

Response to the documents of the Working Group on Transparency and Reporting for CSP6 (April 2020)

All the comments below are cognisant of the fact that one of the purposes of the ATT is to “[promote] cooperation, transparency and responsible action by States Parties” (Article 1).

Saferworld notes an apparently growing drift away from meaningful transparency, most obviously in the increase in the number of national reports that are not being made public, but also through the expansion of the restricted area of the ATT website. The three-tier approach to sharing information on diversion is another manifestation of this disturbing trend.

There is clearly a distinction between information-sharing and transparency (hence the need for and the use of the two terms), yet there seems to be a growing conflation of the meaning in the official ATT discourse.

To be clear, transparency refers to information being in the public-domain. Information-sharing can take place in public, however it also applies to information being shared on a more restricted basis.

We urge States Parties to reflect on the purpose of the Treaty and to recommit in good faith to maximum transparency, except when there is a clear and specific imperative to apply restrictions on their information-sharing. We also call on States Parties to do all they can to encourage others to be fully transparent wherever possible. By way of example, most reporting States Parties make their national reports public. This points to the fact that publication of information on national transfer systems and on arms exports and imports is not naturally problematic. States Parties should therefore be promoting the publication of these reports by their peers.

Regarding Summary Report of the WGTR meeting on 6 February 2020

[ATT/CSP6.WGTR/2020/CHAIR/593/M1.Rep](#)

The use of the restricted part of the ATT website

Further to the comments above, Saferworld notes the repeated encouragements in the WGTR summary report for States to share information on the information exchange platform/the restricted part of the ATT website, for example with regard to:

- Their response to the WGTR summary report (paragraph 5)
- Submitting reflections on the comparability of data (paragraph 13)
- Submitting their national reports (para 17), which is unremarkable in isolation but becomes more of an issue when taken as part of this broader trend
- Engaging in “discussion on announcements that will be posted” (with those postings also in the restricted part of the website) (paragraphs 17 and 40)
- Submitting comments and conducting consultations on the updated reported templates (paragraphs 34 and 10 respectively)
- Exchanging or sharing of information that is required or encouraged by the Treaty and that (potentially) involves or could be useful for all States Parties and signatory States (paragraph 40)

- Exchanging information concerning international cooperation (paragraph 40)

In addition, access is restricted to all the establishing and managing documents relating to the Diversion Information Exchange Forum, including its terms of reference and costs. The same is true, according to the WGTR summary report, for that Forum's deliberations.

Taken together, along with the increase in the number of States Parties submitting reports that were not made publicly available (e.g. from four in 2017 to 10 in 2018) and the organisation of meetings only accessible to States Parties and Signatories, we are concerned that the current direction of travel is at serious risk of undermining the positive progress in transparency and inclusiveness that has been one of the hallmarks of the ATT process.

We recommend that in the first instance all submissions made in response to the CSP6 Documents for consultation, including with respect to the documents of the WGTR, should be placed in the public section of the ATT website, regardless of whether they were submitted via the restricted part of the website. We also encourage States Parties to commit to setting out standard rules for making all submitted documents public by default, unless specific requests are made to the contrary on grounds of national security or commercial confidentiality.

The "Harmonised System" (HS) of the World Customs Organisation (WCO),

Saferworld is greatly encouraged by the work of the Belgian co-facilitator of the WGTR in exploring the relationship between conventional arms categories and Customs HS codes (paragraph 12). We look forward to the publication of the proposed short concept note and encourage all States Parties to engage fully with this issue, as this could lead not only to more meaningful transparency at the national level, but also to an important advances in the comparability and aggregation of export and import data produced by States Parties. The current incomparability of data is a major weakness of the current reporting regime. To this end we also support the invitation by the co-facilitators for reflection on the issue of data comparability in annual reports (paragraph 13).

Agenda item 1: State of play of compliance with reporting obligations

We welcome the decision of the co-facilitators to include a discussion on the issue of public availability of annual and initial reports in the draft mandate for the WGTR beyond CSP6 and call on States Parties to support this. We recommend that this discussion include a greater recognition of the difference between information-sharing and transparency. As is made clear above, Saferworld is concerned by the number of reports being kept confidential, and supports all efforts to encourage greater transparency in this area.

Agenda item 2: Challenges concerning reporting – Recurring task 3

Saferworld has consistently argued that efforts to promote transparency should not be restricted to the deliberations of the WGTR, and that the President has (and others have) a clear role to play in this as well. We therefore welcome and support the efforts of the President of CSP6, Ambassador Carlos Foradori, to carry out bilateral consultations with non-reporting States in the intersessional period, and look forward to the briefing on the results of his efforts. We urge the President in his efforts to stress the value and importance of *public* reporting. In addition, while recognising the challenges posed by the COVID-19 pandemic, Saferworld urges all ATT office-holders, including but not only the President, the ATT Secretariat and the WGTR co-facilitators, to use regional and sub-regional fora as venues to promote public, timely, accurate and comprehensive reporting where appropriate and where circumstances allow.

Regarding [Draft proposed amendments to the Initial Reporting template](#)

Saferworld regards the updated Initial Reporting template a substantial improvement on the original.

We have, however, identified a number of cases where clarity could be improved through relatively minor further amendment. In some instances these amendments are proposed to help address ambiguity or situations where the answer is not a clear YES or NO. They are listed in order. New or additional language is in **BOLD CAPS**; deleted language is ~~struck through~~. Where explanation is considered necessary, it follows in *italics*.

3. EXPORTS

C: National export controls apply to **ALL** the conventional arms covered under Article 2(1), and the items covered under Articles 3 and 4

(If 'No', please provide further information below)

F: If a risk is identified, **DOES** the State **EVER** considers whether there are measures that could be undertaken to mitigate identified risks? [Article 7(2)]

(If 'Yes' please give examples of **WHEN MITIGATION MEASURES ARE CONSIDERED AND** the types of risk mitigation measures that are most often used)

N: There are legal provisions for suspension or withdrawal of a license? [Article 7(7)]

(IF 'YES', PLEASE ELABORATE UNDER WHICH CIRCUMSTANCES. [FOR EXAMPLE, SUCH A PROVISION MIGHT EXIST WITH RESPECT TO UN ARMS EMBARGOES BUT NOT OTHERWISE.] If 'No', please explain.)

Q. The national control system **PROVIDES INFORMATION REQUESTED OF IT BY** ~~allows~~ a State of final destination ~~to request information~~ concerning pending or actual export authorizations pertaining to it [Article 8(3)]

(IF 'YES', WHAT TYPES OF INFORMATION. If 'No', please elaborate below).

It is not clear what is meant by a control system allowing questions being asked of it by another state, or how it could prevent questions being asked. The key issue is: if a question is asked, will an answer be provided?

5. TRANSIT & TRANS-SHIPMENT

F. Does your State ~~only~~ apply control to prevent transit and trans-shipment **OTHER THAN** in violation of the prohibitions in Article 6?

(If ~~No~~ **YES**, please specify the other control measures that your States applies to transit and trans-shipment.)

6. BROKERING

D. Does your State ~~only~~ apply control measures to prevent brokering **OTHER THAN** in violation of the prohibitions in Article 6?

(If '~~No~~**YES**', please specify the other control measures that your States applies to brokering)

8. RECORD KEEPING

B Records are kept for a minimum of 10 years [Article 12(4)]

(IF '**YES**', PLEASE ELABORATE FOR HOW MANY YEARS RECORDS ARE KEPT. If 'No', please elaborate below)

9. REPORTING

A. The national control system allows for the provision of information **FOR THE PRECEDING CALENDAR YEAR CONCERNING AUTHORIZED OR ACTUAL EXPORTS AND IMPORTS OF CONVENTIONAL ARMS COVERED UNDER ARTICLE 2 (1)** as required by Article 13(3)

(If 'No' **OR ONLY PARTIALLY**, please elaborate below)

Regarding [Draft proposed amendments to the Annual Reporting template](#)

Saferworld recommends changing the language in the opening chapeau to the Annual Reporting template to more positively reflect the purpose of the Treaty relating to cooperation and transparency by States Parties.

Our proposed amendment reads as follows:

“Shaded columns and rows are included so as to enable States Parties to provide further details that would provide additional clarity to the substance of their report.”

This would need to be reflected in a change to paragraph 12 of the Explanatory notes.

In a similar vein, and pursuant to points made in response to the Summary Report of the WGTR meeting on 6 February 2020 (see above), the chapeau provides an opportunity to encourage States Parties to make their reports publicly available and to include in them as much information as possible, potentially with explicit reference to Article 1 of the Treaty.

Finally, Saferworld considers that explanatory notes 7 and 8 could be usefully reworded to further promote comprehensive reporting.

In explanatory note 7, for example, “A State Party wishing to report both authorised and actual exports/imports may of course do so, but then needs to submit two tables ...” would

be replaced with “States Parties are welcome/encouraged to report both authorised and actual exports/imports. Where they do so, they should submit two tables ...”

Similarly, explanatory note 8 could be amended to read: “States Parties are welcome/encouraged to report both quantity and value.”