



REGIONAL MEETING OF NATIONAL IHL COMMITTEES IN THE AMERICAS

WEAPONS UNDER INTERNATIONAL HUMANITARIAN LAW

San Jose, Costa Rica, 30-31 May 2017

Concept Note

1. Introduction

National committees on International Humanitarian Law (IHL) have been meeting regularly both at a universal, as well as a regional level to discuss topics of common interest between peers and with experts. The most recent such meetings were the Universal Meeting of National Committees and Similar Bodies on International Humanitarian Law (Geneva, Switzerland, 30 November to 2 December 2016), and the Conference of National Committees on International Humanitarian Law of the Americas (Bogota, Colombia, from 9 to 11 September 2015). Both of these meetings stressed the importance of adopting IHL implementing measures required for the law to be applied and respected. They acknowledged the merits of on-going efforts to do so, but also recognized that, generally speaking, there is a need to do more.

Within these dynamics, issues related to the regulation of weapons under IHL have been repeatedly addressed. This regularly involved an emphasis on national implementation of relevant treaties such as, for example, the Convention on the prohibition of bacteriological (biological) and toxin weapons of 1972; the Convention on prohibitions or restrictions on the use of certain conventional weapons of 1980 and its annexed Protocols; the Convention on

the prohibition of chemical weapons of 1993; the Convention on the prohibition of anti-personnel mines of 1997; the Convention on cluster munitions of 2008; or more recently the Arms Trade Treaty of 2013.

Such fora have also proven to be helpful for finding synergies facilitating the development of legislative, administrative and practical solutions to the issues that come up when implementing IHL treaties. Likewise, they have contributed to a better understanding of the challenges arising for the respect of IHL as it applies to weapons. Today, among such challenges are those related to the use of explosive weapons in populated areas; the legal review of new means or methods of warfare; new technologies of warfare, such as those involving cyber warfare or autonomous weapons; and the debate about nuclear weapons, and responsible arms transfers, to name a few.

In light of the foregoing, the Meeting "Weapons under International Humanitarian Law" in San Jose, Costa Rica, from 30 to 31 May 2017 is designed to ensure continuity of these important efforts in Latin America and the Caribbean. The meeting is being organized by the ICRC under the auspices of the Ministry of Foreign Relations and Worship of Costa Rica and in association with Costa Rica's Committee on International Humanitarian Law.

In addition, the meeting takes place on the occasion of the 40th anniversary of the Additional Protocols of 1977 and the 20th anniversary of the Convention on the prohibition of anti-personnel mines of 1997. From that perspective, the meeting provides an opportunity to take stock of the contributions made by those treaties to the regulation of weapons and through that, to enhancing the protection of persons in armed conflicts.

2. Expected outcomes

The general objective of the Meeting "Weapons under International Humanitarian Law" consists in offering to National Committees on International Humanitarian Law and States in the region a platform to jointly examine, along with experts, some of the major challenges relating to the regulation of the use of weapons in armed conflict, as well as to exchange experiences on addressing them. Particular attention will be paid to the practical challenges in implementing existing IHL obligations as they apply to weapons.

From this perspective, the meeting is expected to contribute to enhancing the effectiveness of the work of national IHL committees and more generally, the processes of IHL implementation in the States of the region.

3. Participants

The meeting seeks to primarily address the 20 national IHL committees in the Americas. Each State having such a committee is invited to participate with two representatives. At least one of them should be a member of the committee while the other may be an official possibly more directly involved in one or the other subject matter mentioned in the agenda.

States that have not yet established a national IHL committee, and have expressed interest in doing so, are invited to participate with one representative.

Moreover, invitations will be sent out to a number of international organizations with particular expertise in the areas addressed during the event, as well as to experts from non-governmental organizations or academia.

4. Program and methodology

The meeting will take place over two days with discussions mainly held through panels, followed by “questions and answers” sessions.

The program is divided in nine working sessions:

Session 1: introduction recapitulating the legal framework of IHL that applies to weapons, including an overview of the rules on the conduct of hostilities. Questions being addressed in this session include: What are the sources of the norms applicable to weapons? What is the content of the main rules of IHL governing weapons? What is the rationale behind those norms? How are they being applied in practice?

Session 2: will study the regime established under the 1980 Convention on prohibitions or restrictions on the use of certain conventional weapons and its annexed Protocols, with particular consideration of national implementing measures. Questions being addressed in this session include: Which weapons are covered by the CCW and its Protocols? What prohibitions and regulations have been established by the CCW and its Protocols? What is required of State Parties for the rules of those treaties to be applied in practice?

Session 3: will take stock of achievements and challenges of the 1997 Convention on the prohibition of anti-personnel mines. Questions being addressed in this session include: How has the Convention been implemented in the region? What is the

situation with respect to stockpile destruction and clearance deadlines, particularly in the Americas? What concerns exist with regard to victim assistance and how can they be met?

Session 4: will examine the achievements and challenges with respect to progress in the implementation of the 2008 Convention on cluster munitions. Questions being addressed in this session include: How has the Convention been implemented in the region? What are the main challenges faced by States Parties to fully comply with the Convention? What strategies are being envisioned to follow the action plan adopted by the 2015 Review Conference?

Session 5: will address the issue of responsible arms transfers, with particular consideration of the restrictions imposed by the 2013 Arms Trade Treaty and regional instruments. Questions being addressed in this session include: How have arms transfers been regulated in the Americas? How does the ATT complement existing legal frameworks? What are the main challenges States Parties to the ATT face when adopting national implementing measures?

Session 6: will focus on the challenges in the implementation of the rules that govern the use of explosive weapons in populated areas. Questions being addressed in this session include: How does IHL regulate the use of explosive weapons with wide area effects? What are the consequences of using such weapons in populated areas? How can those consequences be avoided or limited?

Session 7: will discuss the implementation of legal reviews of new means and methods of warfare according to article 36 of Additional Protocol I. Questions being addressed in this session include: What is required to set up such a legal review mechanism? How do legal review mechanisms function in practice?

Session 8: will provide an update on the debate about new technologies of warfare. Questions being addressed in this session include: What are the main IHL related issues to be addressed with respect to military cyber capabilities? What issues are being raised by autonomous weapon systems and their compliance with IHL?

Session 9: will discuss the perspectives of the current debate about the prohibition and elimination of nuclear weapons. Questions being addressed in this session include: How does IHL regulate nuclear weapons? What humanitarian issues are at stake in the efforts prohibiting nuclear weapons?

Session 10: will involve a round-table discussion on experiences and challenges of national IHL committees, with an emphasis on the issues addressed during the meeting.

5. Suggested Readings

- Factsheets prepared by the ICRC Advisory Service on IHL, about the topics addressed during the meeting: <https://www.icrc.org/en/war-and-law/ihl-domestic-law/documentation#weapons>
- The Report “International humanitarian law and the challenges of contemporary armed conflicts”, presented by the ICRC on the 32nd International Conference of the Red Cross and Red Crescent, which took place in Geneva, Switzerland, from 8 to 10 December of 2015: <https://www.icrc.org/en/document/international-humanitarian-law-and-challenges-contemporary-armed-conflicts>
- “Identifying and addressing challenges to implementation of Article 4 of Protocol V to the CCW: Expert meeting”: <https://www.icrc.org/eng/resources/documents/publication/p4134.htm>
- “Protecting Civilians and Humanitarian Action through the Arms Trade Treaty”: <https://www.icrc.org/en/publication/4069-protecting-civilians-and-humanitarian-action-through-arms-trade-treaty>
- “Arms Transfer Decisions: Applying International Humanitarian Law and International Human Rights Law Criteria – a Practical Guide”: <https://www.icrc.org/en/publication/0916-arms-transfer-decisions-applying-international-humanitarian-law-criteria>
- “Autonomous Weapon Systems: Implications of Increasing Autonomy in the Critical Functions of Weapons”: <https://www.icrc.org/en/publication/4283-autonomous-weapons-systems>
- “Views of the ICRC on autonomous weapon systems”: <https://www.icrc.org/en/document/views-icrc-autonomous-weapon-system>

6. Practical information

6.1. Funding

The ICRC offers to finance the participation of two representatives of each State with a National IHL Committee. They may be two members of each Committee or, alternatively, one such member and another government official.

For States not yet having a National IHL Committee, the ICRC will finance the participation of one official.

6.2. Coordination

The ICRC will organize the meeting in coordination and with the support of the Costa Rican IHL Committee and the Ministry of Foreign Relations and Worship of Costa Rica.

The legal adviser of each ICRC Delegation in the Americas, as well as the legal adviser mentioned in the letter of invitation, will be in charge of the monitoring and logistical arrangements with each committee/government of the States of the respective regions covered by those delegations, including the reservations and payment of airfare tickets.

6.3. Others

Administrative and practical information will be distributed to each registered participant.

During the event, simultaneous translation services will be available both in Spanish and English.