

**Statement of the International Committee of the Red Cross**  
**July 12, 2011**

Thank you, Mr. Chairman, for giving the International Committee of the Red Cross this opportunity to express some views on implementation of the Arms Trade Treaty. The draft paper you have provided offers a very useful basis for productive discussions of this subject this week.

By orchestrating weapons transfers into conflict areas where serious violations of international humanitarian law (IHL) and human rights law occur, some arms brokers contribute to the exacerbation of armed conflicts and facilitate continued violations. They are often able to continue their illicit arms transfer activities with impunity by exploiting loopholes and inconsistencies in national and regional mechanisms. If the activities of brokers are not controlled, then the Arms Trade Treaty will be easily undermined by the activities of unscrupulous brokers operating outside of any legal regulatory framework or from the territory of States with little or no controls in place.

Your draft paper of March 3, 2011 included brokering as one of the transactions or activities to be covered by the ATT. However, it remained unclear from the paper whether brokering would be subject to the same criteria as those that apply to arms "transfers". In addition, the draft paper on implementation that we are looking at this week requires that States Parties "take all necessary measures to control relevant brokering activities taking place within their territories or by its citizens (...)". This formulation could also suggest that brokering and arms transfers are not subject to the same criteria.

Because of the transnational character of the arms trade, arms brokering activities require a uniform, global, and legally binding regulatory framework. To ensure that an ATT is effective, it should explicitly require that States authorize brokering transactions on the basis of the same criteria as those applicable to arms transfers, including an assessment of whether the recipient is likely to commit serious violations of IHL and human rights with the weapons being transferred.

Finally, many States have expressed concern over the subjectivity with which transfer criteria might be applied in practice. Clear guidelines can assist States in applying transfer criteria by outlining indicators that can be used as a basis for assessing risks, thereby helping to make risk assessments more uniform, predictable and objective. Guidelines can also suggest sources of pertinent and reliable information and provide examples of the serious violations or other negative consequences that the ATT's criteria aim to prevent.

Though we recognize that the ATT is not likely to integrate implementation guidelines, it should at least encourage States to adopt, apply and share such guidelines. As an example, the ICRC has published a "Practical Guide" to applying IHL criteria in arms transfer decision-making. This Guide sets out a range of indicators that can be used for assessing the risk of serious violations of IHL, suggests sources of relevant information, and provides a list of serious violations, which include grave breaches and war crimes. Copies of this Guide are available at the back of this room.

Thank you, Mr. Chairman.