



**Women's International League for Peace and Freedom  
Submission to the informal consultations on the multi-year workplans of the  
WGETI sub-working groups on articles 6&7, 9 and 11  
11 February 2021**

In August 2020, the Women's International League for Peace and Freedom (WILPF) provided its views on the draft workplans of the sub-working groups of the Arms Trade Treaty's Working Group on Effective Treaty Implementation (WGETI). These workplans were tabled for adoption by silence procedure at the Sixth Conference of States Parties (CSP6) but were not adopted.

Per the request from the CSP7 president, Ambassador Gberie of Sierra Leone, for input on those draft workplans, below is an updated version of the statement WILPF delivered in written form at CSP6 in August 2020.<sup>1</sup>

**General points on the impact of working and sub-working groups**

The process to negotiate and adopt the Arms Trade Treaty (ATT) was driven by a collective desire to reduce human suffering as caused by the international arms trade. The COVID-19 pandemic has further demonstrated the futility of providing security through military means and has both revealed and created new dimensions of insecurity and suffering.

In this context and building on years of calls from those directly impacted by the international arms trade, the Women's International League for Peace and Freedom (WILPF) again calls on ATT states parties to take a more robust, reality-based, and compliance-oriented approach to the subject of Treaty implementation. In order for the ATT to have the intended impact and maintain credibility, it is time to forego conference and meeting discussions that occur in a vacuum and examine actual practice and transfers of concern. The same time and resources being given to help lesser-resourced states parties build national control systems should also be given to examining the implementation record of well-resourced exporters. Compliance is an issue for all, and one that is not conditional.

There are various methods by which this might occur:

- The Working Group on Treaty Implementation (WGETI) could allocate time to compliance or create another sub-working group on the subject.
- Any state party, signatory, or observer could raise concerns through a statement or written submission.
- There may also be possibilities to take this up in the context of reporting or discussions of transparency.

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<sup>1</sup> WILPF statement to CSP6 on Treaty implementation, 17 August 2020, <https://reachingcriticalwill.org/images/documents/Disarmament-fora/att/csp6/statements/WILPF-2.pdf>.

- There are also important linkages to be made with the Human Rights Council's Universal Periodic Reviews and national legislative processes, particularly regarding concerns about specific arms transfers.

### **Proposed workplan for the WGETI sub-working group on articles 6 and 7**

The draft workplan for the sub-working group, which was presented at CSP6 and is still under consideration, has greater clarity and specificity in multiple areas than earlier versions. WILPF appreciates the inclusion of more expert presentations at the opening of the planned future sessions, which will be of value toward ensuring that discussion is well-guided and anchored in existing interpretations and usage of the legal concepts and terms outlined.

#### *Voluntary guide*

There is still some ambiguity around the purpose, audience, and responsibility for the maintenance of the proposed voluntary guide. Aspects of the draft workplan indicate that this document will be a reflection of the 'unpacking' exercise to be conducted by the sub-working group over the next two meeting cycles—which would help to capture existing practice and understandings, but not necessarily offer 'guidance'. Moreover, greater specificity is encouraged around who the final audience of such a guide will be, even within governments, as that will impact the nature, tone, and type of information such a guide would contain.

WILPF encourages that time allocated to substantive discussions for the draft voluntary guide be used also to cover these questions. As well, some of the proposed elements of the voluntary guide are covered extensively by resources that have already been published by states, international organisations, and civil society. The initial desk research should review these existing resources to avoid duplication and maximise the time.

#### *Gender and gender-based violence*

WILPF welcomes that the proposed workplan highlights ATT article 7.4 in the planned discussion on mitigating measures as a way to advance the decision taken by states parties at CSP5, as contained in paragraph 22(c)(ii) of the Final Report. However, there was no mention of gender or gender-based violence (GBV) anywhere in the draft report of the WGETI chairperson to CSP6 or in proposed plans for future work. It is therefore not clear how the other outcomes adopted at CSP5 in 2019 will be actioned, especially those contained in paragraphs 21, or 22(c)(i) and 22(c)(iii) of the CSP5 Final Report. It's also noteworthy that the impetus for a voluntary guide originates with the CSP5 decision found in 22(c)(vi) on gender-based violence in ATT risk assessment procedures and has now been enlarged to include other aspects of article 6 and 7 yet omits the original specific references to article 7.4. WILPF calls on states parties to be mindful of commitments undertaken at CSP5 and remains ready to engage with all stakeholders in advancing their implementation.

WILPF refers to its submission to the sub-working group on articles 6 and 7 of the Working Group on Effective Treaty Implementation (WGETI) made during the preparatory meeting in February 2020 (and annexed to this submission). It offers suggestions as to how

commitments on gender and the prevention of GBV as agreed upon at CSP5 could be integrated and implemented in this and future review cycles.

WILPF's February 2020 submission to the WGETI also encouraged the mainstreaming of gender perspectives and analysis across different articles. Then, as now, WILPF encourages working group chairpersons, future CSP presidents, the ATT Secretariat, and those responsible for administering the sponsorship programme and the Voluntary Trust Fund, to pro-actively encourage gender diversity in future meetings and events of the ATT.

*Proposed workplan for the WGETI sub-working group on article 11*

The proposed workplan for this sub-working group appears straightforward in covering the many different places in the arms transfer chain where diversion can appear. Ensuring that the responsibility of all states and stakeholders is explored fairly and equitably will be important to the effectiveness of future discussions.

Yet, this sub-working group also constitutes a natural home for states and other stakeholders to discuss and exchange information concerning real or suspected cases of diversion. The diversion information exchange forum (DIEF) that was adopted by states parties at CSP6 is problematic in numerous ways; our concerns at the time are outlined in greater detail in WILPF's CSP6 statement on transparency and reporting.<sup>2</sup> Rather than using this sub-working group as a way to learn about diversion in a thematic or abstract way, it could be utilised practically to foster stronger treaty implementation with respect to diversion prevention. To this end, it will be important that the sub-working group utilise real-world cases where a diversion risk was identified and addressed as a basis for its discussions.

WILPF supports the new inclusion of sessions that will look at the role of civil society in preventing diversion, alongside the already planned sessions to consider the role of industry.

In considering the role of industry in preventing diversion, WILPF would like to call attention to existing international standards of corporate responsibility, in particular the UN Guiding Principles on Business and Human Rights. States must also account for the principles of due diligence and the responsibility to not aid or assist in the commissioning of an internationally wrongful act.

This point is underscored in the June 2020 report of the Office of the UN High Commissioner for Human Rights (OHCHR) on the impact of diverted, unregulated or illicit arms transfers on the human rights of women and girls.<sup>3</sup> Accordingly, WILPF encourages that the gender dimensions of diversion and the impact on human rights are not overlooked in the planned future discussions and encourages all stakeholders to review the OHCHR report.

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<sup>2</sup> WILPF statement to CSP6 on transparency and reporting, 17 August 2020, <https://reachingcriticalwill.org/images/documents/Disarmament-fora/att/csp6/statements/WILPF-3.pdf>.

<sup>3</sup> *Impact of arms transfers on human rights*, Report of the UN High Commissioner for Human Rights, 19 June 2020, A/HRC/44/29, [https://www.reachingcriticalwill.org/images/documents/Resources/HRC/hrc\\_44\\_29.pdf](https://www.reachingcriticalwill.org/images/documents/Resources/HRC/hrc_44_29.pdf).



## **Women's International League for Peace and Freedom (WILPF)**

### **Considerations and inputs to the letter of the Chair and sub-working group documents of the Working Group on Effective Treaty Implementation (WGETI)**

3 February 2020

#### **Introduction**

WILPF welcomed the focused attention given to gender and gender-based violence (GBV) in 2019. It generated learning, discussion, and examination of a subject that is too often and too easily overlooked. WILPF, and other stakeholders, felt that the concrete—and generally measurable—agreements reached in this regard at CSP5 would ensure that the conversation would not end in August 2019, and that CSP5 had set out a blueprint for even deeper exchanges that could improve GBV risk assessment procedures and gender diversity in the context of ATT implementation.

However, based on a review of the draft work plan for the WGETI sub-working group on articles 6 and 7, WILPF is concerned that some of those commitments could be either overlooked completely—such as those pertaining to participation and representation—or are not given the necessary time by being bundled within broader discussion or work on article 7. WILPF understands that gender and GBV is not again the thematic focus in 2020 but but those decisions were agreed formally, following a lot of time spent in discussion and negotiation, and now need to be actioned.

Our suggestions are outlined below.

#### **Participation and representation**

The decisions from CSP5 on participation and representation toward ensuring gender balance included agreement to strive for gender balance in delegations, on panels, and in the context of sponsorship decisions; and to exchange on good practice in this area, and report back. Underpinning these decisions was recognition that this should not just be about increasing the number of women in the room but done to ensure meaningful participation—putting women into seats for the sake of numerical equality will undermine this objective overall. Participation is about being in a position to contribute to policy development, to lead, and to be heard. Diversity in our discussions cannot just be about women's participation alone. Achieving better outcome also requires the meaningful participation of those who have experienced the armed violence that the ATT seeks to , particularly in local contexts, and including means including non-binary and other LGBT+ people and other marginalised communities.

#### **Opportunities in the draft multi-year workplan**

##### *Mitigation measures*

At the proposed first CSP7 preparatory meeting where there is a suggested focus on mitigation measures, we would refer to the CSP5 decision found in paragraph 22(c) ii, in that the WGETI should encourage “States Parties to provide information on their national practices relating to “mitigating measures” in the context of article 7(4): what these can be and how they are implemented.”

#### *Gender-disaggregated data*

Paragraph 22 b) ii of the CSP5 Final Report encouraged states parties to collect gender-disaggregated data. The draft work plan could include specific references to an exchange of national practices on gender disaggregated data collection, as suggested by the WGETI Chair’s draft report to CSP5 in paragraph 28. States parties could also be encouraged to regularly report back on new initiatives and efforts at the national level in line with this effort.

#### *Strengthening understanding of implementing article 7(4)*

The former chairperson of the WGETI recalls in her draft report to CSP5 in paragraph 18 that, “Delegations highlighted the value of training of licensing officials about gender-based violence in the context of article 7.4, and noted that further discussions would be needed to identify possible approaches thereto.”<sup>4</sup> The chairperson noted that sharing of existing material and practical experiences of states parties was considered as essential.

The need to continue training export officials, and to exchange about current practices in that regard, specifically on gender and GBV, could be explicitly highlighted in the draft work plan, for instance in the 2<sup>nd</sup> CSP7 preparatory meeting that proposes to discuss implementation of article 7 as part of the voluntary guide.

#### *Mainstreaming gender across other articles*

In her draft report to CSP5, the former chairperson of the WGETI noted in paragraphs 27 and 28 that WGETI participants discussed the relevance of gender consideration for articles other than 6 and 7.<sup>5</sup> The work plan could include encouragement across the meeting cycles to include discussions and suggestions around how to mainstream gender across all articles relevant to the WGETI.

For instance, states parties and civil society reminded (paragraph 27) that article 8 has multiple gender dimensions, “whether regarding the provision of relevant information by an importing State to the exporting Party or the regulation of arms by an importing State in view of its gendered impact.”

The Chair’s draft report further recalls in paragraph 27 that participants reminded of the “importance of women in the national control system, including national authorities” as an important element for implementation of article 5.

### **Methodology for unpacking concepts**

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<sup>4</sup> Chair’s Draft Report to CSP5, ATT/CSP5.WGETI/2019/CHAIR/529/Conf.Rep, 26 July 2019, <http://reachingcriticalwill.org/images/documents/Disarmament-fora/att/csp5/documents/csp5-wgeti-draft-report.pdf>.

<sup>5</sup> Ibid.

The proposal to unpack key concepts such as “facilitate” “serious” and “overriding” corresponds neatly with paragraph 22(c) i of the CSP5 final report and plans within the WGETI sub-working group on articles 6 and 7 to “encourage discussion on States’ practice in interpreting the language and standards entailed in article 7(4), including “serious”, “facilitate” and “overriding” risk, in order to assist States Parties in considering GBV issues in implementing the Treaty.” Therefore in the proposed plans to discuss those concepts in a general way, we should also be mindful of the CSP5 directive to consider them in regards to GBV risk assessment processes specifically.

On that point, WILPF would like to refer to the paper produced by the International Committee of the Red Cross (ICRC) in April 2019 on IHL and GBV in the context of the Arms Trade Treaty (which ICRC also presented in one of the panels), as it did skilfully unpack these concepts.<sup>6</sup> Existing work such as that should be well accounted for in future discussions. Similarly, Harvard Law School’s Human Rights Clinic and the Control Arms Coalition prepared analysis about GBV and international human rights law, where they unpacked what constitutes “serious”.<sup>7</sup>

Some of the concepts suggested for discussion, particularly those found in article 6(3) such as genocide or crimes against humanity, are already well-understood and employed within different fields international law, where they have been addressed exhaustively. It would be important that discussions held here do not undermine or contradict those understandings.

If this work plan is adopted, then we urge the time to be used effectively to zero in on where there is actual misunderstanding or grey areas, or insufficient understanding of how article 6 provisions interact with other treaties and agreements.

### **Draft elements of a Voluntary [Training] Guide**

The draft outline provides an overview of what the guide could cover. Where more clarity would be helpful is on the guide’s overall purpose and added value. The current document indicates that it would be a compilation of state practice and experience. Are there other purposes that could go further, however and that would make it more of a true “guide”, such as perhaps by identifying key questions or indicators to look for in risk assessment across any of the criteria in those articles? This is a big and multi-year undertaking; so it would be important to ensure that the time is well-justified to and output that meets an identified need.

In the process of identifying the guide’s purpose, it would be good to be mindful of existing resources, whether they are in the form of documents and reports, or workshop and training materials, developed by states, international organisations, and civil society. As just one example, WILPF has published ample guidance on article 7(4), as have other actors mentioned earlier in this submission.

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<sup>6</sup> International Committee of the Red Cross, “International Humanitarian Law and gender-based violence in the context of the Arms Trade Treaty”, April 2019, [http://reachingcriticalwill.org/images/documents/Disarmament-fora/att/csp5-prep/ICRC\\_WP.pdf](http://reachingcriticalwill.org/images/documents/Disarmament-fora/att/csp5-prep/ICRC_WP.pdf).

<sup>7</sup> Control Arms Coalition and International Human Rights Clinic at Harvard University, “Interpreting the Arms Trade Treaty: International Human Rights Law and gender-based violence in article 7 risk assessments”, April 2019, <https://controlarms.org/wp-content/uploads/2019/04/Interpreting-the-Arms-Trade-Treaty-ver-1.pdf>.

On that point, WILPF notes that the CSP5 outcome document provides for the WGETI to explore elements of a guide specific to article 7(4) and not necessarily as part of a larger guide.

### **About WILPF**

The Women's International League for Peace and Freedom was established in 1915 and is the world's oldest feminist peace organisation. It created Reaching Critical Will (RCW), its disarmament programme, in 1999 to lead the organisation's analysis and advocacy for disarmament, the reduction of global military spending and militarism, and the investigation of gendered aspects of the impact of weapons and of disarmament processes.

WILPF was part of the "Make it Binding Campaign" that advocated for the inclusion of gender-based violence in the ATT. Since 2010, RCW has monitored and reporting on ATT meetings with our [\*ATT Monitors\*](#), and has published [various resources and guidance](#) for states parties on the connections between the arms trade, gender, and GBV.