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# ICRC's views on the Arms Trade Treaty



New York, June 2012



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# Why an issue for the ICRC?

At the request of States, ICRC's 1999 arms availability study: highlighted impacts on civilians and IHL based on ICRC's field experience

Widespread availability of weapons can:

- increase tensions and civilian casualties
- hamper delivery of assistance
- facilitate violations of international humanitarian law (IHL)

## ***Healthcare in Danger – 4 year initiative***

- *field experience and 16 countries study of attacks on health care in contexts where we work*
- *655 incidents in 2.5 years – 1834 people killed or injured while giving or receiving health care*



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# The duty to ensure respect for IHL

States have the duty to **respect and ensure respect** for international humanitarian law.

(Common article 1 GC, API, Rule 144 CIHL)

This entails:

- a) an obligation **not to encourage** violations;  
and
- b) an obligation to **take all possible steps to put an end to and prevent violations.**



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## IHL-related criteria in Chairman's draft

“A State Party shall not authorize a transfer of conventional arms if there is a substantial risk that those conventional arms would: (...)

2. Be used to commit or facilitate serious violations of international humanitarian law.

3. Be used to commit or facilitate serious violations of international human rights law.

4. Be used to commit or facilitate serious violations of international law, including genocide, crimes against humanity and war crimes.

(...)

6. Be diverted to unauthorised end users for use in a manner inconsistent with the principles, goals, and objectives of the Treaty, taking into account the risk of corruption.

(...)

8. Be used to support, encourage, or perpetrate terrorist acts.”



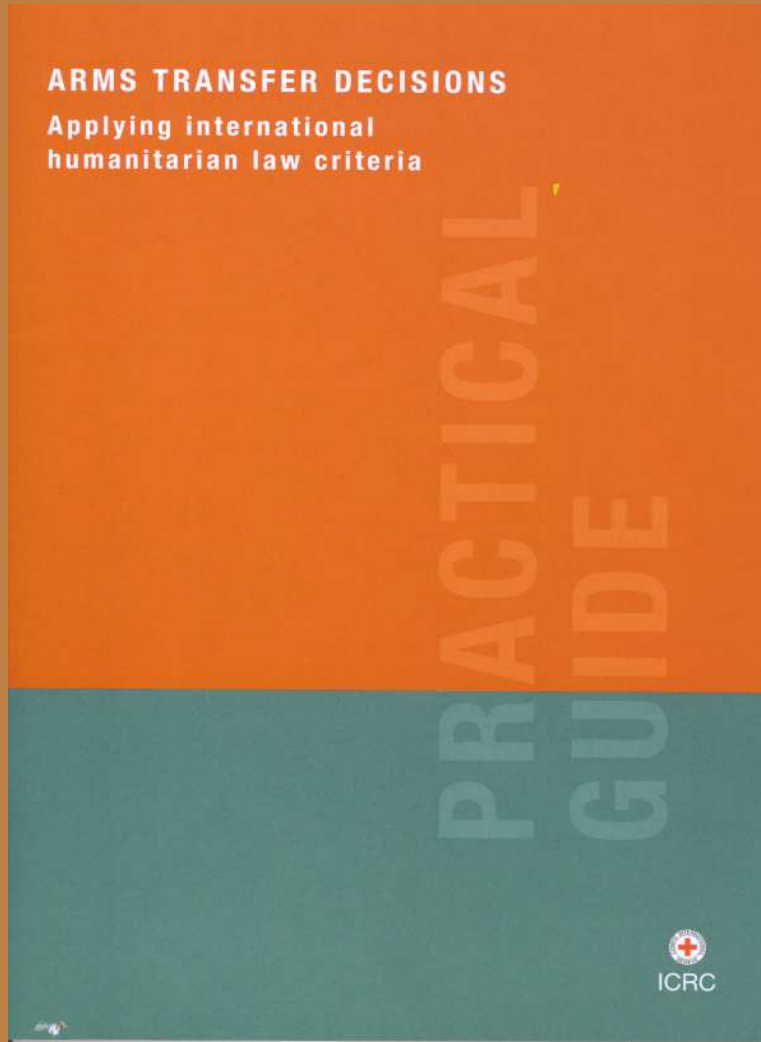
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## ICRC position: a strict IHL criterion

- Before authorizing an arms transfer, States must **assess the risk of serious IHL violations in the recipient State.**
- States should **not authorize** a transfer of arms if there is a **clear risk that they will be used to commit serious violations of IHL.**



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- Defines “clear risk” and “serious violations”.
- Proposes indicators for rigorous risk assessments.
- Proposes sources of information.



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# What are serious violations of IHL?

Serious violations of IHL include grave breaches found under the four Geneva Conventions of 1949 and under Additional Protocol I of 1977.

Serious violations of IHL are also considered war crimes.

Examples include:

- wilful killing,
- torture or inhuman treatment,
- taking of hostages,
- extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly.



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## Assessing the risk that arms will be used to commit serious violations requires examining:

- The recipient's **record of respect** for IHL.
- The recipient's **formal commitments**.
- The recipient's **capacity** to ensure that the arms or equipment transferred are used in a manner consistent with IHL and are not diverted or transferred to other destinations where they might be used to commit serious violations.





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## IHL-related criteria: the debate

- Objective of the treaty
- “Tiered approach” / Denial or other consequence of finding a substantial risk?
- “Subjective” / Obligation to transfer?
- What is a serious violation?
- What is a substantial risk?



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# Scope: ICRC position

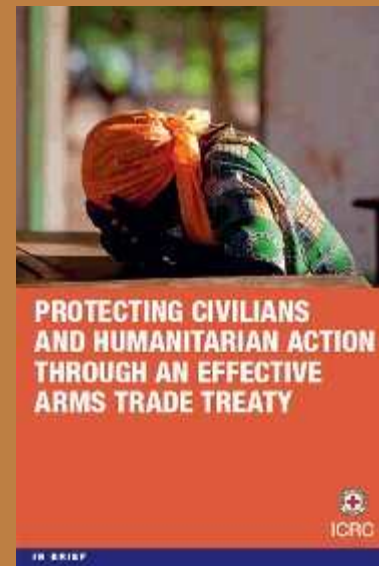
- All conventional weapons and their ammunition.
- All transfers, including import, export, transit, trans-shipment, leases, loans, gifts, etc.



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# Tools

- PowerPoint presentations
- Humanitarian Diplomacy Cable for delegations and Briefing Note for National Societies
- ICRC Leaflet on the ATT
- ICRC "Practical Guide" on IHL in arms transfer decisions
- Op-Ed for National Societies (June)





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# Activities

## Some examples of current efforts by delegations and National Societies:

- Analyze government positions and write tailored letters to Ministers of Foreign Affairs
- Organize open meetings of government representatives, NGOs and journalists
- Organize closed meetings for government representatives
- Share ICRC position at national and regional events
- Media interviews



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# Questions?

