



11 January 2019

Issued by the Working Group on Effective Treaty Implementation

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Dear all,

The Fourth Conference of States Parties (CSP4) of the Arms Trade Treaty, held in Tokyo on 20-24 August 2018, considered the report of the Chair of the Working Group on Effective Treaty Implementation (hereinafter WGETI). It endorsed the conclusions and recommendations of the WGETI report, which 1) note the value of the establishment of sub-working groups in order to conduct targeted work and produce concrete results and 2) underline that the work undertaken in 2018 on three priority issues (Articles 5, 6 and 7 as well as 11) is far from exhausted and requires further attention.

WGETI Sub-working Groups

As the Chair of the WGETI and guided by decisions of CSP4, I have decided to focus the work of WGETI until CSP5, first and foremost, on the three priority issues endorsed by CSP4. For reasons of efficiency and continuity, I have also decided that these priority issues will be addressed in three sub-working groups led by experienced facilitators. The priority issues and facilitators are as follows:

- **Article 5 (General Implementation) facilitated by Mr. Leonard TETTEY of Ghana.**
- **Articles 6 (Prohibitions) and 7 (Export and Export Assessment) facilitated by Mr. Daniel NORD of Sweden.**
- **Article 11 (Diversion) facilitated by Ms. Samantha ALLEN of Jamaica.**

Objectives and preparation for the January meeting

The general exchange on Treaty implementation held in the framework of the WGETI last year identified priority issues for further consideration. They also highlighted the need for work to take a concrete form and the importance of achieving concrete results. The activities of the WGETI will thus be undertaken with these two objectives in mind.

In preparation for the first WGETI meeting in January, facilitators of each sub-working group have prepared work plans for their respective sessions that you will find herewith as Annexes A, B and C.

These work plans cover both organizational and substantive elements of the work ahead. They include an overview of the aims and objectives of each of the sub-working groups, a description of the key issues that each sub-group will address, including consideration on substance and/or a list of guiding questions designed to guide discussions. The WGETI Chair's Report to CSP4 provides a central basis guiding the substance of these documents.

Participants in the WGETI are invited to rely on these documents in preparing for the WGETI meeting and are strongly encouraged to participate actively in the different sessions. Exchange of information on national approaches to Treaty implementation will be key for the WGETI to be able to fulfil its mandate and deliver concrete outcomes.

For discussions to be as informed as possible, participants are also encouraged to circulate working papers ahead of the meeting via the ATT Secretariat highlighting their key considerations on issues to be addressed by the sub-working groups.

Finally, I would like to recall that the CSP5 President has indicated that **gender-based violence** will be the theme of focus of his tenure, and has invited States Parties and signatory States as well as other stakeholders to contribute to that end. The WGETI has an important contribution to make towards this theme of focus. Accordingly, I intend to make proposals at the January meeting on how the working group could take this matter forward.

Indicative programme of work for the WGETI

The first meeting of the WGETI will take place on 29 - 30 January 2019, at the World Meteorological Organization (WMO) Building, in Geneva. The WGETI has been given 1.5 days to conduct its meeting, which will be allocated as follows:

Table 1. Schedule of WGETI Sub-group meetings (January 2019)

	29 January		30 January
10:00 – 10:15	Opening remarks by CSP5 President and WGETI Chair	10:00 – 12:45	WGETI sub-working group on Article 11
10:15 – 13:00	WGETI sub-working group on Article 5	12:45 – 13:00	Conclusions by the Chair
13:00 – 15:00	Break	13:00 – 15:00	Break
15:00 – 18:00	WGETI sub-working group on Articles 6 & 7		WGTU

Yours sincerely,

Ambassador Sabrina DALLAFIOR

Permanent Representative of Switzerland to the Conference on Disarmament
Chair of the ATT Working Group on Effective Treaty Implementation

ANNEX A

**WORK PLAN SUB-GROUP ARTICLE 5
TUESDAY, 29 JANURAY 2019, 10:15-13:00**

Introduction

1. Article 5 of the ATT obliges ATT States Parties to establish and maintain a national control system in order to implement the provisions of ATT, including a national control list, competent national authorities and one or more national points of contact to exchange information on matters related to the implementation of the ATT. The Sub-Working group on Article 5 was established during the CSP4 informal preparatory process to provide a platform for States to exchange views and experiences in the practical implementation of Article 5 obligations at national level.

2. The Sub-Working group made significant progress in its work during the CSP4 cycle as evident in the WGETI Chair's Report to the Fourth Conference of States Parties (ATT/CSP4.WGETI/2018/CHAIR/355/Conf.Rep). CSP4 endorsed the recommendations of the WGETI Chair's Report including elements relating to the work of the Sub-Working group going forward, in particular the development of a reference document to establish a national control system.

Focus of the CSP5 preparatory process

3. For the CSP5 preparatory process, the Sub-Working group will build on the work undertaken and progress made during the previous cycle. In this regard, the Sub-Working group will focus on discussing and elaborating a basic voluntary guide to establish a national control system to support of States Parties seeking to meet this challenge, relying on the elements endorsed by CSP4. Accordingly, the first meeting of the Sub-Working group on 29 January 2019, will consider the following aspects of the guide:

- a. What is a national control system?
- b. Why is a national control system necessary?
- c. What are the elements of a national control system?
 - i. Legal and regulatory framework
 - ii. Institutions
 - iii. National points of contact

4. Attachment 1 of provides a detailed agenda for the Sub-Working group session of 29 January 2019. Attachment 2 is the draft basic guideline document to facilitate discussion of the Sub-Working group on that day. Participants are encouraged to consider these draft documents in advance of the Sub-Working group meeting and participate actively in the discussion.

5. Depending on progress made by the Sub-Working group in its first meeting as well progress of discussion in other ATT working groups, the second meeting of the Sub-Working group will consider the following aspects of a national control system as endorsed be CSP4.

- iv. Procedures

- v. Documentation
- vi. Training and capacity building

ATTACHMENT 1

**DRAFT AGENDA FOR SUB-GROUP ON ARTICLE 5
29 JANUARY 2019**

- 1. Opening remarks (reflections and way forward)**
- 2. Basic guide to establishing a national control system**
 - a. General overview
- 3. Section 3.a: Legal and regulatory framework**
 - a. Section 3.a.1 & ii: Laws; Regulations and administrative procedures
 - b. Case study: experience conducting a gap analysis
 - c. Section 3.a.1 & ii: National Control List
 - d. Presentation on status of national control lists
 - e. Case study: experience in adopting a national control list
 - f. Discussion on Section 3.a
- 4. Section 3.b: Institutions**
 - a. Section 3.b.i: Competent national authority
 - b. Case study: experience in establishing national control authority
 - c. Section 3.b.ii: National points of contact
 - d. Case study: experience in establishing a national point of contact
 - e. Discussion on Section 3.b
- 5. Closing remarks (reflections and way forward)**

ATTACHMENT 2

(DRAFT) BASIC GUIDE TO ESTABLISHING A NATIONAL CONTROL SYSTEM

(see separate document)

ANNEX B**WORK PLAN SUB-GROUP ARTICLES 6-7
TUESDAY, 29 JANUARY 2019, 15:00-18:00**

Articles 6 and 7 of the ATT contain some of the key provisions of the Treaty, including the prohibitions that States Parties need to abide by, the rules concerning export and the requirement that export assessments are being conducted. In between themselves the two articles contain many provisions where further discussion among States and non-governmental actors on how to implement them may be useful. It is not to be expected that practice or views will be similar on all issues, but even when they differ a broad discussion is always helpful to increase understanding of the Treaty and how to implement it. They can also help in identifying measures that could be helpful to States Parties in their implementation of these articles.

General outline of the work plan

During the work of the sub-group in 2018, the approach was to combine a presentation of a State Party on implementation of Articles 6 and 7, which was followed by a questions and discussion session allowing delegations to reflect and comment on their own systems for implementation as well as put forward questions to the presenting State Party, together with separate discussions on specific issues related to Articles 6 and 7. As this approach was broadly supported, a similar approach will be utilized for the planning of a work plan for 2019.

With regard to Articles 6 and 7, the sub-group is still tasked to focus on “*practical implementation (national structures and processes required to implement the articles, experiences made in implementing the articles).*” At the conclusion of the work in 2018, the sub-group also underlined in its report to CSP4 the value of a more in depth discussion on Article 7.4 during 2019 than time allowed for in 2018.

Agenda***1. Presentation and discussion on working methods to implement Article 6 and 7 by the Serbian export control authority***

This presentation will include, amongst others: a brief description of the Serbian arms export control system, with a focus on how to ensure the prohibitions in Article 6 are respected; that the necessary risk assessments are made under Article 7 and based on what information; examples of sources used for risk assessment; need for in-house expertise available vs access to external expertise; role of other parts of government and/or ministries; possible mitigation measures; who takes the decision to grant or deny export license application – civil servants or political process.

Participants are encouraged to actively engage in the discussion with reflections and comments including possible similarities or differences to their own arms export control systems, including structure and work methods and challenges in implementing the relevant articles of the ATT.

2. Panel presentation and discussion on article 7.4

The discussion will be opened with a panel presentation on the background of article 7.4 by Ireland and by Control Arms on their recent publication “How to use the Arms Trade Treaty to address Gender-Based Violence: A Practical Guide for Risk Assessment”.

In the following discussion, apart from providing possible comments or questions to the panelists, delegations may consider briefly presenting national experiences of using Article 7.4 – need for and access to specific expertise? Is the risk assessment for Article 7.4 done in the beginning of an assessment process or at the end, or as part of a more holistic risk assessment process? (overall risk assessment). How often has 7.4 been the reason for denying a license application? And possible other national experiences and lessons learned so far from implementing 7.4.

Participants may also discuss whether they would see value in the provision of voluntary guidance in support of States Parties' implementation of article 7.4 and what form such support could take.

Delegations could also consider commenting on linkages between article 7.4 with articles 6.3 and 7.1 and what type of GBV violations the ATT covers, if such distinctions can be made, as well as if some items covered by the ATT Articles 3 and 4 are more sensitive than other with regard to the risk of these items being used for serious acts of GBV or serious acts of violence against women and children.

ANNEX C

**WORK PLAN SUB-GROUP ARTICLE 11 (DIVERSION)
WEDNESDAY, 30 JANUARY 2019, 10:00-13:00****Introduction**

1. The Chair of the Working Group on Effective Treaty Implementation (WGETI), Ambassador Sabrina DALLAFIOR of Switzerland, established the Sub-Working Group on Article 11 (Diversion) at the commencement of the preparatory process for the Fourth Conference of States Parties (CSP4) to the Arms Trade Treaty (ATT) in January 2018, and appointed Australia to facilitate the work of the Sub-Group in the lead up to CSP4. The Sub-Group made significant progress during its first year of work, and identified many areas to take forward (see paragraph 36 of the Report to the Fourth Conference of States Parties (CSP4) (ATT/CSP4.WGETI/2018/CHAIR/355/Conf.Rep) presented by the Chair of the WGETI to CSP4).

2. The Chair of the WGETI appointed Jamaica, who nominated Ms. Samantha ALLEN, to facilitate the work of the Sub-working Group on Article 11 at the commencement of the preparatory process for the Fifth Conference of States Parties (CSP5) to the ATT. The work of the Sub-Group will build on the work undertaken and progress made during the previous cycle.

Multi-year work plan

3. Considering the outstanding volume of work in the subject of diversion, the facilitator has prepared a draft multi-year work plan that is derived from Annex D to the WGETI Report to CSP4 titled: *Possible measures to prevent and address diversion* (ATT/CSP4.WGETI/2018/CHAIR/355/Conf.Rep). The multi-year plan is designed to focus on the points in the life-cycle of a weapon when diversion can occur, and identify the challenges associated with the risk of diversion at each stage of the life-cycle and possible measures to mitigate or prevent diversion at the various stages. Sequencing the work as proposed will also enable targeted participation by relevant experts depending on issues addressed. The work plan also takes into account the decision by CSP4 that the Sub-working group should focus on policy-level exchange on diversion.

4. The multi-year plan focuses on the *prevention* of diversion. The hope is that by the end of the multi-year work plan, the Sub-working Group will have considered the main diversion points/issues along the arms transfer chain, from the point at which an export licence application is made, through the physical transfer of the arms, to the point of delivery in the importing State, and States Parties will have identified possible voluntary common principles/practice or guidelines that they could consider to apply at each stage in an effort to prevent the diversion of the transfer of conventional arms in accordance with Article 11(1)-(3) of the Treaty. The Sub-group could then focus on consideration of the measures that could be undertaken to prevent the diversion of transferred arms in the longer-term, and to *address* diversion if the diversion of transferred arms is detected, in accordance with Article 11(4)-(6) of the Treaty.

5. A draft of the proposed multi-year plan is included in Attachment 1 for consideration and discussion during the first CSP5 meeting of the Sub-working on Article 11 on 30 January 2019. Participants are also welcome to submit their written comments and suggestions to the facilitator through the ATT Secretariat at: info@thearmstradetreaty.org. A revised version of the multi-year work plan incorporating comments and inputs compiled by the facilitator will be presented to the second CSP5 meeting of the Sub-working Group on Article 11 in April 2019, with a view to its endorsement/adoption at CSP5.

6. Following a discussion on the multi-year work plan, the meeting on 30 January will address the first stage of the transfer chain, in other words *import documentation*. Regarding this discussion, the facilitator would like to invite participants to consider the different elements for consideration highlighted in the workplan. The intention is to exchange information and experiences and to identify common practices relating to this topic, including the process for preparing such documentation and agencies involved, as well as challenges faced by States. The facilitator would therefore be grateful if participants could consider the elements/questions in section 1. of the work plan and be prepared to address them. Should elements be missing in the list, participants are invited to raise them during the meeting.

ATTACHMENT 1
DRAFT MULTI-YEAR WORK PLAN FOR THE WGETI SUB-WORKING GROUP ON ARTICLE 11 (DIVERSION)

1 st CSP5 Preparatory Meeting, 30 January 2019	
10.00-11.00	<p>Draft Multi-year Work Plan</p> <p>Introduction by facilitator</p> <p>Open discussion</p> <p><i>In reviewing the draft proposed multi-year plan, participants are invited to consider, amongst others, the following questions:</i></p> <ol style="list-style-type: none"> <i>a. Has sufficient time has been allocated to each topic?</i> <i>b. Have any topics been omitted that should be included?</i> <i>c. Has any consideration been omitted?</i>
Transfer chain stage 1: Before the transfer	<p>11.00-13.00</p> <p>1. Import documentation¹</p> <p><i>This discussion will explore the types of written documentation submitted as part of an application for an export licence from the exporting State (such as contracts or agreements, international import certificates, transit approvals, end-use/r certificates (EUCs), and various other assurances). It will consider:</i></p> <ul style="list-style-type: none"> <i>- What types of written documents exist?</i> <i>- How are such documents prepared? Which ministries and agencies are involved?</i> <i>- What is the role and/or responsibilities of the importing State regarding such documents?</i> <i>- What is the role and/or responsibilities of the transit/transshipment State(s)?</i> <i>- What is the role and/or responsibilities of the brokering State(s)?</i> <i>- What is the role of the exporting State (i.e. verification and authentication as part of diversion risk assessment)?</i> <i>- In practice, what are the common elements of such documents? What assurances are provided? What is the minimum that should be required?</i> <p><i>It will also examine the role of information exchange in verifying and authenticating import documentation and identify the types of information exchange that are relevant and necessary.</i></p>

¹ Paragraphs 3, 6 and 7 of the Sub-working group paper : [Possible measures to prevent and address diversion](#) (available in other languages [here](#)).

2 nd CSP5 Preparatory Meeting, 03 April 2019		
Transfer chain stage 1: Before the transfer	10.00-12.15	<p>2. Assessing the risk of diversion²</p> <p><i>This discussion will explore the practicalities (including resource requirements and challenges) associated with assessing the risk of diversion of an export and the possible establishment of mitigation measures, including:</i></p> <ul style="list-style-type: none"> - <i>How to undertake consistent and objective transfer risk assessments that take into account the risk of diversion (Articles 7(1) and 11(2));</i> - <i>How to establish the legitimacy and credibility of all parties involved in the transfer, such as the exporter, brokers, shipping agents, freight forwarders/intermediate consignees and stated end-use/r (Article 11(2));</i> - <i>How to examine the risks arising from the proposed shipment arrangements;</i> - <i>How to assess the reliability of controls in the importing country and the transit country (if applicable); and</i> - <i>How to examine the risk that a conventional arms transfer would increase the risks of diversion of the existing holdings of the end-user.</i> - <i>What are the options for mitigating detected risk(s)?</i> <p><i>It will also examine the role of information and information exchange in conducting a risk assessment and identify the types of information and mechanisms of information exchange that are relevant and necessary.</i></p>
	12.15-13.00	<p>3. The role of the private sector in mitigating diversion risk</p> <p><i>This discussion will explore the role of the private sector, including arms manufacturers/industry and civil society, in mitigating diversion risk before the physical transfer takes place. It will also examine the role of internal export control compliance programmes.</i></p>

² Paragraph 5 of the Sub-working group paper : [Possible measures to prevent and address diversion](#) (available in other languages [here](#)).

1 st CSP6 Preparatory Meeting, (date TBC)		
Transfer chain stage 2: During the transfer	10.00–12.15	<p>1. The role of transit States in preventing diversion</p> <p><i>This discussion will explore the measures that can and are being taken by transit States to mitigate the risk of diversion during a transfer, including:</i></p> <ul style="list-style-type: none"> - <i>Issuing delivery notification (through delivery receipts signed by the importations customs service, delivery verification certificate, etc.) (Article 11(3)); and</i> - <i>Monitoring and protecting conventional arms shipments, in cooperation with industry parties involved (e.g. freight forwarders/intermediate consignees, transporters etc).</i> <p><i>It will also examine the practical and legal challenges faced by transit States in preventing diversion during transit (by sea, air or land – road and rail), as well as the role of cooperation and information exchange among States involved in a transfer during the transfer phase and identify the types of information exchange that are relevant and necessary.</i></p>
	12.15–13.00	<p>2. The role of the private sector in mitigating diversion risk</p> <p><i>This discussion will explore the role of the private sector, in particular transporters (road, rail, air and sea), freight forwarders/intermediate consignees, etc mitigating diversion risk during transfer.</i></p>

2 nd CSP6 Preparatory Meeting, (date TBC)		
Transfer chain stage 3: At or after importation / Post-delivery	10.00–11.30	<p>1. The role of importing States in preventing diversion</p> <p><i>This discussion will explore the measures that can and are being taken by importing States to mitigate the risk of diversion post-delivery, including</i></p> <ul style="list-style-type: none"> - <i>Issuing delivery notification by the importing State (through delivery receipts signed by the importations customs service, delivery verification certificate, etc.) (Articles 8(1) and 11(3));</i> - <i>Registering and maintaining records of conventional arms entering their national territory, as well as the secure transfer of these to the authorised end-user (Article 12 (2)); and</i> - <i>Ensuring adequate stockpile management.</i>
	11.30–13.00	<p>2. Post-delivery cooperation</p> <p><i>This discussion will explore the possibility of exporting States conducting post-delivery checks in cooperation with competent authorities in the importing State to verify compliance with end-use conditions, such as the condition that no re-export can take place without prior notification to the country of origin. It will examine the political and resource implications of such checks.</i></p>