



---

Arms Trade Treaty  
Working Group Meetings  
15 - 18 February 2022  
**Working Group on Effective  
Treaty Implementation**  
**Article 6 & 7 ATT**

---

Facilitator: Ambassador Ignacio SÁNCHEZ DE LERÍN (ESP)

**Topic 5: Voluntary Guide – Draft Elements of Chapter 1 (Key concepts)**

Mr. Facilitator

Switzerland appreciates the continued work on this voluntary guide. It is very useful to exchange information on the understanding of the specific provisions and concepts in the ATT.

In our view, the collected information in Chapter 1 is very comprehensive and Switzerland's inputs are well reflected. However, it is important to emphasize that other instruments that are not explicitly mentioned in the guide might be of relevance for states and for the future work of the Working Group as well.

We have a few minor suggestions for complementing elements that we would ask you to include into the document, if agreeable to everyone.

While I will provide them in writing to you, Mr. Facilitator, I would like to highlight three of them verbally right away:

1. In paragraph 13 about the implementation of article 7.1.b(i), we would like to be a bit more specific with regard to an input provided by Switzerland. We would like to clarify that a "serious violation of international humanitarian law" goes beyond war crimes and applies to acts that are not criminalized as well. The additional language that we propose for paragraph 13 reads as follows: "*serious violations of international humanitarian law do not require a specific element of intent*";
2. For paragraph 16, we suggest to include the Covenant on Civil and Political Rights of 1966;
3. For paragraph 31, we suggest to be more specific in clarifying that according to article 7(3), the overriding risk needs to prevail after having considered available mitigation measures in order for a denial to be mandatory. The fourth bullet in paragraph 31 currently reads as follows: "*a negative consequence set out in art. 7(1) is "very likely" or "more likely than not" to occur*" and we suggest to add the following language: "*, even after the expected effect of any mitigating measures have been considered.*"



As stated, we will provide these inputs as well as a few other minor proposals in writing to the Secretariat right after this meeting.

In general, Switzerland very much welcomes the further development of the voluntary guide and calls upon all state who have not yet done so to provide their interpretations and concepts to the Facilitator for the completion of this document.

Thank you, Mr. Facilitator.

### **Topic 6: Scope of Article 6**

Mr. Facilitator

Thank you for giving me the floor again. We gladly provide our interpretation on the mentioned concepts in article 6.

With respect to the first question, it is our understanding that that any physical transfer of conventional arms across the border with an associated transfer of control is subject to the prohibition in article 6 irrespective of whether it is a sale, a loan, a leases or a gift. For example, if country A sends conventional weapons for a peacekeeping mission to country B and then hands the control over the conventional arms over to country B, this should count as a transfer.

With respect to the second question, it is Switzerland's understanding that these obligations concern all actions with respect to threats to the peace, breaches of the peace, and acts of aggression according to chapter VII of the UN Charta.

Regarding the las question, we consider at least seven international obligations as relevant under article 6(2). These are:

1. The UN Charter;
2. The Convention on Certain Conventional Weapons CCW and its protocols;
3. The Anti-Personnel Landmines Convention;
4. The Convention on Cluster Munitions;
5. The Convention against Transnational Organised Crime;
6. The Fire Arms Protocol;
7. The Convention against Corruption.

This list is not exhaustive. Other international agreements with regard to international humanitarian law and human rights law may also be of relevance to article 6(2).

Mr. Facilitator, as for the previous topic, we will provide our intervention for this topic in writing as well.

Thank you, for having given me the floor.