also suggested that the Voluntary Guide could include an overall summary. In response, the Interim Facilitator requested the delegations with specific comments and proposed amendments regarding the text of Chapter 3 to provide these in writing to the ATT Secretariat for further consideration and indicated that the suggestion of a summary would also be further considered.

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CSP10 cycle, because despite extensive consultations by the CSP10 President, the WGETI Chair and the ATT Secretariat, no eligible and willing State Party had been secured to assume the role of Facilitator on these topics.

15. *Conclusion and Way forward.* For CSP10, following the 20 February 2024 meeting of the Sub-working Group, the Interim Facilitator did not receive any comments or suggestions on the draft elements for Chapter 3 (Article 7 (Export and Export Assessment) of the proposed Voluntary Guide in writing, hence no substantive revisions were made in draft Chapter 3. As this draft Chapter 3 is the last anticipated chapter of the proposed Voluntary Guide, the Interim Facilitator has now prepared a draft of the full Voluntary Guide, which also includes draft Chapter 1 (Key concepts) and draft Chapter 2 (Article 6 – Prohibitions) that were completed in the CSP8 and CSP9 cycles (annex A to this report). In the integrated version of the proposed Voluntary Guide, the Interim Facilitator has included a general introduction and conclusion, as well as an executive summary, and has replaced the redundant introductions and conclusions that accompanied the draft elements for each Chapter with a short background section per Chapter that contextualizes its specific development. The Interim Facilitator has also made minor edits to the substantive sections of the three draft Chapters, for readability purposes only. As part of the draft report of the WGETI Chair, delegations will be able to share their final views on the completed Voluntary Guide during the CSP10 Informal Preparatory Meeting on 16-17 May 2024. In line with the instruction of the CSP8 and CSP9, the completed Voluntary Guide will then be submitted to the CSP10, with the recommendation to endorse it as a living document of a voluntary nature, to be reviewed and updated by the Working Group, as appropriate.

16. As draft Chapter 3 concerned the last topic of its multi-year workplan, the Sub-working Group on Articles 6 & 7 has ended its work. This does not entail, however, that the WGETI will no longer address these key Treaty Articles. It is noted that the multi-year workplan for the Sub-working Group on Exchange of National Implementation Practices includes further exchanges regarding risk assessment (covering Articles 6 & 7) and that the Sub-working Group on Current and Emerging Implementation Issues can address any issues that have been identified as requiring more in-depth discussions in the context of the structured discussions of the WGETI, as well as any other issue raised upon invitation of the WGETI Chair or as part of Conference decisions and/or recommendations. In that regard, States Parties and other stakeholders retain the possibility to raise and discuss issues regarding the implementation and application of Articles 6 & 7 in the WGETI. To emphasize this, the Conference is requested to encourage States Parties to continue discussing issues concerning the practical implementation and application of Articles 6 & 7 in the WGETI Sub-working Groups, as appropriate.

### **Sub-working Group on Exchange of National Implementation Practices**

#### *Background and working document on initiating structured discussions and developing a multi-year workplan*

17. Following a short summary of the background of this newly created Sub-working Group, the Interim Facilitator provided a general outline of the working document on initiating structured discussions and developing a multi-year workplan, explaining the specific working arrangements for these discussions, the proposed sequencing of topics, the practical implementation questions per topic and the interface arrangements between the WGETI and the other Working Groups (Annex B-2 of the WGETI Chair letter for the meeting).

18. During the open discussion that followed this general outline, delegations welcomed the shift in focus to practical Treaty implementation issues and expressed support for the draft multi-year workplan and the anticipated discussion topics, recognizing that the proposal reflects the CSP9 decision on the WGETI configuration and substance. Delegations appreciated that the list of topics demonstrates a balanced focus on the different types of transfers within the scope of the Treaty. In that respect, several delegations explicitly welcomed the attention to import and brokering controls (as export and transit and trans-shipment have already been the subject of the dedicated Sub-working

Groups on Articles 6 & 7 and Article 9, which have produced dedicated Voluntary Guides). Most delegations nevertheless underlined that the inclusion of topic of risk assessment, covering Articles 6 & 7, in the multi-year workplan remains important (see in that regard also paragraph 16).

19. Delegations also expressed support for the list of practical implementation questions, which was deemed logical and comprehensive, allowing delegations to effectively prepare for meetings. One delegation requested that the list indicates explicitly that it is non-exhaustive. Delegations further appreciated the recurring questions about international cooperation and international assistance, which will help to identify areas where these are necessary.

20. Concerning the sequencing of topics and the working arrangements, it was remarked that under the current ATT Programme of Work, where the WGETI only meets one time per year on a trial basis, certain important topics might only be discussed in several years. The question was also asked how the focus on State presentations in all Working Groups will work in terms of time allocation and in guaranteeing diversity regarding geography and export/import profiles. In response, the Interim Facilitator reminded delegations that the multi-year workplan is intended to be flexible. It is indicated in the working document that the workplan can be adjusted in light of progress made in each session, and that topics that have been discussed can be taken up in an additional session if delegations feel it would be beneficial.<sup>4</sup> During a meeting of the Sub-working Group, States Parties can also decide to prioritize certain topics for its next session. If delegations feel that certain issues should be explored in-depth, this could be picked up in the Sub-working Group on Current and Emerging Issues. Concerning time allocation, the Interim Facilitator indicated that with the Sub-working Group on Articles 6 & 7 ending its work, the Sub-working Group on Exchange of National Implementation Practices could have an extra session, if necessary. Concerning the workload of presentations on the various topics, it is noted that sharing implementation practices and exchanging of information are forms of assistance and cooperation which are the heart of the Treaty. To ensure varied presentations, Facilitators will actively reach out to States Parties – and other stakeholders, where appropriate – to give presentations, but delegations are also encouraged to volunteer to give a presentation about any of the topics in the multi-year workplan.

21. Following the general discussion on the working document and the draft multi-year workplan, the Interim Facilitator addressed each topic in the draft multi-year workplan separately. In response, a few delegations provided minor comments and / or proposals for amendments, in particular regarding the topics of risk assessment, general regulation of role players (now changed to “actors involved in arms transfers”) and enforcement arrangements. Concerning the topic of risk assessment, a concern was expressed about a potential overlap between this topic and the voluntary guide on implementing Articles 6 & 7. In response, it was indicated that the description of the risk assessment topic in the draft multi-year workplan addresses this, explaining that the Sub-working Group will take into account the relevant Chapter 3 of the Voluntary Guide and will focus specifically on States Parties’ substantive approach to risk assessment. This is also reflected in the practical implementation questions on this topic. Some delegations further called for systematic attention to the issue of inter-agency cooperation under each topic. Other delegations shared a number of drafting suggestions. In concluding the discussion, the Interim Facilitator requested the delegations with specific comments and proposed amendments regarding the text of the draft multi-year workplan and the list of practical implementation questions to provide these in writing to the ATT Secretariat for further consideration.

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<sup>4</sup> See paragraph 22 et seq. of the working document on initiating structured discussions and developing a multi-year workplan (Annex B-2 of the WGETI Chair letter for the meeting).

*National control systems and inter-agency cooperation*

22. The Interim Facilitator explained that this agenda item was included as a kick-off item for the structured discussions that the Sub-working Group will hold on the basis of the multi-year workplan as from the CSP11 cycle. To emphasize the intention for the priority themes of CSP Presidents to be in line with and reinforce the workplans and priorities of the Working Groups, it was decided that this session would address “national control system” and “inter-agency cooperation” in general. For that purpose, the Interim Facilitator invited three States Parties of diverse geography and export/import profiles to provide presentations on this topic, namely Benin, China and the Philippines, as well as the presiding State Party, Romania. In addition, Romania was also invited to outline its approach to its chosen priority theme of inter-agency cooperation and to present the CSP10 President’s draft working paper on this topic: “The Role of Interagency Cooperation in the Effective Implementation of Arms Trade Treaty Provisions” ([ATT/CSP10/2024/PRES/782/WG.WP.IAC](https://www.thearmstradetreaty.org/working-groups-meetings)).

23. The four invited States Parties provided a brief outline of their national control system and legislation (including substantive elements) and an overview of the principles, structure, composition and functions of their inter-agency cooperation mechanisms or arrangements for different aspects, including risk assessment, enforcement and reporting.<sup>5</sup> Where available, the presenters also addressed the procedures, regulations and guidance that steer their work. The presentations demonstrated that inter-agency cooperation may or may not be based on formal legislation and highlighted the importance of involving high officials (or having their support) and having a cooperative spirit and transparency as requirements for effective inter-agency cooperation.

24. The CSP10 President explained that the purpose of the Romania working paper and the exchanges on inter-agency cooperation is not to develop a common approach among States Parties as there is no “one size fits all approach”, but to identify common themes and key concepts, as well as possible new issues for consideration. In that respect, while existing ATT guidance instruments concerning Articles 5, 11 and 13 already address interagency cooperation and States Parties often refer to interagency cooperation arrangements in their presentations and initial reports, a brainstorming workshop nevertheless identified a range of challenges for interagency cooperation to effectively implement the Treaty. In light of this, the ATT process could explore opportunities to overcome these challenges and identify and share practical measures. For that purpose, delegations were encouraged to share information about their practices and challenges via a list of questions, which also includes questions about the possible contribution of the ATT process to support States Parties on this topic.

25. During the open discussion that followed the presentations, delegations provided general comments and addressed some of the questions in the President’s working paper. States Parties shared their own national practices inter-agency cooperation practices and highlighted a number of areas where inter-agency cooperation is of crucial importance. These include (export) decision-making as well as preventing diversion, where good cooperation between the licensing and customs authorities is vital. Delegations further shared elements to take into consideration when establishing inter-agency arrangements, including: i) the need to only involve the relevant agencies for the specific purpose of the inter-agency arrangement in question; ii) the need for different agencies involved in the arrangement to have a common understanding about key obligations and to have effective communication channels; iii) the need to overcome different interests and priorities; and iv) the benefits of having a joint integrated structure. A few delegations also addressed the question whether CSP10 should recommend updating existing voluntary guidance documents to include additional guidance on the role of interagency cooperation or create a new voluntary guidance document on this

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<sup>5</sup> The PowerPoint presentations that were used, by Benin and the Philippines, are available on the 20 Feb tab of the following page of the ATT website: <https://www.thearmstradetreaty.org/working-groups-meetings>.

issue. While these delegations were generally supportive of developing guidance, there were no definitive views on whether supplementing existing guidance or creating a new document is preferable.

26. *Conclusion and Way forward.* Concerning the draft multi-year workplan and list of practical implementation questions, the Interim Facilitator has considered the few outstanding comments and suggestions on the draft and has integrated the appropriate revisions in the text. As part of the draft report of the WGETI Chair, delegations will be able to share their final views on the revised draft multi-year workplan and the list of practical implementation questions during the CSP10 Informal Preparatory Meeting on 16-17 May 2024. Following this meeting, the draft will then be submitted to the CSP10 with a recommendation to welcome it, to be reviewed and updated by the Working Group, as appropriate. To highlight the start of the Sub-working Group's structured discussions on practical Treaty implementation on the basis of its multi-year workplan, it is further recommended that CSP10 notes the first topics which the Sub-working Group will address. In line with the multi-year workplan, these are "national control system relating to import" and "scope / national control list".

27. Concerning the CSP10 President's working paper on inter-agency cooperation, the President has considered all the input received during the meeting and in writing and has included draft recommendations in the revised draft paper. Delegations will be able to share their views on these draft recommendations during the CSP10 Informal Preparatory Meeting on 16-17 May 2024, after which the working paper will be submitted to the CSP10.

#### **Sub-working Group on Current and Emerging Implementation Issues**

28. Following a short summary of the background of this newly created Sub-working Group, the Facilitator explained that the Sub-working Group would start its work with the issues which the CSP9 encouraged the WGETI to discuss further, followed with the *ad hoc* discussion on the current implementation issue that had been raised in response to the invitation which the WGETI Chair circulated on 13 December 2023.

#### *The role of industry in responsible international arms transfers*

29. The Facilitator presented the two concrete issues regarding the role of industry which were proposed to be discussed in-depth in the Sub-working Group. The first issue concerned the application of the UN Guiding Principles on Business and Human Rights (UNGPR) and human rights and international humanitarian law (IHL) due diligence in general in the context of ATT implementation and States' national arms transfer control systems. As a follow-up to the CSP9 cycle discussions on this topic, the Facilitator provided key substantive questions to be addressed, in addition to the question whether it could be appropriate and feasible to use the ATT process to develop voluntary guidance for States Parties and/or industry actors. The second issue concerned the integration of compliance with arms transfers control regulations in existing guidance, awareness-raising and training programs/documentation for the different types of industry actors that are involved arms transfer activities. Following the attention to this issue during the CSP9 cycle, the Facilitator proposed to further explore the nature and scope of existing programs/documentation, and to assess whether it could be appropriate and feasible for the WGETI to have a role in discussing or developing voluntary guidance on this.

30. To kick-off the discussions on human rights and IHL due diligence, the following presentations informed the meeting:

1. Ms. Raïssa VANFLETEREN, Government of Flanders (Belgium) – [Export control responsibilities & human rights due diligence: Government of Flanders' practical approach](#);<sup>6</sup>
2. Dr. Machiko KANETAKE, Utrecht School of Law – [Arms-Exporting Companies' Due Diligence](#); and
3. Dr. Lana BAYDAS, American Bar Association (Center for Human Rights) – *Defense Industry Due Diligence Guidance*.<sup>7</sup>

31. An important takeaway from these presentations was that human rights and IHL due diligence is as an autonomous responsibility of industry actors, in addition to their parallel obligation to comply with arms transfer laws and regulations, but also that these respective responsibilities and obligations interact, and that States can therefore partially enforce human rights and IHL due diligence through their arms transfer control framework. Another takeaway that followed from this was that industry instruments to facilitate compliance with arms transfer laws and regulations, such as internal compliance programmes, may also be useful instruments to implement human rights and IHL due diligence responsibilities. As indicated in the first presentation, this can be leveraged by States to steer industry actors towards effectively applying practical human rights and IHL due diligence measures throughout all stages of their commercial activities, including measures in the context of their business relationships as well as measures in support of their State's distinct obligations to regulate arms transfers, such as information sharing about end-users before and after the transfer. The presentations delivered also recognized that States need to support industry's capacity to conduct due diligence. In that respect, presenters mentioned providing guidance to industry actors about transaction screening, as well as raising awareness about the Treaty itself, as Articles 6 and 7 outline the adverse human rights impacts that (transfers of) conventional arms can have and the ATT process produced a list of information sources to assess these impacts, which industry actors could also use for their own transaction screening. Presenters indicated that international assistance including the Voluntary Trust Fund could be leveraged to provide such support. The presentations further highlighted the benefits of applying human rights and IHL due diligence for industry actors, indicating that industry actors doing so will reduce their risk of incurring civil or even criminal liability in case their transferred arms are misused (as human rights and IHL due diligence is a duty of care). In view of identifying possible synergies with other instruments on due diligence, it is noted that in addition to the UNGP, presenters referred to the more general OECD Due Diligence Guidance for Responsible Business Conduct.<sup>8</sup>

32. During the open discussion that followed these presentations, delegations emphasized the importance of industry UNGP compliance for ATT implementation, arguing that the distinct human rights and IHL due diligence responsibilities of industry actors complement and reinforce the obligation of States Parties to regulate arms transfers and the actors that are involved in those. One delegation

<sup>6</sup> See <https://www.fdfa.be/nl/compliance> for relevant documents, as well as the informal translation of Chapter 2 of the 17<sup>th</sup> annual report of the Government of Flanders "[Assessing the permissibility of exports – options and own responsibility](#)".

<sup>7</sup> This presenter did not use a PowerPoint presentation during the meeting. The guidance document that is referenced here is available at [https://www.americanbar.org/groups/human\\_rights/reports/defense-industry-human-rights-due-diligence-guidance/](https://www.americanbar.org/groups/human_rights/reports/defense-industry-human-rights-due-diligence-guidance/). Despite extensive consultations, no speakers from industry actors and other relevant international fora engaged with human rights due diligence had been secured.

<sup>8</sup> See <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>. This document was also mentioned in the CSP9 President's working paper on the role of industry in responsible international transfers of conventional arms (<ATT/CSP9/2023/PRES/766/Conf.WP.Ind>).

noted that industry actors, through their business relationships, often have access to information about end-users and end use situations that is not only relevant for their own decision-making throughout all the stages of their involvement with a client, but also for the State, in order for it to take appropriate measures. Delegations indicated, however, that industry awareness about the Treaty as well as other relevant instruments such as the UNGP remains an issue, calling for more outreach. Such engagement was also deemed important because there is still much confusion about of industry's distinct human rights and IHL due diligence responsibilities and their relation to industry's obligations under national arms transfer laws and regulations. In that respect, delegations also mentioned the need for more efforts to include industry actors in the discussions, with one delegation calling on the ATT Secretariat for more coordination with relevant industry stakeholders. Delegations further called for synergies with other fora where the issue of human rights and IHL due diligence is addressed.

33. Overall, delegations also called for more time to discuss the industry-related issues in the Sub-working Groups because various elements still need to be further addressed. This also applies to the second proposed issue (the integration of compliance with arms transfers control regulations in existing industry guidance), which was absent in the discussions during the meeting.

*The risk of conventional arms being used for gender-based violence (GBV) or violence against women and children (VAWC)*

34. The Facilitator reminded delegations that the discussion on this topic would be a continuation of the work in previous CSP cycles. Concretely, the Sub-working Group would primarily continue its consideration of the working papers that were presented by Argentina and by Mexico, Spain and Small Arms Survey in the CSP9 cycle, both of which were explicitly taken note of by the CSP9.<sup>9</sup> For that purpose, the Facilitator gave Argentina the opportunity to brief the Sub-Working Group on the results of the questionnaire in its working paper that was circulated to States Parties and the feasibility of developing its proposed good practices guide.

35. Argentina reminded delegations of the content and purpose of its working paper and questionnaire, as also described in the working document for this meeting and in the section about measures to mitigate the risk of GBV and VAWC in the draft elements for Chapter 3 of the proposed Voluntary Guide to implementing Articles 6 & 7.<sup>10</sup> The questionnaire sought information of States Parties regarding their legislation processes, policies and data-gathering regarding GBV and their data disaggregation of crimes relevant to GBV. On the basis of the national practices gathered through the questionnaire, Argentina aims to prepare a "Guide to Good Practices for arms control for the prevention of gender-based violence" which exporting States can use to improve their GBV risk assessments, including their consideration and monitoring of GBV risk mitigating measures. In terms of the results of their questionnaire, Argentina reported that it received few but rich responses to its questionnaire, which demonstrated diversity in how States approach GBV. Respondent States reported a wide range of measures to address and prevent GBV in different contexts, detailed record-keeping, specific categorisation of relevant crimes and highlighted the importance of specific agencies and effective cooperation and assistance, e.g. in terms of information exchange.

36. Following Argentina's briefing, Small Arms Survey presented how they see the policy recommendations contained in their working paper with Mexico and Spain aligning with the course of

<sup>9</sup> The working paper of Argentina is available on the ATT website at: [https://www.thearmstradetreaty.org/hyper-images/file/ATT\\_CSP9\\_Argentina%20Working%20Paper%20on%20GBV\\_EN/ATT\\_CSP9\\_Argentina%20Working%20Paper%20on%20GBV\\_EN.pdf](https://www.thearmstradetreaty.org/hyper-images/file/ATT_CSP9_Argentina%20Working%20Paper%20on%20GBV_EN/ATT_CSP9_Argentina%20Working%20Paper%20on%20GBV_EN.pdf).

<sup>10</sup> See paragraph 34 et seq. of the working document in Annex C-2 of the [WGETI Chair letter for the meeting](#) and paragraph 60 of the draft elements in Annex A-2 of the same document.

action proposed by Argentina. Also Small Arms Survey emphasized the importance of data collection and disaggregation practices in a recipient State for the exporting State's ability to assess the nature and seriousness of GBV and consider effective risk mitigating measures. In that respect Small Arms Survey deemed the Argentinian proposal to be relevant for the issues raised in the working paper on the risk of armed violence against people on the basis of their actual or perceived sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC), because it specifically asks about legislation and data related to the use of arms to commit violence against the LGBTQI+ community. Small Arms Survey, Mexico and Spain also find it important that the proposed good practices guide include a specific section dedicated to the issue of SOGIESC violence.

37. 33. During the open discussion that followed, delegations expressed their support for the ongoing work and highlighted the importance of guidance to decision-makers on how to assess possible end-users regarding the GBV and VAWC risks. In that respect, some delegations also welcomed the guidance that is already included in the draft elements for Chapter 3 of the proposed Voluntary Guide to implementing Articles 6 & 7. Some delegations also drew attention to the specific element of violence against children and referred to ongoing initiatives on this topic.<sup>11</sup>

38. Concerning the proposed good practices guide, while most intervening delegations could consider the guidance that is proposed, several emphasized a number of prerequisites in reference to the Facilitator's working document. Delegations insisted that the guidance should not repeat work that is already done, noting that the draft Chapter 3 of the proposed voluntary guide on Articles 6 & 7 already includes a substantial section on the practical implementation of Article 7 (4). The guidance also needs to be strictly limited to issues that are directly relevant for ATT implementation, i.e. regulating international arms transfers. Finally, all guidance needs to be voluntary. To address these remarks, it was suggested that delegations could rather consider elaborating existing voluntary guidance than developing an additional instrument.

39. Beyond the proposed good practices guide, some delegations also referred back to the decisions of CSP5 regarding gender representation and participation, the gendered impact of armed violence and the GBV risk assessment criteria, emphasizing that the implementation of these decisions also needs to remain a point of attention for this Sub-working Group.<sup>12</sup>

*Ad hoc discussion on "Upholding legal obligations under the ATT: The case of the Palestinian people"*

40. The Facilitator reminded delegations that the mechanism of "ad hoc discussions" was part of the proposal on WGETI configuration and substance adopted at CSP9, allowing States Parties and other stakeholders to raise any current implementation issue on which they seek an ad hoc discussion.<sup>13</sup> The purpose of these ad hoc discussions is to have exchanges and information-sharing on the proposed issue during a dedicated session of the Sub-working Group, without further concrete outcomes.

41. Following the invitation of the WGETI Chair of 13 December 2023, the State of Palestine and Control Arms submitted separate requests to discuss the issue "Upholding legal obligations under the ATT: The case of the Palestinian people". For that purpose, the State of Palestine and Control Arms submitted explanatory memoranda which were attached in full to the WGETI Chair letter and documentation for the meeting.

<sup>11</sup> See Control Arms, "How to use the Arms Trade Treaty to address violence against children: A Practical Guide for Risk Assessment", 2024, available at: <https://controlarms.org/wp-content/uploads/2023/12/How-to-use-the-ATT-to-address-VAC-ENG.pdf>.

<sup>12</sup> See paragraph 22 of the CSP5 Final Report ([ATT/CSP5/2019/SEC/536/Conf.FinRep.Rev1](https://www.un.org/development/desa/secretariat/att/csp5/2019/SEC/536/Conf.FinRep.Rev1)).

<sup>13</sup> See paragraphs 10 and 11 (g) of Annex D of the WGETI Chair's Draft Report to CSP9 ([ATT/CSP9.WGETI/2023/CHAIR/767/Conf.Rep](https://www.un.org/development/desa/secretariat/att/csp9/2023/CHAIR/767/Conf.Rep))

42. During the meeting, the Facilitator invited representatives of the State of Palestine and Control Arms to introduce the issue and subsequently all delegations to engage in a discussion. In their interventions, presenters and delegations addressed both the current situation in Gaza and States' arms transfers and arms transfer policies in that context, as well as industry's due diligence requirements. They made reference to the concrete application of specific obligations in Articles 6 and 7 of the Treaty in this context, in particular those in Article 6 (2-3), 7 (1), 7 (4) and 7 (7), as well as to ongoing legal proceedings regarding transfer of conventional arms used in Gaza. Presenters and delegations also addressed States' risk assessment processes more generally, and how the relevant ATT obligations relate to States' other international obligations and commitments, including those regarding international humanitarian law (IHL), the use of force and State responsibility.

43. *Conclusion and Way forward.* Concerning the topics of the role of industry in responsible international arms transfers and the risk of conventional arms being used for GBV or violence against women and children, the exchanges during the meeting of this Sub-working Group displayed that more time is needed to consider the concrete issues that were proposed for further discussion. The Conference should therefore mandate the Sub-working Group to continue discussions with a view to obtain a deeper understanding of these topics and to establish the utility and feasibility of developing voluntary guidance on these topics. For that purpose, the Facilitator should build further on the relevant questions that were put to delegations in the working document for the meeting of the Sub-working Group and prepare a list of guiding questions for delegations to address during the next meeting of the Sub-working Group.

44. Concerning the ad hoc discussion on "Upholding legal obligations under the ATT: The case of the Palestinian people", it is reiterated that the purpose of these ad hoc discussions is to have exchanges and information-sharing on the proposed issue during a dedicated session of the Sub-working Group. In that respect, the Conference is requested to note that the first ad hoc discussion took place, and to encourage States Parties and other stakeholders to raise further implementation issues on which they seek an *ad hoc* discussion in the WGETI in accordance with the CSP9 decision.

#### **WGETI BRIEFING DURING 16-17 MAY 2024 CSP10 INFORMAL PREPARATORY MEETING**

45. [To be included after the 16-17 May 2024 CSP10 Informal Preparatory meeting.]

#### **WGETI RECOMMENDATIONS FOR CSP10**

46. Based on the above and considering the work undertaken by the WGETI to fulfil its mandate for the period between CSP9 and CSP10, the Working Group recommends that CSP10:

- a. *Endorses the proposed Voluntary Guide to implementing Articles 6 & 7 as a living document of a voluntary nature, to be reviewed and updated by the Working Group, as appropriate (Annex A).*
- b. *Encourages States Parties to continue discussing issues concerning the practical implementation and application of Articles 6 & 7 in the WGETI Sub-working Groups, as appropriate.*
- c. *Welcomes the draft multi-year workplan for the Sub-working Group on Exchange of National Implementation Practices, to be reviewed and updated by the Working Group, as appropriate (Annex B).*

- d. *Notes that, in line with the multi-year workplan, the first topics which the Sub-working Group on Exchange of National Implementation Practices will address are “national control system relating to import” and “scope / national control list”;*
- e. *Encourages States Parties and other ATT stakeholders to volunteer to give presentations for these and subsequent topics in the multi-year workplan, taking into account the practical implementation questions for each topic;*
- f. *Requests the Sub-working group on Current and Emerging Implementation Issues to continue discussing the identified issues concerning the role of industry in responsible international arms transfers and the risk of conventional arms being used for GBV or violence against women and children, with a view to obtain a deeper understanding of these topics and to establish the utility and the feasibility of developing voluntary guidance on these topics; and*
- g. *Notes the first ad hoc discussion in the Sub-working group on Current and Emerging Implementation Issues regarding the “Upholding legal obligations under the ATT: The case of the Palestinian people” and encourages States Parties and other stakeholders to raise further implementation issues on which they seek an ad hoc discussion in the WGETI in accordance with the CSP9 decision.*

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**ANNEXES**

- **Annex A: Draft Voluntary Guide to Implementing Articles 6 & 7 of the Arms Trade Treaty**
- **Annex B: Draft Multi-Year Workplan for the WGETI Sub-working Group on Exchange of National Implementation Practices, including attachment with practical implementation questions**