



Arms Trade Treaty
Working Group Meetings
26 – 29 April 2022
**Working Group on Effective
Treaty Implementation**
Article 6 & 7 ATT

Topic 6: Scope of Article 6

Question/Treaty Text	Answer/CH interpretation
Article 6: What does 'shall not authorize any transfer' entail in the context of Article 6?	It is Switzerland's understanding that any physical transfer of conventional arms across the border is subject to the prohibition in article 6 irrespective of whether it is a sale, a loan, a leases or a gift.
Article 6(1): What 'obligations under measures adopted by the United Nations Security Council' are covered under Article 6(1)?	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.
Article 6(2): What 'international obligations under international agreements' are 'relevant' under Article 6(2)?	<ul style="list-style-type: none"> - Charter of the United Nations; - Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, 10 October 1980, including protocols I to V, in particular: <ul style="list-style-type: none"> - Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other - Devices as amended on 3 May 1996 (Protocol II, as amended on 3 May 1996) annexed to - the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons - which may be deemed to be Excessively Injurious or to have Indiscriminate Effects - - Amendment of 21 December 2001 to Article I of the Convention from 10 October 1980 on - Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be - deemed to be Excessively Injurious or to have Indiscriminate Effects; - Convention of 18 September 1997 on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction; - Convention of 30 May 2008 on Cluster Munitions; - United Nations Convention against Transnational Organized Crime and the Protocols thereto, 15 November 2000;



	<ul style="list-style-type: none"> - Protocol from 31 Mai 2001 against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime; - United Nations Convention against Corruption, concluded in New York on 31 October 2003. - International agreements with regard to international humanitarian law and human rights law that may also be of relevance to article 6.2.
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Topic 7: Scope of Article 6 (continued)

Question/Treaty Text	Answer/CH interpretation
What constitutes 'knowledge at the time of authorization' under Article 6(3)?	It is the understanding of Switzerland that the term "knowledge" in Article 6, paragraph 3, in light of the object and purpose of this Treaty and in accordance with its ordinary meaning, implies that the State Party concerned shall not authorise the transfer if it has reliable information providing substantial grounds to believe that the arms or items would be used in the commission of the crimes listed.
How is 'genocide' defined under international law?	The term is already defined under international law. The voluntary guide shall not change or reinterpret this existing definition. Ref. Art. 6 Rome Statute of the International Criminal Court and Art. 2 Genocide Convention and customary international law
How are 'crimes against humanity' defined under international law?	The term is already defined under international law. The voluntary guide shall not change or reinterpret this existing definition. Ref. Art. 7 Rome Statute of the International Criminal Court and customary international law
What are grave breaches of the Geneva Conventions of 1949?	Grave breaches are war crimes. The term grave breaches is already defined under international law. The voluntary guide shall not change or reinterpret this existing definition. Ref. Art. 50 of the First Geneva Convention of 1949, Art. 51 of the Second Geneva Convention of 1949, Art. 130 of the Third Geneva Convention of 1949, Art. 147 of the Fourth Geneva Convention of 1949, Art. 11 and Art. 85 of the First Additional Protocol of 1977 to the Geneva Conventions of 1949.
What are 'attacks against civilian objects or civilians protected as such'?	These terms and concepts are already defined by international humanitarian law including customary international humanitarian law. The voluntary guide shall not change or reinterpret these existing definitions. They are applicable in both international and non-international armed conflicts. Civilians are persons who are not members of the armed forces. The civilian population comprises all persons who are civilians (see Rule 5 of the ICRC Customary International Humanitarian Law (CIHL) Database). Civilian objects are all objects that are not military objectives (see Rule 9 of the ICRC CIHL Database). Civilian objects are protected against attack, unless and for such time as they are military objectives (see Rule 10 ICRC CIHL Database). The parties to the conflict must at all times distinguish between civilians and combatants. Attacks may only be directed against combatants. Attacks must not be directed against civilians (see Rule 1 ICRC IHL Database). Civilian objects are protected against attack, unless and for such time



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Confederaziun svizra

Swiss Confederation

	as they are military objectives (see Rule 10 ICRC CIHL Database). Reference also treaty obligations under Art. 8 Rome Statute of the International Criminal Court, Art. 49, Art. 50, Art. 52 of the First Additional Protocol of 1977 to the Geneva Conventions of 1949, Art. 13 of the Second Additional Protocol of 1977 to the Geneva Conventions of 1949.
What other 'war crimes' may be included?	The term war crimes is already defined under international law. The voluntary guide shall not change or reinterpret this existing definition. Ref. Art. 8 Rome Statute of the International Criminal Court and obligations under international humanitarian law, including customary international law. Serious violations of international humanitarian law constitute war crimes (see Rule 156 of the ICRC CIHL Database ¹).

¹ https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule156#Fn_64761199_00023