

**Ad Hoc ATT Working Group on Effective Treaty Implementation
Co-chairs' Draft Report to CSP3**

Introduction

1. This Draft Report to CSP3 is presented by the Co-chairs of the Working Group on Effective Treaty Implementation (WGETI) to reflect on the work carried out by the WGETI since its establishment and to put forward recommendations on how the Working Group and its work could be structured in the period beyond the Third Conference of States Parties (CSP3).

Background

2. The Second Conference of States Parties (CSP2) established an ad hoc open-ended Working Group on 'Effective Implementation of the Arms Trade Treaty' (Working Group on Effective Treaty Implementation; WGETI) with the objective of sharing experiences, challenges and best practices on the national implementation of the Treaty's provisions. The WGETI would convene meetings, with the assistance of the Secretariat, twice per year, or as appropriate, in a public format, that would enable the participation of subject matter experts, as necessary, with the mandate to:

- a. exchange knowledge on the practical issues related to the national implementation of the ATT, including difficulties encountered;
- b. identify priority areas for capacity building and outreach with regard to the implementation of the ATT;
- c. make recommendations and, where possible, elaborate guidance for consideration by all States Parties on the practical national implementation of the ATT in accordance with Articles 5-15 of the Treaty; and
- d. identify priority themes of effective implementation for the up-coming CSP3 (paragraph 27, CSP2 Final Report, [ATT/CSP2/2016/5](#)).

3. Furthermore, CSP2 decided that CSP3 will review the progress made by the WGETI with a view to take a decision on the continuation of its work, e.g. on a permanent basis based on a recommendation prepared by the Chair/s under an agenda item on subsidiary bodies.

Appointment of WGETI Co-chairs

4. On 21 September 2016, the President of CSP3 appointed Ambassador Elayne Whyte of Costa Rica and Ambassador Sabrina Dallafior of Switzerland as Co-chairs of the WGETI.

Preparation for the Work of the WGETI

5. In order to facilitate the work of WGETI, on 06 January 2017, the Co-chairs issued the WGETI [Initial Work Plan](#) which sets out preliminary considerations concerning the work of WGETI. The Initial Work Plan identified possible issues for discussion at the WGETI meetings. On 27 January 2017, the Co-chairs issued a [Draft Annotated Programme of Work](#) for the WGETI meeting over the period 06-07 February 2017.

First Meeting of WGETI

6. The WGETI held its first meeting over the period 06-07 February 2017 in Geneva, at the WMO building, the premises of the ATT Secretariat. Over the two days, the WGETI meeting was attended by representatives of 70 States, 3 international organisations and 12 civil society organisations.

7. The purpose of the first meeting of the WGETI was to address, in particular, the first two items of the mandate set forth by CSP2 for the Working Group, that is 1) exchange knowledge on the practical issues related to the national implementation of the ATT, including difficulties encountered; and 2) identify priority areas for capacity building and outreach with regard to the implementation of the ATT.

8. The WGETI meeting had five sessions in total, each with a dedicated objective. The first session provided an opportunity for the WGETI to take a general overview of the current status of ATT implementation by States Parties through overview presentations by the ATT Secretariat, experts and practitioners, and civil society. These presentations highlighted implementation trends arising from Initial Reports submitted by States Parties, findings from ATT implementation assistance projects as well as reflections on ATT implementation experience in the field. The second session provided States with an opportunity to share their own experiences of Treaty implementation.

9. The third session explored the implementation obligations under the ATT, with reference to the practical requirements (consideration or steps) for implementing Articles 5 to 13 of the Treaty. The fourth and fifth sessions looked at whether there are priority areas for Treaty implementation and capacity building, that could lead to a logical sequence to the national implementation of the Treaty obligations, or whether some issues are more urgent than others and require early attention. It also provided an initial opportunity for consideration of options available for planning the work of the WGETI in the period running up to CSP3 and recommendations to CSP3 on the future WGETI program and work content.

Exchanges on Treaty Implementation

10. The meeting provided for an initial in-depth exchange on Treaty implementation. The meeting helped to confirm the initial assumption that Treaty implementation is a complex subject with diverse approaches and practices. Treaty implementation is a long term endeavor that requires adopting a reasonable level of ambition with clearly defined priorities to be executed over time.

11. A number of ATT States Parties had national control systems in place before the ATT entered into force. This applies in particular to States Parties falling in the category of traditional arms exporters. They can rely on pre-existing structures instead of having to build them from the ground up, which facilitate efforts in implementing the ATT.

12. These States had to make some adjustments to meet the requirements of the ATT, such as in implementing Articles 6 and 7. For some, question marks remain regarding the practice to follow

regarding the implementation of some criteria, such as gender-based violence. Guidance in a number of other domains such as import, transit and trans-shipment, would also be welcome.

13. Many states not falling in the category of traditional exporting states have to build national control systems from the ground up. This constitutes a demanding task, even if they can rely on outside support. The national control systems to be established do not need to be as elaborate as those of major exporting States. They have to be set up to meet the particular needs and challenges that these States Parties face, for instance diversion, trans-shipment or import.

14. The meeting was able to identify some of the challenges that States Parties not falling in the category of traditional exporting countries face in implementing the Treaty, but it was apparent that additional inputs and further discussion are needed to obtain a comprehensive picture of these challenges and corresponding needs.

15. Exchanges also underlined that different approaches are and can be followed in implementing the ATT. National approaches differ when it comes to addressing requirements under the Treaty. For instance, different national actors are involved when it comes to making an export assessment or deciding on an import. In other words, there is no *one size fits all* in implementing the Treaty.

Preparation for the Second Meeting of the WGETI

16. On 17 May 2017, in anticipation of the second WGETI meeting, the Co-chairs issued a Draft Agenda for the second WGETI meeting and a Draft Discussion Paper, including a Proposal on elements to be considered for Terms of Reference for the standing Working Group on Treaty Implementation and a Proposal on Implementation Priorities as annexes.

Second Meeting of WGETI

17. The WGETI held its second meeting on 29 May 2017 in Geneva, at the WMO building, the premises of the ATT Secretariat. The WGETI meeting was attended by representatives of 50 States, 3 international organisations and 11 civil society organisations.

18. The purpose of the 2nd meeting of the WGETI was to consider the following aspects: the possibility of establishing the Working Group as a continuous platform for discussion of practical Treaty implementation issues at a national level; the possible terms of reference for the Working Group to be established by CSP3, including its mandate, composition and membership, working methods, duration and budgetary implications; and finally, the possible Treaty implementation priority issues (topics) to be addressed by the Working Group in its work between CSP3 and CSP4.

Outcome of the second WGETI meeting

19. The second WGETI meeting was characterized by active participation of many delegations from diverse backgrounds. This brought about a robust and balanced dialogue on how the Working Group's recommendations to CSP3 could be framed in a manner that allows for fruitful Treaty implementation discussions in the period leading up to CSP4.

20. On the proposal for the establishment of the Working Group on a permanent basis, strong support was expressed by many delegations for the establishment of a standing Working Group to serve as a continuous platform focused on Treaty implementation discussions. Having a standing body dealing with Treaty implementation at this early stage in the life of the Treaty was deemed important,

while it remains clear that the CSP can review the standing nature of the Working Group at any of its sessions.

21. With respect to the proposed terms of reference for the Working Group, discussions clearly indicated that the continued mandate of the Working Group could be to serve as the platform to: exchange information and challenges on the practical implementation of the Treaty at the national level; address, in detail, specific issues defined as priority areas (topics) to take Treaty implementation forward; and identify Treaty implementation priority areas for endorsement by CSP to be used in Treaty implementation support decisions e.g. ATT Voluntary Trust Fund.

22. In addition to this, discussions also underscored that it could make sense that: the mandate of the Working Group be subject to annual review by the CSP; the appointment of the Working Group Co-chairs be undertaken by the President of CSP; the Working Group's priority areas (topics) be set by a CSP on a yearly basis on recommendation by the Working Group; and the Working Group make recommendations and, where possible, elaborate direction on practical national Treaty implementation for consideration and adoption by the Conference of States Parties.

23. With regards to the Working Group's composition and membership, exchanges underlined that the meetings of the Working Group shall as a rule be public, but that at the request of a State Party, on an exceptional basis, and in accordance with Rule of procedure 43, a particular session or part of a session of the Working Group may be limited to States Parties only. Experts may be invited to attend such a session or part of a session, pursuant to Rule 42.2 of the Rules of Procedure.

24. In so far as the proposed working methods of the Working Group are concerned, the following elements were in particular emphasised: the working group meetings shall primarily be held in Geneva; the importance of the ATT sponsorship programme in promoting diverse participation in the work of the working group; and the use of Spanish and French languages in addition to English should be considered for promoting participation and the inclusive nature of the group.

25. On the question of possible Treaty implementation priority issues (topics) to be addressed by the Working Group in its work after CSP3, delegations expressed different views. Many delegations expressed support for the prioritisation of matters related to the establishment of national institutions and processes for Treaty implementation, starting with those foreseen under article 5 (General Implementation) of the Treaty. A significant number of delegations were of the view that other articles and issues also required priority consideration by the Working Group, including articles 6 (Prohibitions), 7 (Export and Export Assessment), 9 (Transit or Trans-shipment) and 11 (Diversion).

26. To further enhance the Treaty implementation discussion in the period after CSP3, the meeting highlighted the importance of linking the Working Group discussions with the work of the Voluntary Trust Fund. With respect to the format of information exchange, the meeting supported the proposed set of structured questions with a possibility of refinement of some questions.

WGETI Recommendations

27. On the basis of WGETI mandate issued by the Second Conference of States Parties and on the strength of the exchange of views and discussions during the WGETI meeting, the WGETI Co-chairs recommend that CSP3 adopts following recommendations of the WGETI:

- a. The establishment of WGETI as a standing Working Group to operate under the Terms of Reference contained in Annex A.

- b. The endorsement of the WGETI work plan highlighting priority topics for discussion in the period running up to CSP4 (see Annex B).

ANNEX A**TERMS OF REFERENCE FOR THE WORKING GROUP ON EFFECTIVE TREATY IMPLEMENTATION**

1. During the last Working Group on Effective Treaty Implementation (WGETI) meeting of 29 May 2017 forming part of the final CSP3 informal preparatory meeting, the WGETI Co-chairs presented a discussion paper on the future work of the WGETI. On the understanding that Treaty implementation is a long term process, the paper presented suggestions on how Treaty implementation discussions could be carried forward in the period beyond the Third Conference of States Parties. The paper further put forward proposals on the formalisation of the mechanism to facilitate the Treaty implementation discussion.

2. Rule 42 (2) of the ATT Rules of Procedure provides that ‘the Conference shall determine the matters to be considered by each subsidiary body, including its mandate, officers, composition, size, duration and budgetary issues and may authorise the President to make appropriate adjustments in the allocation of work’. In line with these procedural requirements, the following terms of reference are proposed for the establishment of the standing Working Group on Effective Treaty Implementation.

Mandate

3. The Working Group shall 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 Working Group shall undertake tasks set by the Conference of States Parties. The Group shall prepare materials and proposals for consideration by the Conference of States Parties, including direction on practical national Treaty implementation and recommendations on priorities for further work.

Composition and Membership

5. The Chair(s) of the Working Group shall be appointed by the President of the CSP for a period until the conclusion of the following CSP.

6. Meetings of the Working Group shall be public.

7. At the request of one or more States Parties, on an exceptional basis, and in accordance with Rule 43, a particular session or part of a session of the Working Group may be limited to States Parties and Signatory States only. Experts may be invited to attend such a session or part of a session, pursuant to Rule 42.2 of the Rules of Procedure.

Working Method

8. The standing Working Group shall operate in accordance with the ATT Rules of Procedures with particular reference to Rule 42 and 43.

9. The Working Group shall as a rule hold its meetings in Geneva, where the meetings can be supported by the Secretariat of the Treaty. When possible, the Working Group shall hold its meetings back to back with other ATT meetings for cost saving purposes and to ensure maximum participation.

10. Consultation on any documentation submitted to or under consideration/development by the Working Group shall be conducted by its Chair(s) by posting it on the ATT website and circulation by email, in addition to any consultation held during the Group's meetings, to ensure maximum participation in the work of the Working Group. Material that is related to a topic that is treated by the Working Group in closed session should be posted to the website's restricted area and circulated among States Parties only.

Budgetary Implications

11. Direct meetings costs, such as for technical support, documentation, and any translation and/or interpretation services, shall be covered by the resources allocated for the conduct of meetings in the budget of the Conference of States Parties as well as any voluntary contributions that are made available for this purpose. Indirect meeting costs, such as travel and accommodation, shall be borne by participants except to the extent that sponsorship funding is available.

ANNEX B**PROPOSED WORK PLAN (PRIORITIES) FOR THE WORKING GROUP ON EFFECTIVE TREATY IMPLEMENTATION****Priority Issues for Discussion**

1. The standing Working Group on Effective Treaty Implementation is established serve as an ATT platform for the exchange of views, practices and national approaches to Treaty implementation. In pursuit of its mandate as contained in its Terms of Reference, the Working Group shall, in the period between CSP3 and CSP4, be guided by the following Treaty implementation priorities (topics) in its work:

- a. Article 5 (General Implementation) obligations (measures and steps necessary to implement the article, including the establishment of national control system, national control lists, legislative framework, national competent authorities and national points of contact).
- b. Articles 6 (Prohibitions) and 7 (Export and Export Assessment) practical implementation (national structures and processes required to implement the articles, experiences made in implementing the articles).
- c. Article 9 (Transit or trans-shipment).
- d. Article 11 (Diversion).
- e. Article 12 (Record keeping).
- f. Interagency cooperation or communication.

2. In the course of addressing the topics above, the Working Group should take into account the maturity level of the Treaty. Depending on time available, the Working Group may focus during the period between CSP3 and CSP4 on a subset of the priorities listed under point 1.

Exchanges of Information on Implementation

3. The agenda for the WGETI meetings will be framed in a manner that encourages the exchange of information and national approaches to Treaty implementation. To that end, the agenda will, *inter alia*, seek to address measures that states have to consider or take to implement their obligations under the Treaty. In framing the meetings' agenda, consideration could be given to the following specific questions with respect to the different provisions:

Article 5	1. What are the elements of a national control system?
	2. What are the considerations for establishing a national control list?
	3. What are the practical considerations for establishing competent national authorities?
Articles 6&7	1. What does a State need to have in place in order to make a licensing decision?
	2. How are the risk assessments required by Articles 6 and 7 carried out in practice?
Article 8	1. What mechanisms and structures does a State need to have in place to exchange information on licensing decisions?
	2. What measures does a State need to take to regulate the import of conventional arms?
Article 9	1. What measures does a State need to take to regulate the transit and transshipment of conventional arms?
Article 10	1. What measures does a State need to take to regulate the brokering of conventional arms?
	a. What is needed to establish a registration system for brokers?
	b. What is required to establish and operate a process/mechanism for requiring brokers to obtain written authorization before engaging in brokering?
Article 11	1. What are the elements a State will need to have in place in order to prevent diversion?
	2. What are the elements a State will need to have in place in order to detect diversion?
	3. What mechanisms and structures does a State need to have in place to exchange information on diversion?
Article 12	1. What is required to keep records of export authorizations/actual exports?
	2. What is required to keep records of imports?
	3. What is required to keep records of conventional arms that transit/transship through a State?
