

Arms Trade Treaty
Ninth Conference of States Parties
Geneva, 21 – 25 August 2023

WORKING GROUP ON EFFECTIVE TREATY IMPLEMENTATION
DRAFT PROPOSAL: WGETI CONFIGURATION AND SUBSTANCE

BACKGROUND

1. In September 2017, the Third Conference of States Parties (CSP3) adopted the Terms of Reference establishing the Working Group on Effective Treaty Implementation (hereinafter WGETI). CSP3 further endorsed a list of Treaty implementation priority issues for discussion by WGETI in the period ahead. The identified Treaty implementation priority issues endorsed by CSP3 are: Article 5 (General Implementation), Articles 6 (Prohibitions), Article 7 (Export and Export Assessment), Article 9 (Transit or trans-shipment), Article 11 (Diversion), Article 12 (Record keeping) and Interagency cooperation or communication.

2. Considering the involved nature of the priority issues identified, CSP3 indicated that WGETI may focus on a subset of these priorities and remain mindful of the maturity level of the Treaty and matters associated thereto.

3. From the CSP4 (2018) to date, WGETI has focused its discussion on these issues and developed workplans to guide its work. The work plans covered organizational as well as substantive elements of each of the priority issues. As matters stand, it is foreseen that by CSP9, the WGETI sub-working groups on Article 9 (Transit or trans-shipment) and Article 11 (Diversion) will exhaust their workplans, and the sub-working group on Articles 6 & 7 (Prohibitions and Export & Export Assessment) will conclude its work in 2024.

4. The current status of the WGETI work requires this working group to deliberate and propose to CSP9 new topics to guide Treaty implementation discussions from the CSP10 cycle moving forward. This moment coincide with the current work being undertaken by the Management Committee concerning the review of the ATT programme of work. As a result of this confluence, the WGETI proposals to CSP9 regarding the focus of its future work and working arrangements should align with the broader agenda to review the ATT programme of work as led by the Management Committee following the CSP8 decision.

CONSIDERATIONS FOR WGETI FUTURE WORK

5. From 2018 to date, WGETI has approached its work by focusing on individual articles of the Treaty and has facilitated exchanges of information on national approaches to the implementation of those articles. As a matter of course and following general exchanges, WGETI has elaborated a number of voluntary guides to provide a picture of how States Parties approach the implementation of articles under consideration and provided some understanding of the key concepts involved in those articles.

6. It is assessed that the current approach to Treaty implementation discussions has served its purpose well and has produced appropriate outcomes. In view of this situation and considering the current level of Treaty maturity and changed circumstances, it is now the appropriate time to change gear and recalibrate the Treaty implementation discussions.

7. The WGETI meeting in February 2023 provided an opportunity for ATT stakeholders to reflect on the future work of WGETI in terms of forthcoming topics and working arrangements. During this discussion, the general view was that in order to meaningfully assist States Parties in the effective implementation of their Treaty obligations, WGETI must shift its focus to practical Treaty implementation issues and allow for progressive discussions on national implementation measures and exchanges on national implementation cases and/or experiences (reflecting implementation successes, challenges, and opportunities). This approach to Treaty implementation discussions would facilitate international cooperation and assistance amongst States Parties and other stakeholders. In this regard, international assistance and cooperation could be channelled to areas where States' national implementation capacities are constrained and need to be strengthened for improved Treaty implementation outcomes.

PROPOSED APPROACH TO WGETI'S DISCUSSIONS

8. To allow for practical Treaty implementation to take a centre in WGETI discussions, it is proposed that Treaty implementation discussions should be considered as a continuum rather than distinct topics and articles. Accordingly, it is proposed that WGETI discussions should be arranged along the lines of general phases/stages of practical Treaty implementation. This arrangement will help highlight the interconnectedness of articles of the Treaty and that these are actually dealt with simultaneously in practice. Below are the suggested general phases/stages of Treaty implementation at a practical level:

- a. (ATT ratification or accession).
- b. ATT domestication.
- c. Establishment and maintenance of a national control system.
- d. General regulation of role players in arms transfer.
- e. Application and authorisation of arms transfers.
- f. Management of arms transfer information.
- g. Accounting and reporting on arms transfers.
- h. Establishment and operationalisation of enforcement measures.
- i. Post delivery measures.

9. Attached to this document is a graphic representation of the proposed configuration of the foreseen practical Treaty implementation discussions. Each of the above general phases/stages should be seen as interconnected and part of a Treaty implementation *mosaic*. The general phases/stages of Treaty implementation reflected above are embedded on a cross cutting support functions of international cooperation and assistance. In practice, this will mean that during discussions of Treaty implementation, attention will also be given to available opportunities of international cooperation

(cooperation amongst states) and assistance (mechanisms established to support Treaty implementation, for example, the ATT Voluntary Trust Fund). In that respect, the discussions will highlight that national capacity constraints could be addressed through mechanisms established within the ATT framework.

10. To provide States Parties and other stakeholders the opportunity to raise and discuss any current Treaty implementation issue, in addition to its structured discussions, the working group needs to allow space for *ad hoc* sessions. Such sessions on current issues should be demand driven and only organized upon request. Accordingly, their format should be tailored according to the proposed topics and the number of proposals received.

WORKING ARRANGEMENTS

11. WGETI shall operate on the basis of its Terms of Reference adopted by CSP3. However, to expedite movement towards the desired practical Treaty implementation discussions and without prejudice to the WGETI Terms of Reference, the following working arrangements are proposed for the reconfigured WGETI:

- a. In the context of the proposed Treaty implementation general stages/phases, this working group will develop its a multiyear workplan setting out topics to be discussed, practical implementation questions to be addressed, and interface arrangements between this working and the other ATT working groups (WGTR and WGTU). In this exercise, the working group will take into account its existing body of work to avoid repeating discussions.
- b. For time efficiency purposes, in the first year (2024) this working group will focus on three objectives: 1) finalisation of the current workplan of the WGETI sub-working group on Articles 6&7, 2) development of a multi workplan for the reconfigured WGETI, and 3) initiation of practical discussions on the first two general phases/stages of Treaty implementation.
- c. For each general phase/stage of implementation, this working group will receive no less than two presentations from States Parties focusing on practical measures that those states are taking to address implementation issues of that general phase/stage. Where appropriate, the working group will also receive contributions from other stakeholders that are involved in the topic under discussion, such as relevant international, regional and civil society organisations. This will contribute to identifying synergies between the ATT and other international instruments, and their symbiotic implementation at the national level. An pertinent example could be the United Nations Office on Drugs and Crime and the UN Firearms Protocol.
- d. Each presentation will be followed by Q&A sessions and information exchanges between States Parties and other stakeholders. These exchanges will include information on possibilities for international cooperation and assistance in response to implementation challenges or constraints that would have been made visible, as well as identifying issues that might benefit from further clarification within the ATT framework.
- e. Presentations to the working group should be diverse in terms of geography and export/import profile of States Parties.
- f. Unless determined otherwise, presentations by States Parties and other stakeholders shall be made freely available.
- g. At the beginning of each CSP cycle and ahead of the in-person WGETI meeting, the WGETI Chair

will invite States Parties and other stakeholders to raise any current implementation issue on which they seek an *ad hoc* discussion in the WGETI.

- h. In addition to the in-person working groups' meeting, where appropriate, ATT office holders will conduct intersessional informal consultations utilising virtual or hybrid meetings.
- i. Where deemed necessary, this working group will, on the basis of exchanges, discuss identified issues more in-depth and/or elaborate voluntary guidance documents or other tools to assist national implementation efforts by States Parties. For that purpose, *ad hoc* sub-working groups can be established. In developing voluntary guides, the working group should endeavour to keep the guides focused on practical Treaty implementation and avoid duplication.

CONCLUSION

12. The prioritisation of practical Treaty implementation proposed above requires the entire effort of the ATT process to be streamlined and focused on agreed workplans to advance this priority. As a result, it is expected that no other priorities should be set outside of the agreed workplans.

Draft General stages/phases of Treaty Implementation

ATT Domestication

- Executive role
- Parliament role
- Legislative processes
- National consultation processes

Establishing and maintaining a national control system

- Infrastructure
- National control list
- Competent authority
- National point of contact
- Legislation
- Interagency co-ordination

General Regulation of role players

- Registration measures
- Outreach programs including outreach to industry.
- Internal compliance programs
- Documentation for regulation

Application and authorization

- Prohibitions
- Risk Assessment
- Mitigations
- Decision making
- Review of decisions
- Verification of documentation
- Undertakings and cooperation of role players

Enforcement Arrangements

- Legal framework
- Interagency co-ordination
- Legal and administrative procedures

Information Management

- Record management
- National co-ordination
- Litigation arrangements

Accounting and reporting

- Transfer reports to ATT Secretariat
- Reports to Cabinet
- Reports to Parliament
- Audit enquiries
- Public request for information

Post delivery measures

- Transfer Undertakings
- DVCs
- Post shipment co-operation
- Verification
- Stockpiles management

International Co-operation and Assistance

(cross cutting functions)