**General Observations**

Effective national controls over the international transfer (i.e. import, export, transit, transhipment and brokering) of arms are necessary to prevent excessive, destabilizing and illicit transfers of arms, which can pose a serious threat to peace and security, especially in areas beset by conflict and by political and social tensions.  
  
Such transfers can fuel conflict, violent crime and instability; undermine sustainable development and facilitate grave abuses of human rights and serious violations of international humanitarian law. It is, therefore, a legitimate and urgent concern of the international community that all States maintain effective national controls over international transfers of arms.  
  
Almost all States have laws, regulations and administrative procedures to control the import, export and transit of arms and other military goods and technologies. However, many of these controls need to be strengthened and updated, and need to be supplemented with effective controls over transhipment and brokering, which are often overlooked. The enforcement of transfer controls is also often in need of strengthening.

The task of developing effective controls over arms transfers is made more difficult by the lack of capacity in some States to put effective controls in place and to enforce them. This is often further compounded by a lack of transparency — which is characteristic of much of the international arms trade — and by limited levels of cooperation and harmonization of practices between States.

**The Arms Trade Treaty**

One the stated “principles" of the Arms Trade Treaty (ATT) is "Respecting and ensuring respect for international humanitarian law in accordance with, inter alia, the Geneva Conventions of 1949, and respecting and ensuring respect for human rights in accordance with, inter alia, the Charter of the United Nations and the Universal Declaration of Human Rights”.  Article 7 of the ATT requires that States Parties not authorise an arms transfer if there is "an overriding risk” that the arms could be used to "commit or facilitate a serious violation of international human rights law”.

**The International Small Arms Control Standards (ISACS)**

It has been widely recognized that firearms, also known as small arms, are the main tool used to commit acts of violence and crime (A/HRC/14/24/Add.7).  Building on the ATT, the International Small Arms Control Standards (ISACS) that the UN’s internal mechanism for Coordinating Action on Small Arms (CASA) has developed in order to provide practical guidance to practitioners and policymakers on controlling the full life-cycle of small arms and light weapons — ISACS 03.20, “National Controls Over the International Transfer of Small Arms and Light Weapons — specifies that

"the competent national authority shall carry out a full assessment of the risk that a transfer of small arms and light weapons could be diverted to unauthorized end-users or used to commit or facilitate a serious violation of […] international human rights law" (Clause 5.4.4);

and further specifies that "authorization to transfer small arms or light weapons shall not be granted if there is an overriding risk" that the transfer could be used to commit or facilitate a serious violation of international human rights law (Clause 5.4.6.3).

**How arms transfers impact the enjoyment of human rights (question 1 of the questionnaire)**

1. Opportunity Cost

Every commercial arms transfer is paid for by the importing country with money that could have been used to build schools, invest in social security and justice systems, and strengthen other areas that enhance the enjoyment of human rights.  Although arms transfers may be necessary to provide armed forces and law enforcement agencies with the tools they need to protect from external threats and ensure internal social order — both of which are necessary to protect human rights — arms transfers that strain the financial means of an importing State may limit its ability to promote and protect human rights more broadly.  The opportunity cost of arms transfers has a basis in Article 26 of the UN Charter, which sets out the objective to “promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world’s human and economic resources”.

2. Arms transfers to governments and groups who violate human rights

Arms transfers impact the enjoyment of human rights when they are made to governments or non-State groups that use, threaten to use, or are likely to use them to commit human rights abuses, including against their own people.  Such abuses include killings, unlawful imprisonment, torture and slavery, including sexual slavery.  The Arms Trade Treaty requires its States Parties not to authorise an arms transfer if there is "an overriding risk” that the arms could be used to "commit or facilitate a serious violation of international human rights law” (Article 7).

3. Arms transfers to fragile States

Even if there is little or no risk that a government would knowingly and deliberately commit serious violations of human rights, arms transferred to such countries can nevertheless have a serious negative impact on the enjoyment of human rights due to the heightened risk of diversion that exists in fragile countries with weak governance and security sector capacities. Examples are Iraq and Somalia, where a portion or arms transferred from numerous countries, which were supposed to bolster those governments’ capacity to extend the rule of law to all areas of their countries, ended up in the hands of non-State armed groups that committed  serious human rights violations with them, including extrajudicial killings, torture and abductions (see for example the January 2017 Amnesty International Report, “Iraq: Turning a Blind Eye: The arming of the popular mobilisation units” - <https://www.amnesty.org/en/documents/mde14/5386/2017/en/>)

4. Arms transfers to countries with weak regulation of civilian access to small arms

The 2016 report of the High Commissioner for Human Rights entitled "Human rights and the regulation of civilian acquisition, possession and use of firearms” (A/HRC/32/2) found that "firearms lead to a broad range of acts which can affect a wide variety of human rights” (para. 7).  Arms transfers to countries that do not meet international standards on regulating the access of civilians to small arms (and even light weapons) pose a higher risk of such weapons being used in homicide, intimate partner and family violence and other violations of human rights (for the current international standard, see ISACS 03.30, “National regulation of civilian access to small arms and light weapons” - <http://www.smallarmsstandards.org/isacs/0330-en.pdf>).