



ICRC

5TH CONFERENCE OF STATES PARTIES TO THE ARMS TRADE TREATY 28 August 2019, Geneva

Statement of the International Committee of the Red Cross (ICRC)

Treaty Implementation

Thank you, Mr Chair.

On behalf of the ICRC, let me begin by expressing our appreciation to you and to Switzerland for chairing the Working Group on Effective Treaty Implementation, and to Ghana, Sweden and Jamaica for acting as facilitators on Articles 5, Articles 6 and 7, and Article 11 respectively.

We also thank Australia, Bulgaria, Ghana, Liberia, Serbia, South Africa and the UK for their presentations made during the Working Group meetings, in which they shared the substantive measures they have taken, and some of the challenges they face, in implementing the Treaty. These presentations sparked useful discussions and engendered an environment conducive to an open exchange of views. We strongly encourage States Parties to continue to share experiences and good practices in the Working Group. This is an important means for States Parties to help each other in complying with their obligations.

We welcome the Basic Guide to national implementation – an important achievement that reflects how far we have come since the adoption of the Treaty. By striving for the highest standards of implementation, States Parties will ensure that the ATT is an effective and credible instrument, and attracts further States to join. Any assistance that can be provided to States in this regard, such as the Basic Guide, is a worthwhile endeavour. We look forward to seeing this document develop as States explore further aspects of Treaty implementation.

We also welcome the update to the Lists of possible reference documents to be considered by States Parties in article 5 implementation, and in conducting risk assessments under article 7, and we are pleased to see that it contains references to two ICRC publications: *Understanding the Arms Trade Treaty from a Humanitarian Perspective*, and *A Practical Guide to Arms Transfer Decisions*.

We thank you the Mr. Chair for initiating a discussion on the future work of the Working Group on Effective Treaty Implementation. The ICRC considers that articles 6 and 7 are 'at the very heart of the Treaty' -- their faithful implementation is crucial to fulfilling the Treaty's promise of reducing human suffering through the responsible arms trade. These provisions deserve continued focus by the Working Group. As the ICRC's Vice President emphasised during the opening session, the ATT's strict controls on the flow of weapons are founded on the duty to ensure respect for IHL, which is a key Principle of the ATT, enshrined in its Preamble.

For these reasons, the ICRC welcomes the elaboration of a focused multi-year work plan that prioritises work on the practical aspects of implementing articles 6 and 7, and we welcome that it reinforces the President's recommendation in paragraph 3 of his draft paper on gender and gender-based violence.

Mr. Chair, the following topics would in our view merit a focused discussion by the Working Group (in order of priority from our perspective):

- the practical aspects of assessing the risk of serious IHL and international human rights law violations, including what factual indicators of risk are examined when carrying out the risk assessment
- how States are applying the threshold of ‘overriding risk’ in article 7(3) in practice, and
- what effective, practical, realistic and feasible measures should States Parties take to mitigate the risks listed in article 7, and how are these to be considered as part of the risk assessment and decision-making process.

As the ICRC Vice President emphasised during the opening session, States Parties must interpret and implement the ATT in good faith, in accordance with its humanitarian purpose, and – as required by Article 5(1) of the Treaty – in a consistent, objective and non-discriminatory manner, also bearing in mind their responsibilities to respect and ensure respect for IHL and for international human rights law. This is a matter of the Treaty’s credibility. Indeed, it is critical to meeting the expectation of transparency set out in the Treaty and build confidence that its provisions are being implemented to effectively prevent the most egregious acts of violence in armed conflicts and other situations of violence.

Thank you.