Sixth Conference of States Parties to the Arms Trade Treaty
Geneva, Switzerland
14 August 2020

Control Arms Statement on
Effective Treaty Implementation

Mr President,

The COVID-19 pandemic has had far-reaching and devastating effects across the globe. In relation to the Arms Trade Treaty (ATT) process, necessary restrictions on travel and gatherings designed to slow the spread caused the cancellation of the Second ATT Working Groups and CSP6 Preparatory Meetings and required a shift in the working methods of the Sixth Conference of States Parties to the ATT (CSP6) from in-person meetings to written submissions.

As a result, these unprecedented adjustments appear to have significantly limited the progress planned by this Working Group towards the Treaty's implementation.

It is important to remember that the Arms Trade Treaty (ATT) -- given its purpose to contribute to international and regional peace, security and stability and to reducing human suffering -- can play a key role in States Parties national responses to COVID-19 pandemic.

As we watched the rapidly growing rate of infections and deaths worldwide, many of us felt the strain of inadequate medical care and dwindling supplies for the first time. But for those who live in countries devastated by conflict and armed violence, where limited access to these resources is the norm, the pandemic and its effects pose an even greater threat. Despite repeated calls for a global ceasefire, including by the United Nations Secretary-General António Guterres, hostilities continue unabated -- impeding the delivery of and access to critical humanitarian supplies in Libya, Syria, Yemen, and other parts of the world.

This is why effective implementation of the ATT, particularly of Articles 6 and 7, are more crucial than ever. The Treaty was adopted to stop arms transfers and diversion that fuel conflicts, human rights abuses, terrorism and organized crime. To reduce human suffering.

As the WGETI and its sub-working groups seek to adopt multi-year plans to guide their efforts, Control Arms urges the Chair of WGETI and the facilitators of the sub-working groups to allow space for discussion among ATT stakeholders concerning the implications of the COVID-19 pandemic on effective export controls. The efforts of this working group towards the effective implementation of Articles 6, 7, 9 and 11 are crucial to ensuring that irresponsible arms transfers and the diversion of arms and ammunition are curtailed.

Control Arms sees value in the establishment of contingency measures to tackle the challenges caused by the COVID-19 pandemic, which have delayed progress in the context of the ATT. Such measures will ensure that this enduring pandemic will not result in another year of lost opportunities to make much-needed progress in the implementation of this Treaty.

Draft Decision 9 - Multi-year Work Plan for the ATT Sub-working Group on Articles 6 &7. Control Arms welcomes the revised multi-year plan as proposed in Draft Decision 9 and looks forward to engaging in the drafting of the proposed voluntary guide.

We take this opportunity to note that some of the proposed elements of the voluntary guide are covered extensively in resources already published by States Parties, international organisations, civil society and other stakeholders. To avoid duplication of work, Control Arms encourages the sub-working group to undertake a thorough review of each of these resources in its initial desk research.

Control Arms welcomes the inclusion in the multi-year plan of the topic of mitigation measures, as set out in Article 7.2. This is an opportunity to emphasize that the mere presence of mitigation measures should not be used in of itself as grounds to approve a transfer that would otherwise be refused. Mitigation measures need to be assessed on the basis of their impact, not their existence. An otherwise risky transfer should be authorized only when the states concerned have full confidence that the mitigation measures in place will lead to a substantive and significant reduction of the identified risks to the point where the formerly problematic proposed transfer can now be regarded as "safe."

It would, therefore, be useful to hear from states not only about "confidence-building measures" and "jointly developed and agreed programmes" to mitigate risks, but also examples of cases in which mitigation measures have and have not had the intended results. We strongly believe it is important to link our discussions to concrete, real-world examples (anonymised if necessary) and to share lessons learned from past experience with the aim of better understanding how to effect real, meaningful mitigation.

Gender and Gender-based Violence. Under the leadership of Ambassador Kārkliņš of Latvia as President of the Fifth Conference of States Parties to the Arms Trade Treaty (CSP5), ATT States Parties set out a practical and ambitious action plan on Gender and Gender-Based Violence (GBV). Structured on three key pillars, these commitments included such recommendations as the collection and publication of gender-disaggregated data on victims, information-sharing on the application of the gender-based violence risk assessment criteria in the Treaty, a training guide for export control officials, and discussions on the interpretation and use of language in the Treaty related to GBV.

Yet, at the first ATT Working Group Meetings and CSP6 Preparatory Meetings, the commitments on gender and GBV endorsed by CSP5 were largely overlooked. As a demonstration of its commitment to advancing the goals of CSP5, Control Arms urges the sub-working group to build on the progress made last year to encourage states to continue discussions on this important issue. As Control Arms noted in its statement[1] to this sub-working group on 04 February 2020, progress towards many of the current objectives set for this sub-working group will also contribute to progress towards the CSP5 Action Plan on Gender and GBV. Therefore, both the multi-year work plan and the voluntary guide should identify and reflect explicitly where its work contributes to the CSP5 Gender and GBV Action Plan.

Draft Decision 10 - Multi-year Work Plan for the ATT Sub-working Group on Article 9.
Control Arms continues to believe that the establishment of the Sub-working Group on Article 9 is an important step forward, and we, along with our participating civil society organisations and experts, look

[1] Control Arms Secretariat, " Statement to the Working Group on Effective Treaty Implementation Sub-working Group on Articles 6 and 7", 04 February 2020.
https://controlarms.org/wp-content/uploads/2020/02/05-Feb-WGETI-Article-6-and-7-Draft-Intervention-1-1.pdf

forward to actively contributing to its work. The Chair's draft work plan for this sub-working group has a systematic logic, enabling focussed exploration of the measures and options for regulating transit and transhipment of arms by land, air and sea during the first and second preparatory CSP7 meetings in 2021.

However, it is very important that such explorations are conducted with full awareness of the requirements and priorities arising from close interrelationships between the obligations under Article 9 and Articles 6, 7 and 11 (as well as 12). An appropriate understanding of the extent to which improvements in ATT Member States' national systems for regulating transit and transhipment of arms are 'necessary and feasible' depends on the extent to which their existing systems are adequate and effective for preventing, combating and reducing risks and processes of diversion (Article 11); or for enabling effective risk assessments or risk mitigation measures when considering whether to authorise arms transfers (Article 7).

We further suggest that there is an additional question to be addressed in the sessions that will explore measures and options for regulating transit and transhipment of arms respectively by land, air and sea. The additional question is: '*How have States strengthened or revised their regulations in order to support effective implementation of UNSC embargoes (or similar international obligations) or to address vulnerabilities to diversion, in line with their obligations under Article 6?*' The aim of such a question is to encourage participants to exchange information on their lessons from experience on the effectiveness of their transit and transhipment regulations, and on areas of improvement that they are presently considering.

Finally, at this stage, we suggest that the sub-working group multi-year work plan include focused exploration on whether and how it would be useful to develop a 'Voluntary Guide to Implementing Article 9 of the Arms Trade Treaty'. Such a guide would be valuable for States that are in the process of reviewing and developing their national control regulations, systems and procedures to ensure effective implementation of the ATT.

Draft Decision 11 - Multi-year Work Plan for the ATT Sub-working Group on Article 11
Control Arms considers the multi-year work plan of this sub-working group as promising and welcomes the inclusion of two sessions which will explore:

- The role of the private sector and civil society in mitigating diversion risk
- The role of the private sector and civil society in mitigating diversion risk post-delivery

Control Arms and it's members stand ready to share their expertise and resources with the sub-working group and we look forward to engaging in substantive discussions on the implementation of Article 11.

We take this opportunity to encourage the sub-working group to also consider discussing the steps taken to conduct an Article 11 risk-assessment using real-world cases where a diversion risk was identified and addressed, as well as examples of mitigation measures which proved effective. Providing context for arms transfer decisions allows for a better understanding of how to prevent and combat arms diversion in practice and facilitates the identification of good practices.

While ATT States Parties are taking steps to establish the Diversion Information Exchange Forum, a platform restricted to include only States Parties and signatories, it is important to note that the mandate of the Working Group on Effective Treaty Implementation, as adopted by the Third Conference of States

Parties to the ATT (CSP3) is to facilitate the "exchange information and challenges on the practical implementation of the Treaty at the national level[2]". Control Arms strongly believes that in the context of the WGETI, grounding discussions on Article 11 risk-assessment in real-world cases where a diversion risk was identified and addressed can help identify practical measures that States can use to strengthen national implementation efforts.

[2] ATT Secretariat, "Ad Hoc ATT Working Group on Effective Treaty Implementation Co-chairs' Draft Report to CSP3", ATT/CSP3.WGETI/2017/CHAIR/158/Conf.Rep, 31 July 2017 https://thearmstradetreaty.org/hyper-images/file/WGETI_-_Draft_Report_to_CSP3_-_ENt/WGETI_-_Draft_Report_to_CSP3_-_ENt.pdf