control arms

Sixth Conference of States Parties to the Arms Trade Treaty
Draft Decision 13

13 August 2020

Mr President,

The Control Arms Coalition, which is represented at this the Sixth Conference of States Parties (CSP6) to the Arms Trade Treaty (ATT) by over 70 civil society organizations, has been a longtime proponent of discussions on specific cases of diversion. We acknowledge the value of developing a forum that supports communication, information sharing and disclosure among States Parties to prevent and detect diversion, and we welcome your efforts and those of the Working Group on Transparency and Reporting in this regard.

Before the Conference today is Draft Decision 13, which proposes the 'Establishment of the Diversion Information Exchange Forum.' Drawn from a proposed three-tiered approach to sharing information on diversion developed by the Working Group on Transparency and Reporting (WGTR), the draft decision seeks to formalise a series of closed meetings limited to States Parties and signatories that aims to facilitate the exchange of information on suspected or actual cases of arms diversion.

Control Arms is concerned both by the contents of the draft decision, as well as the method in which this decision has been proposed for adoption by CSP6. Both procedurally and substantively, Draft Decision 13, if agreed to, undermines the ATT's purpose of transparency and its historic inclusion of civil society.

Acknowledging the unprecedented challenges faced by your Presidency in organizing CSP6 this year, we appreciate your leadership and commitment to ensuring the continuity of the ATT process. We understand that it is due to the COVID-19 pandemic and its associated restrictions that CSP6 is held entirely in written format with all of the decisions made by States Parties through a silence procedure. Regrettably, these new working methods, by their nature, do not provide for real-time deliberations between States Parties or any other CSP participants (signatories, observer states, international organizations, civil society, industry).

With regard to Draft Decision 13, the formal establishment of any process within the ATT CSP framework necessarily requires careful consideration and input from all CSP participants. These privileges are enshrined in Rules 3, 4 and 5 of the ATT Rules of Procedure, which afford each observer group - including civil society - the ability to "attend the Conference as observers, deliver statements at plenary meetings, receive official documents and submit their views in writing to the Conference." Such consideration, deliberation and input from all CSP participants simply cannot be achieved within the confines of the CSP6 written procedure. With no opportunity for discussion or input from all CSP participants, moving forward with Draft Decision 13 poses a clear and existential threat to an otherwise intentionally open and transparent CSP process.

Equally important is the fact that the early informal meetings of the Diversion Information Exchange Forum and its draft organizational documents are accessible only to States Parties and signatories. Civil society has no access to the Terms of Reference of the proposed Forum. Without open review and discussion of the Terms of Reference, participation in the informal meetings to date, or access to its reports, there is no check or balance on whether the proposed content, intent, impact, or procedure of the Diversion Forum is in line with the object and purpose of ATT and its Rules of Procedure. Given our

wholesale exclusion from the organizational process, we must infer that the Terms of Reference are likewise exclusive, and that we, as civil society, are intended to have no role in the Diversion Information and Exchange Forum.

The ATT recognizes in its Preamble the “active role that civil society, including non-governmental organizations, and industry, can play in raising awareness of the object and purpose of this Treaty, and in supporting its implementation.” Using its extensive and varied expertise in all aspects of the international arms trade, civil society provides substantive input into ATT working groups, contributes to national and regional capacity-building worldwide, and develops independent research and analysis to support states in their efforts to join and implement the Treaty. Civil society also plays a key role in encouraging and facilitating information exchanges among States Parties. Without any access to provide independent input into the discussion and debate inside forums that tackle diversion and other challenging issues, States Parties risk losing civil society as a valuable resource.

Mr President,

We support efforts to encourage and improve information sharing between States Parties as a form of disclosure. But disclosure, standing alone, does not achieve transparency. To be transparent, a process must be easily seen through, recognized or detected. It means the process is open and candid. And “[p]romoting cooperation, transparency and responsible action by States Parties in the international trade in conventional arms” is a key purpose of the Treaty. To achieve transparency in the context of the Diversion Information Exchange Forum, all CSP participants must be able to look into the process and understand its methods and its purpose.

Simply put, civil society’s exclusion from the organizational process to create the Diversion Information Exchange Forum and its likely exclusion from participating in any of its activities runs counter to the ATT’s Rules of Procedure and undermines the Treaty’s stated purpose of transparency.

Under any circumstances, a decision to establish a permanent process that is closed to all but States Parties and signatories sets a dangerous precedent. Because the adoption of Draft Decision 13 would limit significantly the ability of civil society to engage in the ATT process, it requires and deserves open discussion and debate among all CSP participants. Such deliberation will ensure that the Terms of Reference of the Diversion Information Exchange Forum are clear and in keeping with the ATT and its Rules of Procedure.

Given the limitations of the extraordinary written procedure for CSP6, we understand that the necessary debate and discussion cannot take place this year. Therefore, consideration of Draft Decision 13 should be discussed openly among all CSP participants during the meetings of the Working Group on Transparency and Reporting, and then considered for adoption during the Seventh Conference of States Parties of the Arms Trade Treaty, set to take place in August of 2021.

Draft Decision 13 cannot and should not be rushed or pushed through the CSP, as if it were a simple bureaucratic decision. It is not. Its effect will permanently limit the ability of the ATT to live up to its purpose of transparency.