

# **framework briefing**

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The UN 2001 Conference: Setting the Agenda

Briefing 1

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# The 2001 Conference: Setting the Agenda

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by Owen Greene with Elizabeth Clegg, Sarah Meek and Geraldine O'Callaghan

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# Introduction

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The United Nations will convene the 'UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects' in June/July 2001.<sup>1</sup> The '2001 Conference' is now the primary focus for international efforts to strengthen and develop co-ordinated and comprehensive global action to prevent and reduce the proliferation and misuse of small arms and light weapons. A powerful international coalition of States, international organisations and civil society groups is uniting to promote effective global action. Expectations for the 2001 Conference are high and public awareness of the opportunities it offers is growing. It is critical that the 2001 Conference is a success.

The 2001 Conference must achieve agreement on an effective International Action Programme to prevent and reduce small arms and light weapons proliferation and combat illicit trafficking in such weapons. This International Action Programme should reinforce, co-ordinate and extend measures being taken at local, national and regional levels. In addition to establishing an appropriate set of international norms and standards, the 2001 Conference should achieve agreement on specific international action on the problems associated with small arms and light weapons.

The specific objectives of the 2001 Conference are currently undecided. This paper, the first in a series of briefings, outlines a proposed scope for the Conference. It further proposes concrete objectives and practical agreements which could be achieved during the Conference. It is hoped that the proposals and recommendations presented will contribute to efforts to secure a comprehensive and progressive framework for the Conference.

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## Scope of the Conference

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### Addressing the small arms problem

Preparations for the 2001 Conference take place in the context of increasing international concern about the human suffering and insecurity caused by the excessive availability and misuse of small arms and light weapons.<sup>2</sup> Large accumulations and flows of such weapons – both legal and illegal – have had many negative consequences, including destabilising regions; escalating, intensifying or prolonging conflicts; impeding peace operations and humanitarian assistance; obstructing post-conflict reconstruction and development; and contributing to banditry, crime and social violence. Reflecting the complexity of the problem, there is a growing international consensus that a comprehensive set of control and reduction measures is required to effectively combat the complex challenges posed by these weapons.

While governments and civil society in many regions have begun to address the problems caused by the proliferation and misuse of light weapons, there is a need for much greater international co-ordination of these efforts. Some States have adopted national measures, such as strengthened controls on transfers of small arms, others have embarked upon programmes to collect and destroy surplus small arms. At regional level, a number of organisations in the Americas, Southern Africa, West Africa and Europe have developed initiatives to prevent the proliferation and misuse of small arms and light weapons. Many of these regional initiatives have addressed directly the illicit trade in weapons and have built regional consensus around issues such as marking, storage, destruction and transfers.<sup>3</sup>

International initiatives also have been taken. In the United Nations, sets of recommendations for measures to prevent and reduce small arms proliferation have been agreed in the 1997 report of the UN Panel of Governmental Experts on Small Arms and the 1999 report of the UN Group of Governmental Experts on Small Arms, which were endorsed by the UN General Assembly.<sup>4</sup> Moreover, the UN ECOSOC Commission on Crime Prevention and Criminal Justice is currently negotiating a legally binding protocol on illicit firearms trafficking supplementary to the Convention against Transnational Organised Crime.<sup>5</sup> This 'Firearms Protocol' has the potential to impact significantly upon the illicit manufacturing of and trafficking in small arms and light weapons.

In view of the myriad initiatives that have developed in recent years, and the endorsement by the UN General Assembly of the consensus reports by UN Groups of Experts on Small Arms in 1997 and 1999, it is clear that significant elements exist for an international consensus on the nature of the problem of small arms and light weapons proliferation and of the types of international measures that are required to tackle it. The first and subsequent Prep Coms for the 2001 Conference should seek to draw upon this.

### Support for a broad mandate

There are powerful arguments in favour of adopting a 'comprehensive' approach when establishing the agenda for the 2001 Conference. In particular, the decision of the UN General Assembly that "the scope of the Conference shall be the illicit trade in small arms and light weapons in all its aspects"<sup>6</sup> should provide the 2001 Conference with a mandate to cover a wide range of issues relating to the proliferation of small arms and light weapons.

The elements of consensus regarding the scope of the 2001 Conference have already been provided in the 1999 report of the UN Group Small Arms.<sup>7</sup> All major points of view were represented by the 23 States who participated in this Group, and after extensive discussions the Group achieved consensus on recommendations for the scope of the 2001 Conference.<sup>8</sup> This framework offers a significant opportunity for the international community to pursue effectively comprehensive measures to tackle the proliferation and misuse of small arms and light weapons. Indeed, the Group report notes that the scope of the Conference should give consideration to "all relevant factors leading to the excessive and destabilising accumulation of small arms and light weapons in the context of the illicit arms trade."<sup>9</sup>

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# Scope of the Conference

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## Support for a broad mandate

The Group of Experts further proposed that all matters addressed in the recommendations of its 1999 report, and in the 1997 report of the UN Panel, should be considered to fall within the scope of the 2001 Conference, to the extent that the proposed norms or measures should contribute to:

- preventing and combating illicit trafficking, manufacture, possession, storage or use of small arms and light weapons in all its aspects; and
- reducing excessive and destabilising accumulations and transfers of such weapons, particularly in the most affected regions of the world.<sup>10</sup>

Thus a wide range of issues should be considered at the 2001 Conference. These include matters relating to legal transfers of small arms and light weapons. It is important to strengthen controls on legal transfers of such weapons to prevent them from being diverted into illicit markets or used for proscribed purposes. Furthermore, state-to-state transfers may contribute to destabilising and excessive accumulations and flows of small arms and light weapons in regions of conflict or where there are already urgent problems with small arms proliferation and misuse.

The argument for using the 2001 Conference as an opportunity to review principles governing legal transfers is further strengthened by the existing UN definition of illicit trafficking, as set out in the UN Guidelines adopted in May 1996 and in the 1997 UN Panel Report. These documents define “illicit trafficking” as the “international trade in conventional arms which is contrary to the laws of States and/or international law”.<sup>11</sup> In line with this definition, the 2001 Conference should address “illicit trafficking” in a manner which is consistent with international law.

## Elements within the scope of the 2001 Conference

The following issues have been highlighted by the UN Group and UN Panel of Experts on Small Arms and should be regarded as within the scope of the 2001 Conference:

- Preventing and combating the illicit manufacture, transfer, possession and misuse of small arms and light weapons, their parts and components and ammunition;
  - Monitoring and enforcing UN arms embargoes;
  - Strengthening controls on the legal manufacture and transfers of weapons;
  - Establishing international norms and guidelines on legal manufacture and transfer of small arms and light weapons to prevent and reduce excessive and destabilising accumulations and flows of such weapons, particularly in regions of conflict or where small arms proliferation is already an urgent problem;
  - Promoting secure management and storage of small arms and light weapons and ammunition legally held by authorised bodies;
  - Promoting the destruction or other safe disposal of confiscated or surplus small arms and light weapons and other related materials;
  - Enhancing assistance to States to prevent and combat illicit manufacture, trafficking, possession or misuse of small arms and light weapons and ammunition, including appropriate assistance in developing laws, regulations and procedures relating to the control of such weapons;
  - Enhancing assistance to States for weapons collection and destruction of confiscated or surplus small arms and light weapons and ammunition;
  - Taking measures and enhancing assistance to prevent and reduce excessive and destabilising accumulations of small arms and light weapons in regions of the world where conflicts come to an end or problems of small arms proliferation are to be dealt with urgently; and
  - Developing international information exchange and transparency measures that contribute to international efforts to combat and prevent illicit arms trafficking or to prevent and reduce proliferation of small arms and light weapons.
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## Scope of the Conference

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### **Building on progress in the Firearms Protocol**

In parallel to the discussions around illicit trafficking that have taken place within the First Committee of the General Assembly, the UN ECOSOC Commission on Crime Prevention and Criminal Justice has been negotiating a legally binding protocol to the Convention against Transnational Organised Crime.<sup>12</sup> The draft Firearms Protocol, which is expected to be agreed by September 2000, seeks to prevent and combat illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. The Protocol could include far-reaching controls on arms brokering activities; provisions for marking of weapons at manufacture and at import; strengthening controls on the licensing, import and export of weapons and new agreements on record-keeping and information exchange.

However, important decisions around the scope and focus of the Protocol remain unresolved. Crucially, it is unclear whether the Protocol will cover all categories of small arms and light weapons and whether it will exempt state-to-state transactions or weapons transfers for the purpose of national security. The scope of the Protocol could have significant impact on the 2001 Conference. If wide definitions and controls are adopted within the Protocol, the 2001 Conference will, in part, provide a valuable forum for developing measures to reinforce and implement the Protocol. However, if States agree to a more narrow Protocol, which only addresses commercial transactions, then the 2001 Conference could take up discussions on extending the measures in the Protocol to state-to-state transactions. Irrespective of the outcome of the Protocol negotiations, agreements reached at the 2001 Conference must complement and not duplicate the achievements of the Protocol.

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# Conference Objective: An International Action Programme

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## The framework

The overall objective of the 2001 Conference must be to strengthen and develop international efforts to prevent and combat the illicit trafficking in small arms and light weapons in all its aspects, including their illicit manufacture and misuse. This will require the Conference to:

- establish and develop international agreements, norms and practices to ensure that national and regional measures to prevent and combat illicit arms trafficking in all its aspects are supported and reinforced by the wider international community;
- prevent and remove inconsistencies or incoherence between various national, regional and international measures, which could undermine overall effectiveness;
- enhance international co-operation and information exchange to increase the effectiveness of efforts to tackle the problems, promote learning and the implementation of good practice; and
- mobilise international resources to help communities, countries and regions that need assistance to carry out their programmes.

To succeed with these objectives, the 2001 Conference should conclude an *International Action Programme*, which is elaborated within a *Conference Document of Agreement* and which is supplemented with agreements on specific issues. This process is discussed below.

## An International Action Programme<sup>13</sup>

The 2001 Conference should seek to develop an International Action Programme on illicit trafficking, proliferation and misuse of small arms and light weapons.<sup>14</sup> While the Conference cannot realistically aim to secure comprehensive measures on all of the issues within its possible scope, it should aim to establish and develop a set of international norms and standards in the areas covered by the 2001 Conference and to establish a framework within which international efforts can be subsequently developed in a sustained and co-ordinated way. In some specific issue areas it will also be possible to achieve a number of detailed agreements at the 2001 Conference and to specify detailed obligations and mechanisms. This approach should also allow the Conference to highlight issues on which detailed agreement cannot yet be reached, but which remain important issues for the international community to address in the short to medium term.

## Document of Agreement

Ultimately the document which emerges from the UN 2001 Conference should be multi-faceted, embodying all aspects of the Conference debate and consensus. Accordingly, the Conference declaration should form a Document of Agreement to which participating States commit themselves at a high political level. This Document of Agreement should:

- consolidate and strengthen a set of international norms, standards and guidelines relating to the International Action Programme;
  - identify the programmes and measures which participants are committed to support; and
  - establish mechanisms and procedures to promote implementation, review and further development of the action programme.
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# Establishing Norms, Standards and Mechanisms

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There are a number of existing international norms, standards and recommendations to draw upon. The most important for this purpose are those contained in recent UN reports.<sup>15</sup> These documents are the product of long international negotiation, and have all been endorsed by the UN General Assembly.

The 2001 Conference provides an excellent opportunity to establish norms and standards, including in the following areas:

- promoting effective control of and restraint in legal arms manufacture and transfers of small arms and light weapons;
- improving the security and proper management of stockpiles of small arms and light weapons;
- promoting collection and destruction of confiscated or surplus arms and ammunition, particularly within the context of peace agreements; and
- enhancing information exchange and consultation among States on measures to control small arms and light weapons and for accountability in transfers of such weapons.

The contents of the Document of Agreement also need to take appropriate account of the norms and measures needed to create and maintain a secure environment in which efforts to combat illicit arms trafficking and to prevent and reduce proliferation and misuse of small arms and light weapons can succeed. These include public provision of justice and security to citizens, domestic firearms regulation, and raising public awareness and involvement in reversing 'cultures of violence'.

Although the UN has already outlined clear recommendations in many of these areas, governments often pay little attention to General Assembly resolutions or UN reports, even if they are the product of intensive international negotiations. The 2001 Conference represents an excellent opportunity to advance and develop these recommendations into clear and unambiguous commitments at the highest political level.

## **Support for existing programmes and measures**

The Document of Agreement should also identify existing and future initiatives that participating States agree to support. In terms of existing programmes this should include support for regional and national programmes such as the ECOWAS Moratorium on the importation, exportation and manufacture of light weapons; international programmes to support weapons collection and destruction programmes such as those recently undertaken in Liberia and Cambodia; the improvement of stockpile management and security; processes to develop and harmonise national legal controls and regulatory procedures such as the Southern African Development Community draft firearms protocol; enhancing the capacity of institutions such as the police, border guards and the judiciary; public education programmes; and international information exchange and consultation.

The 2001 Conference also should aim to establish guidelines and mechanisms to promote implementation of such programmes. It should aim further to mobilise and co-ordinate support for such programmes by States and international bodies in a position to provide assistance and by the UN itself.

## **Agreements on specific issues**

Supporting the Document of Agreement should be a set of agreements on specific issue areas in which commitments are defined. Such specific agreements would be components of the International Action Programme on illicit trafficking, proliferation and misuse of small arms and light weapons. Some of these detailed agreements could be legally binding, as self-standing legal instruments or linked with existing conventions where this is appropriate. However, the majority would probably be politically binding agreements.

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# Issues for Specific Agreements

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## Marking and tracing of weapons

There are many areas relating to every aspect of the scope of the 2001 Conference where specific agreements would be useful. Here, a few are highlighted, which seem particularly 'ripe' for negotiation at the 2001 Conference. Subsequent briefings in this series will consider some of these issues in more detail.

It is now widely agreed that international efforts to prevent and combat diversion of arms to illicit markets would be strengthened by improvements in the capacity to trace illicit small arms and light weapons back to their source and to clarify the chain of transactions that led to diversion or misuse. Making arms flows 'traceable' would enable legitimate authorities to identify points where legal arms were diverted to the illicit trade and thus to take action to expose or punish criminal or destabilising activities, while preventing similar future diversions.

An effective international system to promote 'traceability' requires three key elements:

- systems to ensure adequate and reliable marking of all arms;
- adequate record-keeping on arms production, possession and transfers; and
- international arrangements to enable timely and reliable tracing of lines of supply by relevant authorities.

The Firearms Protocol will make a significant contribution to establishing effective international systems for marking and tracing small arms and light weapons. However, if the scope of the Firearms Protocol is restricted to commercial transactions, it will be too narrow to address the wider problem of tracing weapons diverted from state arsenals. The scope of the 2001 Conference will include state-to-state arms transactions and transfers for the purposes of national security, where they are linked with illicit or destabilising activities. The precise requirements for agreement at the 2001 Conference on marking and tracing will not become clear until the negotiations for the Firearms Protocol have been completed. Nevertheless, States should agree to adopt and enforce the following key measures, whether within the context of the Firearms Protocol or the 2001 Conference:

- require at manufacture the marking of all small arms and light weapons to identify the manufacturer, place of manufacture and serial number;
  - adequate record-keeping;
  - prevent the manufacture or transfer of unmarked or inadequately marked small arms and light weapons;
  - mark or destroy all unmarked or inadequately marked weapons that have been collected, confiscated, or seized;
  - mark weapons held or stored by national armed forces or other national agencies (as a transitional arrangement, existing stockpiles of unmarked arms held in reserve in secure storage facilities may remain in place, but such weapons must be appropriately marked at the time they are moved or transferred to civilian use); and
  - reinforce co-operation with other States and with relevant intergovernmental organisations in the tracing of illicit or suspect small arms and light weapons, ammunition and other related materials.
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## Issues for Specific Agreements

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### **Arms brokers and shipping agents**

The 2001 Conference should play a central role in establishing agreed international definitions and standards for addressing all aspects of the problem of arms brokering. While there is a strong possibility that the Firearms Protocol will include controls on arms brokers, it may be restricted to commercial transactions. In this case, the 2001 Conference should prioritise controls on brokering activities relating to state-to-state transfers of small arms and light weapons and transactions for the purposes of national security. The agreement should:

- commit States to establish national laws, regulations and procedures to regulate arms brokering activities that may take place within their area of jurisdiction;
- criminalise breaches of such regulations; and
- monitor and enforce their implementation.

The agreement also should establish common definitions and standards for the national implementation of this obligation. At a minimum, States should require persons or companies that engage in arms brokering activities to register with the country where they are resident or established, and to obtain a licence for their transactions from this same country.<sup>16</sup>

### **Controls on the manufacture of small arms and light weapons**

It is crucial to ensure that the manufacture of small arms, light weapons and ammunition is adequately controlled by States to restrict illicit production, diversion of legal weapons to illicit markets and to prevent destabilising arms flows. An agreement on manufacturing at the 2001 Conference could develop and strengthen international standards relating to controls on manufacture of small arms and light weapons, and establish some mechanisms to promote implementation of these standards.

The most important standard is that all States should have in place adequate laws, regulations and administrative procedures to exercise effective control over the legal manufacture and possession of small arms and light weapons, ammunition and other related materials. This should include all industrial manufacture as well as small-scale 'craft' production of such arms and ammunition. Legislation should be in place to ensure that all unauthorised production of such arms is a criminal offence, and should be effectively enforced.

The draft Firearms Protocol includes legal obligations on States Parties to adopt the necessary legislative or other measures to implement these standards in relation to firearms production. If the Protocol's definition of firearms does not include all types of small arms and light weapons or does not cover weapons produced for use by States' armed forces, the 2001 Conference should aim for an agreement that obliges all States to adopt legislative and other measures to control manufacture of all types of small arms, light weapons and ammunition. This should include:

- requiring licenses or authorisations for manufacture of small arms and light weapons and ammunition, that are subject to regular review and renewal;
  - obliging all such manufacturers to make detailed information on production available to the relevant authorities and to ensure reliable record-keeping and secure storage of manufactured goods pending sale or transfer; and
  - exchanging information on lists of authorised manufacturers, policies, regulations and procedures adopted by States to implement the international guidelines, and disseminate good practice.
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## Issues for Specific Agreements

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### **Increasing restraint and responsibility governing legal transfers**

The Document of Agreement must include a set of standards and measures which would increase controls governing legal transfers of small arms and light weapons, in order to prevent diversion to illicit or unauthorised destinations and to prevent and reduce proliferation and misuse of these weapons. In addition to strengthening and co-ordinating existing controls on legal transfers, the 2001 Conference provides an excellent opportunity to develop internationally agreed criteria for the transfer of small arms and light weapons. These criteria should be based on the principles enshrined in international law and should prevent the transfer of weapons which might be used for internal repression, external aggression, the escalation of conflicts or regional destabilisation. This agreement should apply equally to all recipients of small arms and light weapons.

Such international standards could be elaborated in a specific agreement. This would complement and reinforce the regulatory obligations included in the Protocol on licensing and authorisation systems for firearms transfers. This agreement should focus on:

- establishing rigorous international criteria, or an international 'Code of Conduct',<sup>17</sup> that States should apply when considering authorisations of transfers of small arms and light weapons;
- model regulations which provide minimum standards for harmonised import, export and in-transit certification; and
- agreement on improving systems of end-use certification and verification.

In addition, there is an increasing interest in establishing an international agreement to restrict transfers of military types of small arms and light weapons to non-State actors. The Government of Canada has been a proponent of such an agreement and the Member States of the European Union have agreed in the EU Joint Action on Small Arms to work towards international acceptance of "a commitment by exporting countries to supply small arms only to governments".<sup>18</sup>

There are concerns among some States and civil society groups that, on its own, this proposal could be unbalanced. A more coherent approach would be for governments to adopt and adhere to strict criteria on the transfer of arms, thereby requiring all end-users to meet the same high standards of behaviour. If such criteria were adhered to by governments, then an agreement to restrict access to weapons by non-State actors would be appropriate, in conjunction with programmes for capacity building, development and reform of the security sector.

### **Security of stocks of small arms and light weapons**

Loss, theft or corrupt sale of small arms and light weapons from authorised stocks is a major source of illicit arms and destabilising and excessive accumulations and flows of weapons. Improving the management and security of stocks of such weapons should therefore be one of the main objectives of the International Action Programme.

While the Document of Agreement should establish strong international norms and standards on this, a greater challenge is to secure a specific agreement detailing particular standards and programmes to improve security against loss, theft or corrupt sale from authorised stocks of small arms and light weapons and ammunition. Such an agreement would need to address dimensions relating to:

- the security of official weapons stores;
- monitoring and record-keeping;
- regulations on weapons held by civilian bodies; and
- a range of stockpile management practices.

The agreement should give detailed understandings of the implications of these steps and establish mechanisms to facilitate access to relevant technical assistance and information on good practice.

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## Issues for Specific Agreements

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### **Disposal and destruction of weapons**

A large proportion of illicitly held or trafficked small arms and light weapons were once held in authorised or government stockpiles. The report of the UN Group of Experts recommended that “States in a position to do so should assist other States, at their request, in their efforts to destroy surplus weapons or confiscated or collected weapons”.<sup>19</sup> Strict controls should be applied to the disposal of surplus stocks of weapons and the destruction of surplus arms and ammunition should be promoted. Confiscated illicit or unauthorised arms also should be destroyed, to avoid the risk that they may re-enter the illicit market.

A specific agreement that elaborates and develops the implications of norms and standards in the Document of Agreement, including establishing mechanisms to facilitate access to assistance and identifies good practice, should be a product of the Conference.

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# Emerging Issues for the International Action Programme

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## **Enhancing capacity of states to provide citizens with a secure environment**

There are a number of important and relevant issues that are not yet high on the agenda for the preparations for the 2001 Conference, but which nevertheless should be considered. Some of these issues are discussed briefly below, to help to ensure they are given attention in this process.

The Document of Agreement should include norms and measures to support and promote weapons collection where the proliferation of small arms is an urgent problem, or as part of efforts to collect and destroy illicit arms. However, weapons collection must be seen as only one element of efforts to reduce and prevent insecurity, crime, violence and obstacles to development associated with the wide availability or misuse of small arms and light weapons. It is important to promote and support all efforts to provide citizens and communities with a secure and just environment.

States may lack the capacity and institutions necessary to provide such a secure environment. For example, the police, military and other parts of the 'security sector' may be inadequately resourced or trained, or may be inappropriately structured or used. The International Action Programme should, therefore, help to promote appropriate development and reform of the security sector. Similarly, measures to develop adequate laws and judicial and prison services need to be encouraged.

While the development of appropriate laws and institutions is primarily a matter for the governments and people of each State, the international community should be ready to provide assistance and support in this area and to support information exchange and consultation on relevant experiences and good practice. It should also help to promote the development of regional or sub-regional co-operation on such matters.

## **Enhancing transparency and accountability**

International arrangements to enhance information exchange and transparency can play an important role in efforts to combat illicit trafficking and prevent and reduce the proliferation and misuse of small arms and light weapons. They can facilitate effective co-operation in enforcing laws and in identifying and tackling weak points in control systems. Improving the capacity to monitor accumulations and flows of small arms and light weapons facilitates timely warning of problems and early responses, and contributes to confidence-building. Well-designed transparency measures can be a key factor in improving accountability and promoting responsible implementation of agreed norms and standards.

The 2001 Conference should agree on a number of international information exchange arrangements, as an intrinsic part of the programmes included in the Document of Agreement and of the agreements linked to it on specific issues.<sup>20</sup> Most of these will involve enhancements in confidential information exchanges between national authorities. However it is important to increase public transparency as well.

Arrangements to enhance and expand the amount of relevant official information that is in the public domain will facilitate wider awareness and involvement in efforts to address the problems, help to increase accountability, and encourage responsible practice. Relevant information exchange mechanisms should involve the provision of information into the public domain, where it does not endanger national security or compromise judicial, law enforcement or legitimate commercial interests. Further, recommendations should be considered relating to the design of regional and international registers of information relating to the manufacture, transfer and accumulation of small arms and light weapons, to supplement the information on major conventional arms contained in the UN Register of Conventional Arms.

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## Emerging Issues for the International Action Programme

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### **Regulating private security companies**

Private military companies and private security companies are often involved in transfers of small arms and light weapons, either for their own use or as arms brokers. There is evidence that some private military companies have been involved in illicit arms trafficking. While there are legitimate roles for private security companies, it is important that they are properly embedded in States' public systems for providing security and police services.

Effective controls on arms transfers and accumulations will contribute greatly to tackling such concerns, as would an international agreement to control arms brokering activities. However private security and military companies raise a number of specific concerns, which the international community should address.<sup>21</sup> The International Action Programme could usefully facilitate international information exchange and consultation on the issue, focusing particularly on those activities that relate directly to the objectives of the programme.

### **Ammunition, explosives and missiles**

Ammunition is an integral part of the small arms and light weapons used in conflicts and crime and are included in the definitions of small arms and light weapons used by the UN. In 1998, the UN established a study group on the question of ammunition and explosives to establish whether these areas offer special leverage points to enhance controls on destabilising flows and misuse of small arms and light weapons.<sup>22</sup>

The main recommendation was that measures to control manufacture, transfer and accumulation of ammunition and explosives should be integrated, where relevant and appropriate, into the international norms and measures developed for all small arms and light weapons. The Document of Agreement provides the opportunity to do this and develop guidelines and measures relating to ammunition and explosives that can be included in the agreements achieved at the 2001 Conference. Consideration should be given to whether special standards and programmes should be established to address concerns relating to specific types of small arms and light weapons. For example, the illicit trafficking and spread of shoulder-fired anti-aircraft missiles raise special concerns, which could be addressed in a specific agreement negotiated at the 2001 Conference.

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## Conclusions

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The forthcoming UN Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects provides an important opportunity to reinforce, co-ordinate and strengthen international efforts to address the problems associated with illicit trafficking and proliferation of small arms and light weapons.

The main objective of the 2001 Conference should be to establish an International Action Programme on illicit trafficking, proliferation and misuse of small arms and light weapons. The International Action Programme must be a flexible and organic agreement that develops over time, and it is important that the Document of Agreement establishes mechanisms to facilitate this. At a minimum, provision should be made for follow-up Conferences and meetings – the equivalent of regular 'Meetings of the Parties' of international conventions. Such meetings should be tasked with reviewing implementation and progress; considering developments in the problems of illicit trafficking and small arms proliferation; agreeing further measures and programmes as appropriate; and negotiating specific agreements to pursue the objectives of the action programme. Sources of institutional support and co-ordination should also be identified, from the UN Secretariat and elsewhere. In such a way the proliferation of small arms and light weapons and illicit arms trafficking that is associated with widespread insecurity, conflict, crime and human suffering in much of the world may begin to be reversed.

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# Endnotes

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- <sup>1</sup> UN General Assembly A/RES/54/54 V, 15 December 1999.
  - <sup>2</sup> The definition of small arms and light weapons used here is the one used in the 1997 *Report of the UN Panel of Governmental Experts on Small Arms*, United Nations, A/52/298, 27 August 1997, which has become widely accepted. This distinguishes between small arms, which are weapons designed for personal use, and light weapons, which are designed for use by several persons serving as a crew. The category of small arms includes: revolvers and self loading pistols, rifles and carbines, submachine guns, assault rifles, and light machine guns. Light weapons include heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tanks guns, recoilless rifles, portable launchers of anti-aircraft missile systems, and mortars of calibres less than 100mm. The ammunition and explosives are considered to form an integral part of the small arms and light weapons with which they are used in conflict.
  - <sup>3</sup> For example, the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Light Weapons, the Southern African Development Community draft protocol on illicit arms trafficking; the OAS Convention on the Illicit Trafficking of and Manufacturing in Firearms, Their Parts and Components and Ammunition; the EU Code of Conduct on Arms Transfers and others.
  - <sup>4</sup> *Report of the UN Panel of Governmental Experts on Small Arms*, A/52/298, 27 August 1997 and *Report of the UN Group of Governmental Experts on Small Arms*, A/54/258, 19 August 1999.
  - <sup>5</sup> *Revised draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organised Crime*, A/AC.254/L.147/Add.3, 27 January 2000.
  - <sup>6</sup> *Ibid.*, A/RES/54/54 V.
  - <sup>7</sup> *Ibid.*, A/54/258.
  - <sup>8</sup> *Ibid.*, paragraphs 130-133.
  - <sup>9</sup> *Ibid.*, paragraph 132.
  - <sup>10</sup> *Ibid.*, paragraphs 131-132.
  - <sup>11</sup> This is the agreed definition used by the United Nations for small arms and light weapons. See "Guidelines for international arms transfers in the context of General Assembly resolution 46/36H of 6 December 1991", reprinted in United Nations, *Review of the Implementation of the Recommendations and Decisions Adopted by the General Assembly at its Tenth Special Session: Report of the Disarmament Commission*, A/51/182, 1 July 1996, pp. 64-69.
  - <sup>12</sup> *Ibid.*, A/AC.254/L.147/Add.3.
  - <sup>13</sup> An international action programme approach combines the advantages of negotiability, flexibility and substantial detailed agreements. However, the international action programme approach does not aim to secure agreement on an overarching 'framework convention' at the 2001 Conference, which would make the norms, standards and mechanisms in the Document of Agreement legally binding. The reasons for this are essentially pragmatic. A politically binding agreement for an international action programme does not require ratification before coming into force, and governments are expected to adopt and implement the commitments without delay. Moreover, studies of the effectiveness of international agreements indicate that politically binding commitments are often as effective as legally binding ones provided that they secure clear political commitment at the highest levels.
  - <sup>14</sup> This is in line with General Assembly resolution A/RES/54/54 V, paragraph 7, 15 December 1999, which stated that the outcomes from the Conference should include an action programme.
  - <sup>15</sup> *Report of the UN Group of Governmental Experts on Small Arms*, A/54/258; *Report of the UN Panel of Governmental Experts on Small Arms*, A/52/298; *UN Disarmament Commission Guidelines for International Arms Transfers* in the context of General Assembly resolution 46/36 H, A/51/42, annex 1, 1996; *UN Disarmament Commission Guidelines on conventional arms control/limitation and disarmament*, with particular emphasis on consolidation of peace in the context of General Assembly resolution 51/45 N, A/54/42, Annex 3, 1999.
  - <sup>16</sup> States also may decide, as appropriate, to require anyone engaged in brokering activities to register with authorities in their country of nationality and to obtain a licence or authorisation for arms brokering transactions from the same country.
  - <sup>17</sup> It is recognised that discussions around a Code of Conduct may go beyond the emerging consensus reached within the UN Group of Experts. However former President of Costa Rica Dr. Oscar Arias is leading an initiative to develop an International Code of Conduct in conjunction with a Commission of Nobel Laureates. For additional information on this effort, see the Arias Foundation web page at <http://www.arias.or.cr/Eindice.htm>.
  - <sup>18</sup> Council of the European Union, *Joint Action on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons*, December 1998, article 3b.
  - <sup>19</sup> *Ibid.*, A/54/258, paragraph 111.
  - <sup>20</sup> For example: systems of controls on manufacture and transfer of small arms and light weapons; tracing illicit or suspect weapons; lists of manufacturers, dealers and brokers involved in production and transfers; stockpile management and security; destruction of surplus arms; weapons collection programmes; and international assistance programmes.
  - <sup>21</sup> To an extent, private military companies are associated with concerns about mercenary activities. However the UN Protocol against mercenaries provides an inadequate framework for addressing such concerns (Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol 1), 1977). Its definition of mercenaries is very specific and is probably not an appropriate framework to regulate private military and private security companies.
  - <sup>22</sup> *Report of the UN Study Group on the Problem of Ammunition and Explosives*, A/54/155, 1999.
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**Biting the bullet: Advancing the agenda for the UN 2001 Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects** is a joint project between BASIC, International Alert and Saferworld. The project seeks to facilitate a wide-ranging and well-informed debate among governments and between governments and civil society. We expect that such debate will help generate support among governments for the advancement of a progressive agenda during the UN 2001 negotiating process and for the pursuit of a comprehensive and integrated approach to the problems of small arms and light weapons. The project will publish a series of policy briefings between February 2000 and the UN conference in 2001. As well as focusing on those elements of the small arms and light weapons control agenda that are likely to be addressed by the conference (eg marking of small arms), the research papers will also address elements (eg security sector reform) which, while relevant, are less likely to feature on the UN 2001 agenda.

In addition, we will hold regular seminars and maintain a website that will provide background information, event information and the published briefings. For more information on this project, please contact one of the three organisations.

BRITISH AMERICAN SECURITY INFORMATION COUNCIL

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BASIC, 1900 L Street, NW, #401-03, Washington, D.C. 20036  
Tel +1 202 785 1266. Fax +1 202 387 6298. Email: [basicus@basicint.org](mailto:basicus@basicint.org)

BASIC, Lafone House, 11-13 Leathermarket Street, London SE1 3HN  
Tel +44 (0)20 7407 2977. Fax +44 (0)20 7407 2988.  
Email: [basicus@basicint.org](mailto:basicus@basicint.org) / [basicuk@basicint.org](mailto:basicuk@basicint.org)

INTERNATIONAL ALERT

International Alert, 1 Glyn Street, London SE11 5HT  
Tel +44 (0)20 7793 8383. Fax +44 (0)20 7793 7975. Email: [general@international-alert.org](mailto:general@international-alert.org)



Saferworld, 46 Grosvenor Gardens, London SW1W 0EB  
Tel +44 (0)20 7881 9290. Fax +44 (0)20 7881 9291. Email: [general@saferworld.demon.co.uk](mailto:general@saferworld.demon.co.uk)

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