Women’s International League for Peace and Freedom (WILPF)

Considerations and inputs to the President’s paper on transparency and exchange of information and its role in the prevention of diversion

28 May 2020

WILPF welcomes the ongoing commitment of the President, states parties, working groups, and other stakeholders to advance work in the sixth review cycle (CSP6) of the Arms Trade Treaty (ATT) despite the significant challenges posed by the COVID-19 pandemic.

Given the unique circumstances resulting from the COVID-19 pandemic and related changes to our normal ways of working, WILPF encourages organisers to ensure that any remote and virtual consultations are held in a transparent, secure, and accessible manner for both governmental and non-governmental stakeholders alike.

While it is vital that the ATT community continue its work, we cannot just proceed with a ‘business as usual’ approach. The current crisis triggered by the pandemic has exposed the fault lines of our global economic and social systems. As WILPF has highlighted elsewhere, the pandemic has demonstrated that it is not guns and battle tanks that ensure global peace and security in a crisis such as this, but essential workers in the health and food sector, in public transportation, and in the provision of other essential services. It is not firearms and bombs that can help cure COVID-19 patients but a ventilator and an ICU bed. Yet in many countries, arms production has been deemed an “essential service” that is carrying on despite the pandemic, while most countries face shortfalls in essential medical equipment.

The UN Secretary-General issued an appeal for a global ceasefire in late March 2020. Many governments and non-state armed groups around the world have indicated they would comply with a ceasefire. As of late May, 115 UN member states as well as 16 non-state armed groups have supported the call and an online petition in support of the appeal has so far collected more than two million signatures. However, in most cases, the fighting has not stopped. While the broad rhetorical support for a ceasefire is an historic achievement, it is equally important that arms companies, governments, and brokers stop providing weapons, as WILPF has argued elsewhere. Ending the supply of weapons is imperative to help improve the chances that they will not be used. Notably, some arms companies have paused production or are assisting with the production of ventilators. But other states, including ATT states parties, have approved new arms deals while also endorsing the ceasefire call.

WILPF urges that work undertaken in the context of the CSP6 meeting cycle not continue as if the current crisis didn’t exist. The ATT does not operate in a vacuum. The ATT’s purpose to reduce human suffering, and to contribute to peace, security, and stability is more relevant than ever.
In light of the current crisis and a dire lack of resources in critical areas, WILPF urges the President, along with the chairpersons of the three working groups to evaluate if, and how, the proposed work plans, discussions, and related resource allocations, contribute to the impact that the ATT was meant to have. WILPF urges the President and Chairs of the working groups to ensure that the creation of elaborate work plans and guides do not serve as an excuse to avoid or delay addressing the more politically challenging issues of non-compliance by some ATT states parties through on-going problematic arms transfers.

A general remark on gender diversity and perspectives

WILPF made a submission to the sub-working group on articles 6 and 7 of the Working Group on Effective Treaty Implementation (WGETI) to the preparatory meeting in February 2020. It offered suggestions as to how commitments on gender and the prevention of gender-based violence (GBV), as agreed upon at the Fifth Conference of States Parties (CSP5), could be integrated and implemented in this and future review cycles. However, WILPF is concerned that most agreed commitments on gender and GBV are yet to be incorporated into the WGETI’s, and the Working Group on Transparency and Reporting’s (WGTR) planned work as the CSP5 decisions provided a baseline for. Our February 2020 submission containing suggestions on this point are annexed to this submission.

WILPF’s last submission to the WGETI had encouraged the mainstreaming of gender perspectives and analysis across different articles. Moreover, while recognising the challenges and uncertainty around delegates’ modes of participation in upcoming CSP meetings, the President, along with the the WGTR Chair and the WGETI’s Chair and Chairs of sub-working groups could explicitly encourage gender diverse delegations and participation in all upcoming discussions or written inputs.

Similarly, the President could in any future correspondence encourage states parties to regularly report back on new initiatives and efforts at the national level in line with agreed CSP5 commitments on gender and gender-based violence.

WILPF believes that the encouragement for gender diversity and gender analysis across different articles in the President’s and Chairs’ letters would be an easy and straightforward way to ensure states parties give continued consideration to commitments made at CSP5.

Transparency and exchange of information: Its role in the prevention of diversion

WILPF welcomes the recommendations contained in the President’s paper which seek to strengthen transparency and exchange of information between states to prevent diversion. This is an important dimension of the Treaty and some of the recommendations identified by the President could lead to tangible results in diversion prevention.

WILPF suggests the following considerations to strengthening the recommendations:

1) All of the proposed recommendations would fulfill existing Treaty obligations, as outlined earlier in the President’s paper. As such, they should constitute a floor and not a ceiling. This framing could be reinforced in how the recommendations are
presented within the final report and to states parties, and not as “additional” steps or new requirements. Including deadlines, frequency, or timeframes for some of the recommendations would be an easy way to present them less as an option and ensure their fulfillment, as would noting within the Final Report how each recommendation aligns with specific obligations.

2) The recommendation from the President about establishing and maintaining national points of contact aligns with information meant to be provided in the ATT Initial Report. This is a requirement made more clear in the proposed revised initial reporting template prepared by the Working Group on Transparency and Reporting. This relationship could be articulated in the context of the Final Report.

3) It would be useful to view information-sharing and exchange on diversion—and all the possible steps identified in the paper—in a larger context of similar efforts in other fora to avoid duplication and disparate yet overlapping discussions. Coordinating and working across mechanisms such as the UN Programme of Action (UNPoA), the UN Register on Conventional Arms (UNROCA), the International Tracing Instrument (ITI), and regional conventions would enrich information exchange on diversion. As well, coordination and information exchange with human rights mechanisms that have addressed the issue of arms transfers and diversion would be beneficial. As just one example, the Human Rights Council’s latest resolution on arms transfers requested the UN Office of the High Commissioner of Human Rights (OHCHR) to prepare a report on the impact of the diversion of arms and unregulated and illicit arms transfers on the human rights of women and girls, to be presented to the 44th session of the Human Rights Council. Importantly, the report will compile states’ practices on the prevention of diversion, both by exporting and importing states.

The coordination and information exchange across different instruments can present a more thorough overall understanding about arms flows and diversion in particular, and enhances the potential practical use and application of the information reported on. Viewing ATT reporting practices in a vacuum not only reduces the potential practical use and application of the information reported on, by presenting only a partial picture, but also contributes to redundancies and reporting fatigue. WILPF encourages the President, states parties, relevant working group chairpersons, and the broader ATT community to be mindful of these opportunities for learning as well as information sharing and exchange, across forums and reinforce them in how the recommendations are presented in the Final Report.

Please see the next page for the ANNEX.
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.’” 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 2nd 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 7.2 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


2 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. 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”.

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.


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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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 2015 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.