5
Parameters

Prohibition:

1. Bearing in mind the purposes and principles of the United Nations Charter, a State Party shall not authorize a transfer of any item within the scope of this Treaty if the transfer:
   i. would violate the State Party’s relevant obligations under international law;
   ii. would be used to perpetrate or support a terrorist act;
   iii. is intended for a recipient who is not a user authorized by the importing State.

Risk assessment:

2. In considering whether or not to authorize a transfer of an item within the scope of this treaty, a State Party shall assess whether, in its view, there is a substantial risk that the transferred item could be:
   a. used to commit or support the commission of a serious violation of international law, including international human rights law and international humanitarian law;
   b. used to commit or support the commission of genocide or [ethnic cleansing], a war crime or a crime against humanity;
   c. used to commit or support the commission of an act of armed violence, including [gender based violence/ violence against women] or violence against children;
   d. used to commit or aggravate an act of aggression or [foreign occupation] or other breaches of the peace;
   e. used to undermine regional, sub-regional or international stability;
   f. used to commit or support the commission of an acts of organised crime;
   g. used to commit or support the commission of acts of terrorism in all its forms and manifestations;
   h. diverted into the illicit market or to be used to commit any of the acts specified in sub-paragraphs (a) to (g); or
   i. diverted to unauthorised end users or to unauthorised non-state actors.

3. In making such risk assessment, the State Party shall apply the criteria set out in paragraph 2 consistently and in an objective and non-discriminatory manner and in accordance with the principles set out in (section number), taking into account all relevant factors, including information provided by the importing State and the legitimate national security needs of the parties involved.

4. Where the State party assesses that a substantial risk of any of the consequences set out in paragraph 2 exists, the State Party:
   i. shall consider, as a first step, not authorizing the transfer.
   ii. may consider mitigation measures, as part of its national risk assessment and prior to taking a final decision on the transfer, in full cooperation and mutual agreement with the importing State;
   iii. may balance the risk against the security imperatives associated with authorizing the transfer.

5. If after its national risk assessment and any mitigation efforts a substantial risk of any of the consequences set out in paragraph 2 persists the State Party shall not authorize the transfer.

6. The criteria set out in paragraph 2 shall not apply to import, transit and transhipment.