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# brief 11

## Reasonable Measures:

*Addressing the Excessive Accumulation  
and Unlawful Use of Small Arms*

august 98

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## **About the author**

*Joseph Di Chiaro III* is Researcher and Leader of the Surplus Weapons Program at the Bonn International Center for Conversion.

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*by  
Joseph Di Chiaro III*

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# Zusammenfassung

## German Summary

Die übermäßige Akkumulation und der unrechtmäßige Gebrauch von Kleinwaffen fordert einen immer höheren Tribut von der internationalen Gemeinschaft. Diese Waffen zerstören Menschenleben, bedrohen die Sicherheit und hemmen wirtschaftliche Entwicklung. Die bisherigen Bemühungen zur Kontrolle solcher Waffen reichen einfach nicht aus. Die Staaten und ihre Bürger müssen ihr Verhalten bei Export, Erwerb, Verbreitung, Kontrolle, Gebrauch und Lagerung von Kleinwaffen ändern. Die notwendigen Änderungen müssen unmißverständlich und unumkehrbar sein und von einem politischen und finanziellen Engagement begleitet werden, das der Größenordnung des Problems angemessen ist.

Ein Konsensbildungsprozeß gleichgesinnter Staaten über die effektivsten Methoden zur Verstärkung politischer, rechtlicher und finanzieller Ressourcen zur Eindämmung der negativen Auswirkungen von Kleinwaffen ist in Gang gekommen. Die Dringlichkeit zu gemeinsamem Vorgehen wächst mit Veränderungen in der Art der vorherrschender Konflikte, der Proliferation von Quellen für Kleinwaffen sowie der zunehmenden Wahrnehmung der negativen Auswirkungen, die Handel und Zirkulation von Kleinwaffen in betroffenen Länder und letztendlich auch auf die internationale Gemeinschaft haben. Zunächst muß es darum gehen, herauszuarbeiten was kontrolliert werden soll und wie dies am Besten gemacht werden kann.

Dieser Text richtet sich an interessierte Regierungen und Organisationen, die sich sowohl unilateral als auch kollektiv diesem Thema widmen, wie auch an Staaten, die direkt von der übermäßigen Akkumulation und dem unrechtmäßigen Gebrauch von Kleinwaffen betroffen sind. Mit dem Ziel, einen Referenzrahmen für effektives Handeln in der Zukunft zu liefern, wird zunächst eine Problemdefinition geliefert, dann die Effektivität und Bedeutung verschiedener, für einzelne Problemfälle entwickelter Initiativen untersucht, und schließlich die gesamte Bandbreite der Optionen zur Ausweitung oder Verbesserung derzeitiger Aktivitäten dargestellt.

Bemühungen, der übermäßigen Akkumulation sowie dem illegalen Gebrauch von Kleinwaffen zu begegnen, sollten sich auf vier Haupt-Problembereiche konzentrieren. Höchste Priorität hat der **Handel** mit Kleinwaffen. In diesem Zusammenhang müssen sowohl Maßnahmen zur Bekämpfung der illegalen Herstellung und Verbreitung als auch zur weiteren Klärung und Regulierung des legalen Umgangs mit Waffen berücksichtigt werden. Darüber hinaus müssen erste Maßnahmen getroffen werden, um die unkontrollierte **Zirkulation** von Waffen, die schon einmal an anderer Stelle in Gebrauch waren, einzudämmen. Ebenfalls muß über Maßnahmen gegen **illegalen Besitz und Gebrauch** von Kleinwaffen nachgedacht werden, insbesondere dann, wenn solcher Besitz und Gebrauch eindeutig gegen das bestehende internationale humanitäre Völkerrecht verstößt.

Regierungen, internationale und regionale Organisationen und Nicht-Regierungsorganisationen haben sich der Herausforderung der übermäßigen Akkumulation und des illegalen Gebrauchs von Kleinwaffen gestellt. In den Vereinten Nationen, der Europäischen Union, der Organisation Amerikanischer Staaten sowie in West Afrika wurden Initiativen gestartet. Die gemeinsamen Bemühungen konzentrieren sich auf den legalen wie den illegalen Handel mit Kleinwaffen. Die beiden anderen benannten Bereiche - Zirkulation und illegaler Besitz und Gebrauch - haben noch nicht die notwendige Aufmerksamkeit gefunden, obwohl ihre Bedeutung zunehmend erkannt wird.

Mit Priorität sollten daher die folgenden Punkte behandelt werden:

- Ausweitung und Harmonisierung derzeitiger Bemühungen zur Einschränkung des Handels mit Kleinwaffen;
- Entwicklung und Einführung neuer Maßnahmen zur Bekämpfung der enormen Mengen an zirkulierenden Waffen;
- Stärkung der Gesetzgebung und ihrer Durchsetzung, Begrenzungen des Besitzes und des Gebrauchs von militärischen Kleinwaffen.

Es gibt viele Möglichkeiten, sich diesen Herausforderungen zu stellen. Dieser Bericht behandelt die folgenden Optionen:

<i>Legalen Waffenhandel</i>	<i>Illegalen Waffenhandel</i>	<i>Zirkulierende sowie überschüssige, gelagerte Waffen</i>	<i>unrechtmäßiger Gebrauch und ziviler Besitz von militärischen Waffen</i>
Stärkung und Durchsetzung bestehender nationaler Gesetze	Verbesserte Erfassung von Daten und Austausch von Informationen	Identifikation existierender Bestände und Überschüsse	Verabschiedung einer klaren und eindeutigen rechtlichen Grundlage für Besitz und Gebrauch
Harmonisierung nationaler Vorgehensweisen Markierung von Kleinwaffen	Kapazitätsbildung in den betroffenen Regionen	Verbesserte Lagerungs- und Sicherheitskapazitäten	Letztendliche Entfernung der Gewaltwerkzeuge
Verstärkte Transparenz bei Herstellung von und Handel mit Kleinwaffen		Entwicklung und Unterstützung von Waffensammelungsprogrammen	
Begrenzungen des Nachschubs an Munition		Mandatierung und Unterstützung der Zerstörung	

Um wirkliche und sichtbare Fortschritte zu erzielen, muß der weitere Zufluß an Kleinwaffen in betroffene Staaten und Regionen endlich stärker eingedämmt, die Zirkulation bekämpft und müssen illegale und überschüssige Waffen eingesammelt und zerstört werden. Darüber hinaus muß begonnen werden, die eigentlichen Gründe für die Nachfrage nach Kleinwaffen zu beseitigen und einen Rückfall in die Gewalt zu verhindern. Bei der Entwicklung politischer Maßnahmen gegen übermäßige Akkumulation und illegalen Gebrauch von Kleinwaffen müssen zwei herausragende Aspekte beachtet werden. Erstens sollte ein umfassender und integrierter Ansatz Vorrang haben. In der Praxis bedeutet dies die Entwicklung und Anwendung von Maßnahmen zur Förderung effektiver und nachhaltiger Abrüstung. Maßnahmenbündel

müssen politisches Handeln gegen den Zustrom und die Zirkulation an Waffen und für die Nachhaltigkeit der Abrüstung durch eine umfassende Betrachtung der Aspekte Sicherheit, Abrüstung und Entwicklung verbinden. Zweitens sollte der Grad der Konvergenz der Anstrengungen in der internationalen Gemeinschaft zunehmen, um überflüssiges und widersprüchliches Handeln zu vermeiden. Transparenz und Dialog zwischen den Akteuren ist von fundamentaler Bedeutung für eine erfolgreiche Bekämpfung dieser Probleme.

# Executive Summary

The excessive accumulation and unlawful use of small arms and light weapons are inflicting an increasingly high toll on the international community—shattering human lives, threatening basic security, and restricting development. It is clear that current efforts to control these weapons are simply not adequate. States and their citizens must change the way they export, procure, distribute, control, use, and store small arms and light weapons. Change must occur in a manner that is unambiguous and irreversible, with a commitment of political and financial resources commensurate with the scale of the issue.

A process of consensus building is underway with like-minded states pushing for a general understanding of the most effective means of leveraging political, legal and financial resources in curbing the negative effects of small arms. This urgency has been driven by a shift in the prevalent form of conflict, a proliferation in the sources of supply, and an increasing awareness of the negative effects trade and

circulation is having in affected states and the international community at large. The principle aim at this stage is to determine what one wishes to control and how best to go about it.

This paper is directed to interested governments and organizations, acting both unilaterally and collectively to address the issue, as well as those states directly affected by excessive accumulation and unlawful use of small arms and light weapons. As a reference from which to form the basis of a more effective response, it defines the nature of the problems, reviews the effectiveness and relevance of the various initiatives that have been developed to address several aspects of the issue, and outlines a full range of options to extend or improve upon current activity.

Efforts to address the excessive accumulation and unlawful use of small arms and light weapons should be concentrated on four basic areas of concern. Of primary importance is **trade** in small arms and light weapons. In this regard measures to combat illicit manufacture and trafficking in small arms, as well as to further clarify and regulate licit activity need to be considered. Measures should also begin to address the uncontrolled flow of weapons already in **circulation**. Measures need also be considered to address the **unlawful possession and use** of small arms and light weapons, especially when such use and possession is in clear contravention of

existing international humanitarian law. The challenge of addressing the excessive accumulation and unlawful use of small arms has attracted governments, international organizations, regional bodies and non-governmental organizations. Initiatives have been introduced in the United Nations, European Union, Organization of American States and West African contexts. The trade in small arms and light weapons, both licit and illicit, has received the most concerted attention. The other two areas identified—existing circulation and unlawful possession and use—have yet to receive adequate attention, though there is a growing acknowledgment of their importance.

Priority, therefore, should be given to:

- expanding and harmonizing current efforts to restrain trade in small arms and light weapons;
- developing and introducing new measures to tackle the enormous volume of weapons already in circulation;
- strengthening legislation, and its enforcement, restricting possession and use of military-style small arms and light weapons.

The range of options available to meet this challenge are extensive. Those presented in this paper include:

<i>Licit Trade</i>	<i>Illicit Trafficking</i>	<i>Existing Circulation and Surplus Stocks</i>	<i>Unlawful Use and Civilian Possession of Military-Style Weapons</i>
Strengthening and enforcement of existing national law	Improving data collection and information sharing	Identifying existing stocks and surplus	Adopting a clear and unambiguous legal basis for possession and use
Harmonizing national approaches	Building capacity in affected regions	Improving storage and security capacity	Suppressing and removing the tools of violence
Marking of small arms and light weapons		Developing and supporting collection programs	
Pursuing greater transparency in the manufacture and trade of small arms and light weapons		Mandating and supporting destruction	
Restricting ammunition supplies			

To begin to achieve real and visible progress, further efforts must be made to restrict additional transfers of small arms and light weapons to affected states and regions, curtail non-trade sources of supply, collect and destroy illicitly held arms and excessive circulation, and begin to address the root causes of demand and prevent a reversion to violence.

In addressing the excessive accumulation and unlawful use of small arms and light weapons, two overriding considerations must be borne in mind when fashioning policy. First, a premium should be placed on the development of a more comprehensive and integrated approach. In practice, this means the development and implementation of measures geared towards more effective and sustainable disarmament. Policy must seek to address the source of the flows, the existing weapons in

circulation and the eventual sustainability of disarmament by taking a more comprehensive look at the requirements of security, disarmament and development. Secondly, there should be a gradual move towards a convergence of efforts to ensure that the international community is neither duplicating its efforts nor working at cross purposes. Awareness and dialogue among actors in these efforts is fundamental.

# Introduction<sup>1</sup>

In recent years there have been increasing calls for dedicated efforts to stem the negative effects of the trade and circulation of small arms and light weapons; perhaps most prominently in former UN Secretary-General Boutros Boutros-Ghali's call for the international community to direct its attention to "the weapons, most of them light weapons, that are actually killing people in the hundreds of thousands" (Boutros-Ghali, 1995, para. 60). Underlying these pronouncements has been a ground-swell of initiatives aimed at curtailing the availability of these weapons and their negative effects. In part, this has been influenced by the conduct and success of the global effort to ban anti-personnel landmines.<sup>2</sup> Several Governments have taken a leading role in promoting the issue in both regional and international fora, notable initiatives have been introduced in the United Nations, European Union, Organization of American States and West African contexts, and an ever-increasing number of non-governmental initiatives have emerged.

This growing awareness and response reflects an underlying need for more effective and comprehensive action. This need, in turn, is prefaced on three main factors particular to the current period: the changing nature of conflict, a proliferation in the sources of supply of small arms and light weapons, and a variety of negative effects relevant internally to affected states and regions as well as to states and organizations outside of affected areas.

## *The changing nature of conflict*

This growing awareness is partially attributable to a relative shift in the prevalent type of warfare. With the end of the East-West conflict as the major threat to international peace and stability, attention has shifted to the remaining and lingering conflicts. The threat of large-scale offensive operations conducted with heavy

## *Small arms & light weapons: a working definition*

The following is an increasingly accepted definition and is quoted from the UN Panel of Governmental Experts report:

**"Small arms**—revolvers and self-loading pistols; rifles and carbines; sub-machine-guns; assault rifles; light machine-guns. **Light weapons**—heavy machine-guns; hand-held under-barrel and mounted grenade launchers; portable anti-aircraft guns;\*\* portable anti-tank guns, recoilless rifles;\*\* portable launchers of anti-tank missile and rocket systems;\*\* portable launchers of anti-aircraft missile systems; mortars of calibres of less than 100 mm. **Ammunition and explosives**—cartridges (rounds) for small arms; shells and missiles for light weapons; mobile containers with missiles or shells for single-action anti-aircraft and anti-tank systems; anti-personnel and anti-tank hand grenades; landmines; explosives."

\*\*These weapons are sometimes mounted

Source: see Appendix II

conventional weapons has given way to the dangers of unconventional, internal warfare fought primarily with small arms and light weapons.

Though the absolute number of major armed conflicts has steadily declined, conflict is now primarily being waged *within* and not *between* states, engaging non-state entities and blurring the distinction between combatants and non-combatants. For example, by 1996 all but one of the 27 major armed conflicts<sup>3</sup> waged worldwide were internal, or intra-state, conflicts (the lingering conflict between India and Pakistan over Kashmir being the lone exception).

As both peacekeeping and humanitarian operations to such conflict-ridden states has increased dramatically over the last decade, so too has awareness of the dangers posed by the primary instruments used in such conflicts. As casualties from intra-state conflict—to local non-combatants, peacekeepers and humanitarian aid workers—have accumulated over time, so too has the pressure to respond.

This shift to primarily intra-state conflict has required a better understanding, on the part of the international community, of the nature of such conflict and the implements used to carry it out. Internal conflict is more fluid, involving smaller, less-centralized groups with little or no external patronage. For non-state parties, therefore, a priority is placed on cheap, easily maintainable and concealable, highly portable weapons—hence the prevalence and concern about small arms and light weapons.

<sup>1</sup> The author would like to recognize the helpful comments and input of Drs. Herbert Wulf, Michael Brzoska, Kees Kingma (all of BICC) and Edward Laurance (Monterey Institute of International Studies) in preparing this manuscript.

<sup>2</sup> Though they could be included in the following discussion, anti-personnel landmine issues are generally excluded as they are the subject of a global convention banning production, storage, transfer or use.

<sup>3</sup> 'Major armed conflicts' are defined as those incurring battle-related deaths of at least 1,000 people over the course of the conflict (SIPRI, 1997, p. 17).



Though the mere presence of weapons in a society does not, in and of itself, generate conflict, their presence in large number and outside of formal security structures can increase the likelihood of violent ‘solutions’ to disputes (even emboldening disaffected members of a populace to act where they otherwise would not), may increase the scale and lethality of conflict and—given their presence or improper management during a peace process—may prolong violent conflict.

***Proliferation of supply***

Intra-state warfare and civilian casualties are certainly nothing new. What has changed is the proliferation in sources of supply and, as a result, the growing lethality of internal conflict.

In addition to traditional sources of supply, light weapons proliferation is increasingly being fed from surplus-related sources<sup>4</sup>; particularly the extent of force restructuring and weapon modernization world-wide. Through this combination of factors, and as a direct result of poor management and control over weapons in the demobilization, force downsizing and disarmament processes, many weapons legally or illicitly enter conflict regions. An understanding of the way in which control and/or collection of arms in these processes is managed, therefore, is crucial to determining to what extent policy can begin to exploit this opportunity to roll-back the extensive circulation of small arms and light weapons in affected regions.<sup>5</sup>

Since the late 1980s, and mainly due to the promising end of civil wars, sub-Saharan Africa has witnessed the demobilization and disarming of over 850,000 ex-combatants in nine countries. More than half of the demobilized were from the defeated Derg army in Ethiopia. Other demobilizations took place in Angola, Chad, Eritrea, Liberia, Mali, Mozambique, Namibia and Uganda. Further demobilization is planned in Chad,

Djibouti, Rwanda and South Africa. The resolution of civil wars in central America has also resulted in the demobilization and disarmament of ex-combatants in El Salvador (38,000), Guatemala (27,600), Haiti (6,250) and Nicaragua (88,000) in the same time period (Kingma, 1997).

Demobilization following the cessation of armed conflict, however, is not the sole source of increased supply. Since the early 1990s, significant downsizing of armed forces has occurred in Western and Eastern Europe, the states of the former Soviet Union, the United States and the People’s Republic of China. At best the weaponry made surplus has been stockpiled, at worst it has been exported indiscriminately. In very few instances have stocks, deemed excess to a state’s legitimate needs, actually been destroyed. In this respect, as well as in transfers of new weapons, state behavior has not sufficiently changed despite a growing awareness of market over-saturation.<sup>6</sup>

Insufficient security and control over government holdings of small arms and light weapons, coupled with corruption among armed forces personnel and deliberate diversion, has led to another troubling development—government stocks as an increasing source of illicit supply. Because of this, it is often the case that small arms legitimately transferred end up in illicit channels. However, government stocks do not only become sources of supply through illegal, unintended means. As many states have moved to downsize and modernize their forces, vast amounts of small arms and light weapons have become surplus and, rather than destroyed, have been exported to other states.

In addition to this surge in surplus-related sources of supply, the systemic transformation occurring in Eastern Europe and the states of the former Soviet Union has, at least temporarily, reduced effective control over stocks as

well as border control points in that region. Adding to this, predictable patterns of patronage and supply have been superseded by the primacy of economic considerations. This has in some instances resulted in an almost unimpeded flow of small arms, light weapons and ammunition within, among and from these states. The situation has also been supported by the precarious economic environment and declining standard of living, which has also affected arms manufacturers and current and former armed forces personnel.

Lastly, the growing scope and sophistication of organized crime worldwide has added to the problem with complex networks of drug-trafficking and money-laundering also becoming conduits of weapons smuggling.

***Causes of internal and external concern***

Causes of concern to affected states stem from four main factors:

- casualties and suffering to civilian populations;
- threats to stability;
- disruption of economic activity and hindrance to the effectiveness or implementation of development programs; and
- loss of foreign assistance and investment.

<sup>4</sup> ‘Surplus’ here, and throughout this paper, refers to weaponry deemed excess to a military’s requirements. Such surplus is usually slated for stockpiling, disposal or export (see BICC, 1997).

<sup>5</sup> The United Nations Institute for Disarmament Research (UNIDIR) has conducted and published some important initial work on weapons control activities in the context of peace operations. See their series on ‘Managing Arms in Peace Processes.’

<sup>6</sup> A related issue, though not addressed here, is excess production capacity. Decline in domestic demand in many major producing states has resulted in export pressure.

The physical threat to human security posed by armed conflict and the unlawful use of small arms appears to be on the rise. More and more, innocent civilians are finding themselves caught in the crossfire of armed conflict or the deliberate target of violence and intimidation. For example, recent estimates claim that as much as 95 percent of war casualties are civilians (“British Government” sources) and 90 percent of civilian casualties are caused by small arms (Oxfam) (*Financial Times*, 11 May 1998, p. 4).

The termination of several long-standing armed conflicts in recent years has raised the prospects for the redirection of resources towards more peaceful pursuits. However, in many respects, the immediate post-war period is characterized as a time of uneasy transition with rising expectations hemmed in by the realities of reconstruction and economic transformation. Ex-combatants must be demobilized and reintegrated into civil society, the long process of physical and psychological healing must begin, dysfunctional public institutions rebuilt, democracy established or reinstated, and disrupted development restarted in a sustainable way—all considerable challenges in and of themselves. The presence of a large volume of weapons—especially small arms and light weapons—in this environment directly endangers the fulfillment of these objectives.

Small arms can empower disaffected groups to challenge institutions, whose lack of effective control merely compounds the situation. The ready availability of weapons coupled with the absence of a secure environment can lead to a self-perpetuating upward spiral of insecurity and acquisition—with insurgent and criminal groups acquiring increasingly more lethal weaponry, police and military boosting their capability to meet this threat, and ordinary citizens arming themselves in self-defense.

The threat and uncertainty posed by small arms outside of legitimate state control also severely affects economic activity and development. This can come in several forms including criminal disruption of normal economic activity, the physical destruction of economic resources, the denial of land use through the presence of landmines, and the diversion of financial resources to address these threats. This general insecurity also wards off long-term investment. It is no surprise, therefore, that in this environment of political, economic and social uncertainty with personnel and capital assets directly threatened, external donors become hesitant to commit further resources with little confidence in their ultimate effectiveness.

Though, as noted above, the prevalent form of major armed conflict has become intra-state in nature, the problems generated are by no means limited to strictly internal concern. The external stake in combating the excessive accumulation and unlawful use of small arms and light weapons in many ways mirrors the above. Aside from humanitarian concern for the often indiscriminate effects on innocent civilians, these weapons are directly endangering the lives of peacekeeping and humanitarian personnel. Furthermore, rarely has intra-state conflict been strictly confined to national boundaries. The spread of conflict, the resulting flight of refugees, and the flow of weapons threaten to trigger broader regional instability and in this way attracts broader attention. It hampers the delivery of humanitarian aid and threatens the effective implementation of development programs. This in turn directly curtails the effectiveness of development efforts and aid funds.

### **Looking forward**

The nature of the small arms and light weapons trade, and the inability of some states to deal with the negative aspects of that trade, has led to certain regions becoming awash in arms—adding to a growing circulation of

weaponry that is feeding insurgency, sustaining criminal elements and increasing the lethality of violent conflict. This circulation is having an effect on the outbreak, conduct and termination (or lingering) of armed conflict. As a result, it also has adverse effects on political, economic and social development in general. More specifically, the flood of arms in certain regions often has indiscriminate effects on innocent civilians, directly endangers the lives of peacekeeping and humanitarian personnel, hampers the delivery of humanitarian aid, and threatens the effective implementation of development programs. This in turn directly curtails the effectiveness of development efforts and aid funds, and should prompt the concern of donors and the restraint of arms suppliers.

For many years, the issue was considered—and remains—daunting, with the scope of legitimate actors more ambiguous and the range of illicit players more diverse than under more ‘traditional’ approaches to arms control. The emergence of violent internal conflict as a primary threat to stability and development has alerted and refocused the attention of the arms control and development communities. The past few years have witnessed a growing awareness of the ravages these weapons cause, which has spurred an increasing urgency to deal with their excessive accumulation and unlawful use.

With awareness of the potential dangers posed by the excessive accumulation and unlawful use of small arms now nearly universal, a process of consensus building is underway with like-minded states pushing for a general understanding of the most effective means of leveraging political, legal and financial resources in curbing the negative effects of small arms. In essence, the principle aim of such states at this stage is to determine what one wishes to control and how best to go about it.

# Identifying the Issues

Prior to examining the set of current efforts and recommendations for further action, it is necessary to identify a variety of cross-cutting issues pertaining to the nature and scope of the excessive accumulation and unlawful use of small arms that influence and will shape the nature of the response and range of actors involved. Of primary importance is **trade** in small arms and light weapons. In this regard measures to combat illicit manufacture and trafficking in small arms, as well as to further clarify and regulate licit activity need to be considered. Measures should also begin to address the uncontrolled flow of weapons already in **circulation**. Measures need also be considered to address the **unlawful possession and use** of small arms and light weapons, especially when such use and possession is in clear contravention of existing international humanitarian law.

## Trade

States, as a rule, have been hesitant in releasing trade figures on small arms and light weapons, presenting an undue challenge for the consideration and application of effective control measures. This lack of transparency cannot necessarily be explained in terms of a loss in strategic or commercial advantage. The pursuit of greater transparency in trade statistics will be the benchmark of further action.

However, while little is still known about the exact physical or financial volume of the trade in small arms and light weapons, some of its basic characteristics can be instructive. For instance, it is known that government, or government-sanctioned, transfers continue to play a role in adding to the

flow of weapons, but unsanctioned transfers and flows among non-government entities are increasingly important. Though difficult to verify, the legal trade in small arms and light weapons has been estimated at around US \$5 billion annually, with at least that amount also attributed to illicit transfers (*Economist*, 16 May 1998, p. 47). As much as half of the legal trade may be attributable to intra-US transactions.

By definition, illicit trafficking is abetting causes not conducive to peace and stability, nor the rule of law, and undermines the authority and control of the state. The result of such illicit trafficking tends to be increased criminal activity, more capable anti-government insurgencies, and the general circumvention of a state's legislation.

Furthermore, trade in small arms and light weapons has been afforded much less stringent oversight and control, especially in relation to transfers of heavy conventional weapons and weapons of mass destruction and their components. Exports of surplus small arms and light weapons have been subject to even less scrutiny. In light of the actual damage and suffering this class of weapons is inflicting, as well as the longevity of the weapons themselves, a policy of equal scrutiny in arms exports should be applied.

Small arms are bound to remain a central element in any state's internal and external security system, thus acquisition will likely remain steady. Furthermore, the acquisition of arms for the purpose of national security has been repeatedly upheld as a legitimate right of national governments. One must distinguish, however, this legitimate right from what is actually occurring or has occurred in several regions. In some

cases, it is the inadequacy of internal security which leads to illicit flows and conflict. Overall, it is important to recognize the inability of many governments to control small arms and light weapons—even those in their own arsenals. In states lacking the necessary capacity to provide basic security for their citizens, protect and control their borders and ports, have reasonable oversight over trade flows, or limit corruption, licit transfers can readily become illicit leakage.

It is important to realize that trade in small arms, and approaches to curbing that trade, are completely different when compared to the trade and control of heavy weapons. When considering the former, we are not speaking of the *proliferation* of technology or capabilities and the need to limit that proliferation. More appropriately, we are speaking of the *dispersion* of weapons to all levels of society and throughout the world (Klare, 1995). As such, there is a much larger number of actors at work—both suppliers and recipients—making traditional supply-side approaches alone less effective. In attempting to curb the small arms trade and its negative effects, one must begin to deal with the causes of demand and make in-roads into mopping up the existing circulation.

## Existing circulation and surplus stocks

The legal production and trade of small arms to countries in affected regions, is relatively minor compared with the existing volume of weapons in stock and uncontrolled circulation within these states and regions. This aspect is particularly acute in sub-Saharan Africa and central America where decades of rival patronage and civil war have left a lingering residue. What is at issue, therefore, is a large

volume of small arms in circulation and a lack of control over their flows. This is not to relieve the responsibility from government parties; both those exporting and importing arms.

Especially in the African context, further inflows of weapons are merely adding to the flood of arms in circulation and providing incentive to counter those arms with more, and more lethal, weapons.

The durability of this circulation is supported by the nature of the weapons themselves. Small arms and light weapons, because of their relative simplicity, have long service lives, low maintenance requirements, are highly portable and relatively easy to use. This existing circulation of small arms and light weapons is being fed by a variety of sources *within* conflict or post-conflict states and regions, and for a number of reasons. As such, it is often unaffected by the efforts of supplier cartels or export control regimes. Among these reasons are:

- the improper or incomplete disarmament of ex-combatants in the demobilization process following a peace agreement;
- a lack of effective control over weapons stores or internal corruption among armed forces and security personnel;
- a lack of control over entry points and internal circulation of small arms and light weapons due to underdeveloped legal and administrative frameworks in states undergoing transformation or emerging from conflict.

Aside from this uncontrolled circulation, official stocks of small arms and light weapons in many states not only exceed their legitimate national security requirements, but also surpass their capacity to effectively store and secure them.

## ***Unlawful use and civilian possession of military-style weapons***

The ready availability of military-style small arms and light weapons has led to widespread violations of human rights, untold suffering and general economic loss. While the weapons themselves are not the root causes of such acts, they are too often the tools of violence used to carry them out.

The relative ease with which small arms can be acquired on black and gray markets, along with the ready availability of military-style weaponry has fed an increasing demand for more lethal weaponry. Many states have witnessed a marked increase in the use of military-style weaponry in violent crime. Weapons used have included items such as assault rifles, anti-tank missiles, and hand- and rocket-propelled-grenades. Such are certainly accessories generally considered not suitable or necessary for hunting, sport or even self-defense. This is undoubtedly a disturbing development and requires more strict delineation of legal possession. Timely storage and destruction of surplus or seized military-style weapons can be a preventive measure in this respect.

Unfortunately, criminal possession and misuse of military-style small arms and light weapons are not the only cause of violations of human rights. Too often, weapons acquired by governments for purposes of defense and national security are used in acts of internal repression, intimidation and torture in contravention of international humanitarian law.

# The Scope of Current Efforts

The challenge of addressing the excessive accumulation and unlawful use of small arms has attracted governments, international organizations, regional bodies and non-governmental organizations (NGOs).<sup>7</sup> In no small way, the conduct and success of a global campaign to ban anti-personnel landmines has influenced the resolve of actors to address the problem of small arms and light weapons. As a result of several decades of—and in some cases on-going—civil war, the problems have been identified as most acute in Africa and central America. However, no region has been immune from the effects, nor blameless from the causes. As well, the range of cross-cutting issues identified in the previous section call for a varied response from actors with a limited purview and competence. This is reflected in the range of actors currently addressing various aspects of the issue.

## ***The United Nations context***

Approaches to the issue have evolved along three tracks within the UN context. First, the UN (through its Member States) has often confronted the issue in the context of its peacekeeping operations and through the application of arms embargoes to conflict regions. Second, within the traditional disarmament bodies of the UN—the First Committee of the General Assembly, the Disarmament Commission and the Conference on Disarmament. Third, within the Economic and Social Council's (ECOSOC) Commission on Crime Prevention and Criminal Justice. Both

of the latter tracks have focused squarely on curbing illicit transfers, but in doing so have addressed further regulation of licit transfers as well. A fourth, less formal, initiative has emerged within the UN context and is worthy of mention here—the “Group of Interested States”.

### ***Operational measures: peacekeeping and embargoes***

Though small arms and light weapons issues have been explicitly part of a handful of UN peacekeeping operations, far greater in number are the instances where weapons control or collection was explicitly ruled out as an element of conflict or post-conflict assistance. Weapons collection has been consistently absent from the mandate of peacekeeping operations, and this despite the continued danger to peacekeeping forces posed by small arms and light weapons in the regions forces are sent. In a few rare instances, in order to protect their troops, individual commanders have exceeded their mandate and spontaneously acted to curb the threat through the seizure and destruction of weapons. In Bosnia, for example, upon receiving request after request for instructions on how to handle weapons not covered by the Dayton Accords though clearly interfering with the IFOR mandate, Supreme Allied Commander Europe, General George Joulwan, issued a blanket order to destroy on the spot any weapon seized because it was in illegal possession (Joulwan, 1996). Even when not directly involved in weapons collection, however, peacekeeping forces have played an important role in stemming flows of weapons into affected regions and occasionally their presence has aided the implementation of indigenous collection efforts.

Embargoes have been a more frequent feature of UN efforts, most recently applied to the Great Lakes region of

Africa, the former Yugoslavia, and Sierra Leone, among others. They have played a role in limiting drawn-out armed conflict, but have only a marginal effect on shorter-term, deadly flare-ups which are generally fueled by existing stocks and circulation within a state or region. They have also suffered from a lack of compliance from UN Member States as well as the absence of clearly delineated and applied sanctions against violators.

### ***The General Assembly***

The General Assembly has passed a number of resolutions calling for action to combat illicit trade and unlawful use of small arms and light weapons. Among them, the most relevant to this discussion are mentioned below in the context of the activities they recommended. These include, *inter alia*:

- **46/36 H of 6 December 1991** which called for states to take measures to curb illicit trafficking in arms by ensuring control over their stocks and transfers of arms and to work at the subregional, regional and international levels to harmonize relevant law and procedures.
- **50/70 B of 12 December 1995** which requested the Secretary-General to prepare a report on small arms, with the assistance of a panel of governmental experts.
- **51/45 N of 10 December 1996** which stressed the importance of certain ‘practical disarmament measures’ such as “the collection, control and disposal of arms, especially small arms and light weapons, coupled with restraint over the production and procurement as well as transfers of such arms, the demobilization and reintegration of former combatants, demining and conversion, for the maintenance and consolidation of peace and security in areas that have suffered from conflict.”

<sup>7</sup> Though not the explicit focus of this study, the efforts of individual Governments in this field should not go unmentioned. Especially in the UN context, but also in other fora, the efforts and support of Canada, Germany, Japan and Norway have been exemplary.

■ 52/38 G of 9 December 1997 which underlines the importance of assisting affected states in the implementation of practical disarmament measures and invites a group of interested states to facilitate the process.

***The Panel of Governmental Experts on Small Arms***

In pursuance of General Assembly resolution 50/70B of 12 December 1995, a Panel of Governmental Experts on Small Arms was convened to examine the issue of small arms with particular attention to the nature and causes of excessive and destabilizing accumulation and transfer of small arms and means to alleviate the same. The panel’s recommendations included measures to reduce excessive and destabilizing accumulation and transfer where it has already occurred, as well as measures to prevent such accumulations and transfers in the future. The former includes measures such as:

- an integrated approach to security and development to include assistance to internal security forces of affected states;
- support for post-conflict disarmament initiatives such as weapon turn-in, disposal and destruction programs;
- the development of guidelines to assist negotiators of peace settlements in planning for disarmament of combatants, and collection and disposal of weapons, and to assist peacekeeping missions in implementing their mandates;
- strengthening cooperation and information exchange in combating illicit activities related to small arms;

■ the destruction of all weapons not under legal civilian possession or required for purposes of national defense and internal security.

The latter, preventative measures, includes:

- the implementation of appropriate laws and regulations for the effective control of legal small arms possession and transfer;
- restraint with respect to the transfer of surplus small arms manufactured solely for possession and use by military and police forces;
- proper safeguarding and storage of such weapons;
- an international conference to address all aspects of illicit arms trade;
- feasibility studies on the establishment of a reliable system of marking, and on restricting manufacture and trade to authorized manufacturers and dealers;
- a study on ammunition and explosives (see Appendix II).

***The Disarmament Commission***

The UN Disarmament Commission has taken two important steps in promoting greater control over small arms. In the context of General Assembly resolution 46/36H of 6 December 1991, the Disarmament Commission on 3 May 1996 adopted a set of “Guidelines for International Arms Transfers” (United Nations Disarmament Commission, 1996). Though general, the guidelines serve as a basis for harmonization and strengthening of measures designed to curb illicit arms trafficking among Member States.

Following the adoption of resolution 51/45N of 10 December 1996 on the “Consolidation of peace through practical disarmament measures,” the Disarmament Commission, in its 1997 substantive session, began deliberations under the heading “Guidelines on conventional arms control/limitation and disarmament with particular emphasis on consolidation of peace in the context of GA resolution 51/45N.” Discussions, which are slated to continue through the 1999 substantive session, have focused on the development of standardized guidelines for practical disarmament measures such as weapons collection, storage and destruction, buy-back schemes, demobilization and reintegration of ex-combatants, and demining.

***The ECOSOC Commission on Crime Prevention and Criminal Justice***

Within the UN context, efforts to stem illicit trafficking in firearms have also emerged from the work of the Economic and Social Council’s Commission on Crime Prevention and Criminal Justice. Focusing on illicit trafficking and its relation to crime, the Commission has drafted an “International Study on Firearm Regulation” to be issued as a UN publication and it has held a series of regional workshops to discuss firearms regulation and measures to combat illicit trafficking. In its most recent session, the Commission recommended work towards the elaboration of an international instrument to combat illicit manufacturing and trafficking, taking into account the example of the Inter-American Convention (ECOSOC, 1998).

***The “Group of Interested States”***

On a less formal level, following the recommendation of the Secretary-General (United Nations General Assembly, 1997, para. 12) and the

adoption of UN General Assembly resolution 52/38G of 9 December 1997 (United Nations General Assembly, 1998), a “Group of Interested States” has begun meeting regularly at UN Headquarters in New York to support affected states in implementing practical disarmament measures. By design, the group has become a forum for the discussion and coordination of practical disarmament measures as well as a platform for joint sponsorship of concrete initiatives proposed by affected states. As an initial measure, the Group is supporting a regional training seminar held in Yaounde, Cameroon, to build local capacity in central African states in areas of disarmament and destruction of weapons, and demobilization and reintegration of ex-combatants. The less formal and practically-oriented environment the Group provides paves the way for the flexibility and timeliness often necessary to address the issue.

### ***Regional initiatives***

Several initiatives on the regional level, geared to local conditions and focusing on regional challenges, may also have wider relevance and application. In particular, the Inter-American Convention shows promise for a move towards greater harmonization of policy in combating illicit manufacturing and trafficking, the EU Programme provides a basis for enhanced practical cooperation among developed and developing states, and the Moratorium under consideration for West Africa demonstrates the practical application of bold initiatives.

#### ***The Inter-American Convention***

The “Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials” was adopted on 13 November 1997 by the Member States of the Organization of American States (OAS; see Appendix III). The

OAS convention outlines a number of measures designed to “prevent, combat and eradicate” illicit manufacturing and trafficking of firearms, ammunition, explosives and related materials such as component parts. More specifically, *inter alia* the convention calls upon OAS Member States (if they have not already done so): to adopt legislation establishing criminal offenses for illicit manufacturing and trafficking; to require a system of marking of firearms at time of manufacture, importation and confiscation, to allow identification and tracing; to establish and maintain a system of export, import and transit licensing or authorization; and to enhance cooperation and exchange in curbing illicit activity.

In addition, the OAS’s Inter-American Drug Abuse Control Commission (CICAD) has drawn up a set of Model Regulations (Organization of American States, 1997) for the control of international movements of firearms and ammunition. These regulations in essence are an example of the system of export, import and transit licensing or authorization called for in the OAS Convention and explicitly lay out the basis as a means of harmonization among Member States. The model regulations, however, are only intended to apply to commercial transactions and do not extend to state-to-state transactions or those for purposes of national security.

#### ***The European Union***

On 26 June 1997, the EU Council of Ministers adopted the “EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms” (see Appendix IV), in which both Member States and the European Commission enter into a political commitment to take action to prevent and combat illicit trafficking in arms—particularly small arms. The Programme itself lays out a framework of activities designed

with this goal in mind. These activities fall into three categories:

- *Measures which Member States can undertake to prevent illicit arms flows from or through Europe.* These mainly cover the enforcement of existing laws and the enhancement of cooperation and data exchange among Member States.
- *Measures which Member States and the Commission can undertake to help other countries prevent illicit arms flows from or through their territories.* These include assistance to strengthen legislation and administration in countering illicit flows, adequate training for police and customs officials, and promoting regional and national cooperation in this field.
- *Measures which Member States and the Commission can undertake to assist countries, especially in post-conflict situations or situations where a minimal degree of security and stability exists, in suppressing the illicit flow of arms.* These include incorporating appropriate measures into peacekeeping operations and cease-fire and peace agreements; establishing weapons collection, buy-back and destruction programs; setting up educational programs to promote awareness of the negative consequences of illicit trafficking, and; promoting reintegration of former combatants into civilian life.

On 25 May 1998, the General Affairs Council of the European Union adopted a Code of Conduct on Arms Exports (see Appendix V). An elaboration of its Common Criteria for arms exports adopted in 1991 and 1992, the Code is a qualitative and functional improvement urging greater restraint and consultations on arms transfers among its Member States. The Code is specifically aimed at preventing arms transfers which contribute to conflict or internal repression. The Code establishes a denial notification and consultation mechanism which requires states to

notify other Members of an export denial. Additionally, if a state is considering a transfer similar to one which previously received a denial, that state must consult with the state which issued the prior denial. However, the Code does not explicitly apply to small arms and light weapons exports and it is still unclear as to what extent such items will be covered. The Code remains non binding and posits final decision on whether to proceed with a transfer on individual states.

***West Africa Moratorium***

The proposed moratorium on the import, export and manufacture of light weapons for West Africa, as well as its designed supporting mechanism, the Program for Coordination and Assistance for Security and Development in West Africa (PCASED), is unique in several respects. Not only is it the first moratorium of its kind, but it in essence applies self-imposed restrictions on recipient states. Furthermore, by inviting the participating states of the Wassenaar Arrangement (see below) to respect the moratorium and assist in its implementation, West African states are constructing a truly cooperative regime (see also Lodgaard and Fung, 1998). The moratorium itself will be voluntary in nature and basically a declaratory measure with an initial three year duration. Provision has also been made for exemptions, whereby a state which feels it has a legitimate requirement for new acquisition can provide prior notification to an established consultative mechanism. The moratorium covers all trade and manufacture of light weapons, with illicit activity slated to be addressed by associated measures.

***The Wassenaar Arrangement***

With a mandate to prevent destabilizing build-ups of military capacity, the Wassenaar Arrangement also has a role to play in controlling transfers of small arms and light weapons. The 33 participating states to the Arrangement (including nearly all major producing countries) control exports of conventional arms and dual-use technologies at the national level, including all militarily significant firearms and ammunition. With export decisions resting firmly with individual states, the declared purpose of the Arrangement is to promote greater transparency and responsibility in the interest of regional and international security and stability. The Arrangement also includes the voluntary exchange of information on arms transfers. However, the limited transparency afforded by this instrument is restricted to Members of the Arrangement. Information on transfers is not made publicly available.

***Non-governmental organizations***

While many NGOs have been working on the issue of small arms and light weapons for some time, there has recently been a tendency towards coalition-forming—linking both a variety of organizations of similar focus and uniting the various humanitarian, arms control, and development organizations whose mandates and interest touch on aspects of the small arms issue. In this way, NGOs have begun to make progress in this area by addressing the issue in a more comprehensive fashion, having broader appeal and reaching a wider constituency, and contributing to the raising of public and governmental awareness and the important process of norm-building. Two important examples in this regard are the

Norwegian Initiative on Small Arms Transfers (NISAT)—combining the Norwegian Red Cross, Norwegian Church Aid, the Norwegian Institute of International Affairs and the Peace Research Institute Oslo—and the Internet based “Prep Com” (<http://www.prepcom.org>)—maintained at the Monterey Institute of International Studies—designed to provide a forum for the exchange of ideas on launching a global NGO campaign. In no small way, many NGOs have taken their cue from the success of NGO-driven landmine campaign efforts.



# Options for Change<sup>8</sup>

Of the issues identified in the second section of this paper (see Identifying the Issues), the trade in small arms and light weapons—be it licit or illicit—has received the most concerted attention. The other two areas—existing circulation and unlawful possession and use—have yet to receive adequate attention, though there is a growing acknowledgment of their importance. In general, efforts should be directed towards responsible management of controlled stocks and a steady decline in uncontrolled circulation.

Efforts within the United Nations context to make practical disarmament measures a reality are still far too modest, yet are an important approach to addressing circulation. The recently adopted EU Code of Conduct is to date the strongest declaration of common intent to curb transfers to states involved in conflict or internal repression (thus sanctioning such behavior), though it is not specific to the issue of small arms and light weapons, nor binding. The OAS initiative is precedent-setting in its efforts to combat illicit trafficking, but avoids inter-government transactions and does not address the problem of circulation to the extent of the EU Programme.

Priority, therefore, should be given to:

- expanding and harmonizing current efforts to restrain trade in small arms and light weapons;
- developing and introducing new measures to tackle the enormous volume of weapons already in circulation;
- strengthening legislation, and its enforcement, restricting possession and use of military-style small arms and light weapons.

To begin to achieve real and visible progress, further efforts must be made in cutting off additional transfers of small arms and light weapons to affected states and regions, curtailing non-trade sources of supply, collecting and destroying illicitly held and excessive circulation, and beginning to address the root causes of demand and prevent reversion to violence.

In perhaps no other area of arms control could transparency be more beneficial, data exchange more effective, and joint action less imposing upon national sovereignty. In fact, in cases where states are unable to exert a minimum level of control over illicit flows and usage of small arms and light weapons, joint action could actually be supportive of national sovereignty.

## ***Addressing trade***

Restricting further transfer of small arms and light weapons to states and regions of conflict, especially where lack of effective control over such flows is evident and abuse of human rights widespread, should be a priority of the international community. It is in the area of transfer control where supplier states can exercise the greatest amount of direct influence. As such, states should work to further strengthen control and oversight of licit transfer, while stepping up efforts to combat illicit trafficking. Many of the current and proposed efforts focus on further clarifying and regulating the licit trade and possession, not as a means of infringing on the sovereignty of states nor the right of individuals to legally bear arms, but as a means of isolating and targeting illicit trade and unlawful use.

States also need to understand, and build into their export policy, the differing nature of small arms and light weapons. Export controls and policy have generally been biased towards

heavy weaponry and dual-use technologies, and rarely make allowance for the long life and low maintenance and spare parts requirements of small arms and light weapons. The indirect leverage such attributes afford in the case of heavy weapons is simply not relevant for small arms and light weapons. When dealing with small arms and light weapons, therefore, much greater consideration must go into how long the recipient state may remain stable and how great the risk of loss or diversion may be. This points to a much broader and complex set of criteria for consideration, including a state's political and economic viability.

## ***Licit***

Licit transfers can, and have, been the cause of excessive accumulation of small arms and light weapons in several states and regions. In many instances, this was not the intention of policy, but rather the result of insufficient transparency and a lack of coherence among supplier states. While the process of norm-building on what constitutes excessive accumulation and unlawful use has, and will be, a deliberate and drawn-out process, immediate measures can be taken to increase transparency, improve coordination and enhance capability which can form the basis for dialogue and action.

It should be noted that the distinction between licit and illicit trade is at some points clear and at some unclear. States must be aware of the possibility that licit trade can end up in illicit channels. An emphasis, therefore, should be placed on how to prevent licit trade from becoming illicit trafficking and possession.

<sup>8</sup> See Appendix I for an abbreviated listing of the various options presented below.

In order to close loopholes through which small arms and light weapons flow to regions of ongoing or potential conflict, to states with a clear record of human rights violations, or to states with little demonstrated effective control over weapons stocks, supplier states and recipient states should work to further strengthen and enforce national law governing arms trade, harmonize various national and regional approaches in this regard, adopt measures for marking and tagging of small arms and light weapons, and pursue greater overall transparency in these matters. States should also step up their efforts to restrict flows of ammunition to affected states and regions.

Priority should be given to the following action:

***Strengthening and enforcement of existing national law.*** Much of the restraint in exports required to begin to deal with the problem is already incorporated in existing national export control legislation in most exporting states. This legislation, however, has not always been applied uniformly or without significant exceptions. The mere unbiased application of such legislation would go a long way towards curbing excessive flows to regions of conflict or instability. However, a basic change in philosophy is also required. Whereas in the past the core purpose of export control policy was to prevent an enemy from acquiring dangerous capabilities, the current threats posed by small arms and light weapons are to humanitarian law, human development and basic human rights. Specific steps can be taken to strengthen and better enforce national law in the following areas:

- **export controls:** national export controls should be reviewed and, if necessary strengthened as regards control over the transit of small arms and light weapons and restraint in exports to regions or states where conflict is on-going or imminent, or where violations of human rights and international humanitarian law have been established.

- **end-use controls:** frequently a component of national export controls, states should review their end-use certification systems, compare the practice with that applied by other states and adopt identified best practices. States should, at a minimum, receive assurances that the end-user is legitimate, seek right of refusal over retransfer of the items in question, and establish procedure by which end-use can be unobtrusively monitored to assure items are not reused for purposes other than originally intended. States may also consider a ‘destruction clause’, requiring small arms and light weapons to be properly destroyed when they have reached the end of their service life or have been declared excess to a state’s requirements or, when not possible, to be returned to the state of origin for verified destruction.

- **equivalent application to new and used weapons:** though legislation is generally ‘blind’, treating weapons imports and exports equally regardless of age or condition, practice has differed. Surplus arms have generally been afforded less scrutiny in export consideration. However, control should apply equally to new production and surplus stocks; taking into account the relative impact in the recipient state and region and not merely the diminished value in the exporting state.

- **restricting licensed production:** states must exercise a high degree of caution when considering granting licensed production of small arms and light weapons, and related ammunition, to other states. Licensed production can increase sources of supply and further diffuse points of control.

- **capacity-building:** states lacking adequate export control legislation or the means to enforce it should be afforded assistance in its proper development by other states, and regional and international organizations. The development of common minimum standards of practice should occur at the regional and international levels.

***Harmonizing national approaches.***

A move towards greater harmonization in export control and restraint, especially among supplier states, will enhance efforts to curtail the excessive accumulation and unlawful use of small arms and light weapons. This can be achieved through the wider acceptance and application of guidelines and codes of conduct governing arms transfers, the effective application of embargoes and development of moratoria, and through enhanced evaluation of recipient state capacity. However, harmonization should be approached from the perspective of closing potential loopholes caused by differences in national policy among states. States should be wary of adopting policy based on the lowest common denominator of principles in the name of harmonization. Assuredly, the true test of such instruments’ effectiveness can only be judged in light of their full and unbiased application. Equal stress should be placed on principles as well as their application.

- **guidelines and consultation:** guidelines covering conventional arms transfers have been adopted in several fora—including the UN Disarmament Commission, the ‘Big Five’ main supplier states, the Organization for Security and Cooperation in Europe, the European Union, and the Wassenaar Arrangement (United Nations Disarmament Commission, 1996; “Big Five Initiative...”, 1991; Conference on Security and Cooperation in Europe, 1993; Council of the European Union,

1991 and 1992). Such guidelines, however, are advisory in nature and not binding instruments. An effort should be made to standardize the various guidelines at the international level and augment their utility with appropriate consultation mechanisms. (It should be noted that several already contain similar language, reflecting a process of harmonization already underway.)

- **codes of conduct:** a unified code of conduct among supplier states, such as the one recently adopted by the European Council (see Appendix V), forms a strong basis for restraint and consultation, and should be considered by other regional bodies. A broader-based, international instrument—such as that pursued by Dr. Oscar Arias—should also be considered. Future codes should adopt principles specific to the special nature of the trade in small arms and light weapons and the fluid nature of the conflicts and illicit activity in which they are used.
- **restraint/embargoes to conflict areas:** the application and enforcement of restraint and embargoes on small arms and light weapons to states or regions of impending or ongoing conflict should be a priority of the international community. Clear sanctions must be established and applied to parties found in violation of such embargoes.
- **moratoria:** the pending moratorium on light weapons in West Africa is a unique and precedent-setting initiative. States external to the subregion should assist in the realization, maintenance and enforcement of the moratorium by: 1) providing technical and financial support, 2) upholding the ban on imports to the subregion, 3)

exercising restraint in exports to states bordering on the subregion, and 4) cooperating with states in the subregion as regards information or intelligence on illicit circumvention of the moratorium.

- **enhanced evaluation of recipient capability:** states should consider the development of a transparent mechanism to centralize and evaluate the record of states as regards adherence to international humanitarian law and control over flows and stocks of small arms and light weapons. A centralized rating system could be considered as an advisory measure for supplier states.

**Marking of small arms and light weapons.** Indelible marking of small arms and light weapons can enhance identification and traceability. As a basis, states should take into consideration the precedent established by the OAS Convention in this regard (see Appendix III) and work towards internationally-agreed standards.

- **marking:** at a minimum, states should require by law the marking of small arms and light weapons at their point of manufacture and import. Markings should include the name of manufacturer, place of manufacture and serial number, and importer's name and address.
- **durability and uniqueness:** states should seek to develop a system of marking which is unalterable and difficult to replicate.
- **universal standards:** states should push for an international convention to include universal standards and requirements for marking.

- **capacity-building for marking and identification:** states should assist, where necessary, in the provision of technical expertise and equipment to states in order to facilitate marking and subsequent identification of small arms and light weapons.

- **traceability of ammunition:** states should consider means of tagging ammunition—such as through the use of 'taggants' in propellant powder or more detailed marking on the casing itself—to better trace the source and routing of illicit transfers.

**Pursuing greater transparency in the manufacture and trade of small arms and light weapons.** Greater transparency in manufacture and trade on the national, regional and international levels can form the basis for an effective approach to excessive accumulation and unlawful use of small arms and light weapons. Specially, transparency measures can both highlight inauspicious accumulations and further isolate illicit trade by clarifying licit, authorized transactions. While individual state efforts at providing transparency are laudable, it is at the regional and international levels where the benefits of transparency begin to accrue. Regardless of the legitimacy of any specific transfer, a more complete view of deliveries of small arms and light weapons is essential to curb dangerous build-ups and provide early-warning of pending conflict. As data on small arms is generally fragmented and incomplete, centralized data collection and analysis, and the sharing of intelligence data, could serve to clarify the situation and aid in decision-making.

Coupled with the above, greater transparency and consultation between states of pending weapons transfers could diminish inadvisable sales. Working on collective, rather than individual interests will serve to smooth out distortions to security and export policy.

- **transfer registers:** using the UN Register of Conventional Arms as a basis, efforts should be made to develop regional registers covering small arms and light weapons which

are specifically tailored to the nature and needs of a particular region. Such registers could give an indication of flows and, when supported with information on holdings, excessive accumulations. Regional arrangements should also incorporate measures of consultation and prior notification of transfers of significant quantities of small arms and light weapons.

- **prior notification:** due to the relative ease of concealment and rapid dispersion of small arms and light weapons, states should work towards a system of prior notification and consultation on transfers of small arms and light weapons—in appropriate fora and with guarantees against commercial disadvantage—in order to address potential inadvisable transfers in a timely fashion. Current register (UN) and notification (EU) mechanisms only require a yearly report of transfers. For reasons noted here, as well as the fluid nature of intra-state conflict, this is inadequate to address the problems posed.
- **licensing of manufacturers and dealers:** states who have not done so should establish a licensing system for all manufacturers and dealers of small arms and light weapons, in combination with a publicly accessible registry of licensed manufacturers and dealers. Consideration should be given to centralizing national registry data, for example, within the United Nations or Interpol.
- **harmonized export, import and international transit license or authorization system:** using the Inter-American Convention as a basis (see Appendix III), other multilateral organizations should develop a harmonized export, import, and transit certificate system to ensure the legitimacy and control of legal transfers.

**Restricting ammunition supplies.** One factor limiting the use of small arms and light weapons, especially in cases of extended conflict, is the supply of ammunition. Vast amounts of ammunition are used in wars. However, though industrial-scale production of ammunition is limited to a few countries, it is increasingly being produced within conflict regions or in states exercising little restraint.

- **further evaluation:** as a result of the recommendations of the UN Small Arms Panel (see Appendix II), the United Nations is preparing a follow-up study on this aspect. In the meantime, states should dedicate resources to improving the traceability of ammunition deliveries and the detection of potential diversions.

### **Illicit**

Illicit trafficking in small arms and light weapons is becoming ever more pervasive and has deservedly received a great deal of attention. Aside from the measures aimed at regulating legal trade in small arms and light weapons identified above, measures specific to combating illicit trade revolve around improving the capability of states to identify and counter illicit transfers. Efforts have begun, and should continue, to be strengthened and expanded, in the following areas:

**Improving data collection and information sharing.** Illicit trafficking in small arms and light weapons often follows circuitous routes, is mired in subterfuge, and is becoming increasingly complex and sophisticated. Often a state acting alone can only construct a piece of the puzzle. Every effort should be made to improve data flow and compilation relating to illicit trafficking in order to better identify and interdict such transactions.

- **enhance cooperation:** cooperative activities between states and organizations in the area of intelligence gathering and data collection should be expanded with a view towards improving the quantity and quality of data and enhancing the capacity of states in this field.
- **centralize data:** centralized compilation of intelligence on known traffickers, illicit manufacturers and trade routes can help to illuminate suspicious transactions. States should consider an appropriate forum, such as Interpol, in which to posit such a task and its development.

**Building capacity in affected regions.** The inability of some states to control illicit trafficking within and through their territory seriously undermines legitimate authority and makes them a conduit for further illicit transfers. There is a real need to enhance the capacity in several regions to monitor and interdict illicit activity, as well as to enforce existing law.

- **training and assistance:** states in affected regions should be supported in the conduct of training courses and seminars, with the provision of advisers, and provision of equipment (such as computers, tracking and detection devices, and so on) for police, customs and border control personnel charged with identifying, tracking and interdicting illicit transfers.
- **enhanced cooperation:** efforts should be pursued to expand regional and international cooperation among police and intelligence agencies in providing relevant data to combat illicit trafficking.
- **joint efforts:** facilitation and support of joint regional exercises in combating illicit trafficking should be encouraged.

## ***Addressing existing circulation and surplus stocks***

The enormous volume of small arms and light weapons in both uncontrolled circulation and surplus stockpiles is, to a certain extent, beyond the reach of most production and transfer controls. As such, states must adopt or support measures which begin to directly address this circulation and surplus and steadily move towards its reduction. In particular, states must enhance their means of properly accounting for and securing their own stocks, promote responsible management, support the design and implementation of effective weapons collection programs, and work for the destruction of small arms and light weapons collected and/or deemed in excess to a state's legitimate national security requirements.

***Identifying existing stocks and surplus.*** A major obstacle to dealing with the existing circulation of small arms and light weapons is a lack of knowledge of current stocks. This is especially relevant inasmuch as government stocks have become a growing source of supply. Efforts should be made to require transparency as regards holdings of small arms and light weapons and making such data an element of further transfer considerations.

■ **increase transparency of holdings:** the development of a holdings register, based on official declarations, should be given high priority. In conjunction with, or in the absence of, such a register, exporting states should require holdings data reporting by the recipient prior to any transfer.

■ **require destruction or restrict reexport:** with holdings data as a basis, any state requesting imports of small arms and light weapons to upgrade or replace existing stocks

should be required to destroy the surplus created. Alternatively, exporting states could impose restrictions on the 'cascading' of surplus to third parties as a condition of sale.

***Improving storage and security capacity.*** In many instances, the source of influx of small arms and light weapons has been government-controlled storage facilities, armories and so on. This has been the result of both inadequately secure storage and internal corruption and diversion by armed forces or security personnel. States should take action to properly secure their own stocks, assist other states in their ability to do so, and restrict transfers of weapons and ammunition to states where the problem is particularly acute.

■ **evaluate and enhance security of stocks:** states should review and, if necessary, reinforce security of weapons stores and holdings. Security measures should guard against various contingencies, including both the threat of theft and the risk of internal diversion.

■ **support security upgrades:** where necessary, states should provide technical and financial assistance to those states with precarious storage capacity to bring others up to agreed minimal standards.

■ **sanctioning:** transfers of small arms and light weapons should be refused to states failing to meet minimal standards of security or control over their stocks, or where there is a significant risk of diversion.

***Developing and supporting collection programs.*** There are, potentially, two phases to weapons collection; either or both of which are relevant to states emerging from conflict or confronting uncontrolled and excessive circulation of small arms and light weapons. In the first phase,

the immediate threat of reversion to open conflict is removed or lessened by the disarmament and demobilization of ex-combatants. However, this does not remove the entire weapons threat or the potential for reversion to violence. Frequently, in societies which have undergone drawn-out and divisive conflict, a culture of violence is instilled and weapons have been dispersed throughout communities—among combatants and non-combatants alike. Therefore, the second phase of collection and related activities are a group of longer-term efforts aimed at disarming an armed civilian population, reducing the availability and visibility of weapons, and diminishing the perception that weapons are an acceptable means to settle disputes.

■ **establish a secure and stable environment:** the establishment of a stable environment—in which individual citizens feel safe and secure—is essential for the effectiveness of any weapons collection effort, the sustainability of the disarmament process and the viability of development efforts. In this respect, weapons collection forms part of a continuum which includes a cease-fire, the negotiation and signing of peace accords, disarmament, demobilization, resettlement, social reintegration, and national reconstruction (see BICC, 1996, pp. 143–171). In recognition, affected states and donors should adopt what has been termed a 'security first' approach.

■ **implement effective demobilization and reintegration:** removing the tools of violence is a clear first step, but only by providing clear options to violence as a means of conflict resolution, economic gain or mere survival, can lasting solutions be achieved. As such, only through

effective demobilization of ex-combatants and support for the process of long-term reintegration of ex-combatants into society, can a reversion to armed conflict and violence be averted.

- **support capacity-building for customs, police and weapons collection/monitoring:** the lack of a trained and effective police force and the subsequent absence of a secure environment have been identified as perhaps the greatest obstacle to effective weapons collection efforts and the continued demand for weapons. Support and technical assistance for the improvement of basic police and customs services can help to lower the level of violence and insecurity in specific states, lowering weapon demand and creating a conducive environment for development.
- **standardize procedure/document experience:** states and multilateral organizations should identify best practices in weapons collection, secure storage and destruction in order to enhance the effectiveness of further efforts.
- **improve mandate and preparedness of peacekeeping forces:** a premium should be placed on the development of pre-deployment training and guidelines for the effective implementation of demobilization, disarmament, and weapons collection, storage and destruction activities by peacekeeping forces. Weapons collection and destruction must become a strong element of post-conflict settlement—not only in the negotiation and settlement phases, but operationally as well in defined mandates, effective guidelines, clear authority and functional procedures.

- **design and implement dedicated weapons collection programs:** depending on the environment and circumstances, efforts should combine consensual with coercive efforts; that is, utilizing voluntary weapons turn-in or ‘buy-back’ programs and stepping up efforts to seize illegally held weapons. ‘Donor’ states should support such efforts with both technical and financial assistance, and the provision of neutral observers where necessary.

- **provide phased assistance:** in the immediate post-conflict phase, states rarely have the resources to conduct a controlled and effective collection program. In this phase, more intrusive forms of external assistance are required. These may include, at a minimum, the provision of experienced advisors and neutral observers to monitor the process. Extended collection efforts, however, presuppose the development of a safe and secure environment and the trained personnel resources necessary to conduct such a program. This phase therefore requires a lower external physical presence, but in its place advisory assistance in program design and, in the case of a buy-back or barter scheme, the financial or in-kind resources to sustain it.

*Mandating and supporting destruction.* Timely destruction of weapons seized, collected or deemed excess to a military’s requirements is the only sure-fire way to ensure such items do not leak into illicit channels, criminal activity or neighboring conflict areas. Additionally, prompt and verified destruction has the added residual benefit of assuring demobilized ex-combatants that their surrendered weapons will not be subsequently used by government forces for internal repression.

- **incorporate into accords:** the destruction of small arms and light weapons seized or collected in conflict or post-conflict situations should be clearly mandated in peace accords and subsequent weapons collection program design.

- **external support:** especially in immediate post-conflict situations where a demonstrated need is evident, states should assist in the provision of technical and material assistance necessary to ensure the timely, effective and environmentally sound destruction of weaponry. Efforts should include the development and fielding of low-cost, easily maintained equipment for large-scale destruction operations.

- **immediate action:** if, due to a lack of resources, immediate destruction is not possible, weapons should at a minimum be rendered inoperable and be securely stored.

- **include ammunition:** any contingency for the destruction of small arms and light weapons should include provisions for the disposal of related ammunition.

- **explore feasibility of recovery:** states and organizations should conduct feasibility studies on the potential for recovery of economic gain in the destruction process, through the recycling of metals and other components for non-military purposes. If feasible, such operations could provide an economic incentive for destruction.

## ***Addressing unlawful use and civilian possession of military-style weapons***

Measures designed to curb the availability of small arms and light weapons will also, as a natural result, serve to curtail incidents of unlawful use and the civilian possession and criminal use of military-style weapons. Additionally, more targeted measures addressing these problems should also be considered. The most problematic items to control, in the category of small arms and light weapons, will be pistols and explosives which have clear non-military applications and yet have been common tools of violence.

***Adopting a clear and unambiguous legal basis for possession and use.*** In many states, especially those in the process of national reconstruction, the absence or ambiguity of laws governing possession of small arms and light weapons has fueled unrestricted acquisition.

■ **provide a clear legal basis:** states who have not done so should establish clear and unambiguous law on legitimate possession and use of small arms and light weapons. Such legislation should find a basis in international humanitarian law and should cover civilian as well as military use. It should be absolutely clear not only *who* is allowed to possess weapons, but also *what kind* of weapons each category of individual is allowed to possess. Weapons designed exclusively for military use should be prohibited from civilian possession.

■ **licensing and registration:** all states, on the basis of national law governing the legal possession of small arms and light weapons, should establish and enforce a functioning arms licensing and registration system.

***Suppressing and removing the tools of violence.*** Efforts must be made to reverse the ‘culture of violence’ present in many affected societies. Measures should be directed at both lowering the availability and visibility of weapons in affected states, and in educating communities on the dangers and negative impacts of irresponsible possession and use.

■ **disarmament and destruction:** again, collection and destruction in the post-settlement phase of a conflict and over the longer-term is the only sure-fire way of ensuring that military-style weapons do not resurface in the wrong hands.

■ **awareness programs:** states should develop and support awareness programs to promote widespread understanding of the negative effects of irresponsible use of small arms and light weapons. International organizations can support the development of methods and materials for such programs.

## ***A comprehensive and integrated approach***

As correctly noted in much of the UN documentation on the matter, a premium should be placed on the development of a more comprehensive and integrated approach; more generally through the consolidation of peace, more specifically through practical disarmament measures. In practice, this means the development and implementation of measures geared towards more effective and sustainable disarmament. Weapons collection programs, for example, cannot be undertaken in and of themselves in isolation. Rather, at the very least, collection efforts must have as a prerequisite the establishment of a safe and secure environment and be

combined with enhanced control and surveillance of weapons flows in order to assure program goals are being met.

The work of disarming groups and individuals, and controlling flows of small arms cannot occur in isolation. In fact, it is impossible to de-link demobilization, disarmament and development or to treat them independently. These elements form a continuum which any potential policy must comprehensively address. The failure to adequately address any one area may negate efforts in either of the other two. It is important, therefore, not to merely focus on the arms in isolation. Policy must seek to address the source of the flows, the existing weapons in circulation and the eventual sustainability of disarmament.

## ***Moving towards a coherence of efforts***

It is unlikely that a state, any state, can solve the problems posed by the excessive accumulation and unlawful use of small arms and light weapons by acting unilaterally. The problems, at this stage and in many regions, are simply too pervasive. From the supplier perspective, at a minimum the cooperation of other supplier states is required. From a primarily recipient perspective, the cooperation of immediate neighbors in the region is crucial. For both sets of actors, the support of the international community can justify their efforts. Due to the vast number of issues and influences governing trade, possession and use of small arms and light weapons, it is right that several diverse bodies are currently working on separate aspects of the issue. However, as all actors have the same ultimate goal in mind—the lessening or elimination of illicit uses of small arms and light weapons—there should be a gradual move towards a convergence of efforts to ensure that the international community is neither duplicating its efforts nor working at cross purposes. Awareness and dialogue among actors in these efforts is fundamental.

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# Appendix I.

## ***A Compendium of Options***

### ***Licit Trade***

*Strengthening and enforcement of existing national law*

- export controls
- end-use controls
- equivalent application to new and used weapons
- restricting licensed production
- capacity-building

*Harmonizing national approaches*

- guidelines and consultation
- codes of conduct
- restraint/embargoes to conflict areas
- moratoria
- enhanced evaluation of recipient capability

*Marking of small arms and light weapons*

- marking
- durability and uniqueness
- universal standards
- capacity-building for marking and identification
- traceability of ammunition

*Pursuing greater transparency in the manufacture and trade of small arms and light weapons*

- transfer registers
- prior notification

- licensing of manufacturers and dealers
- harmonized export, import and international transit license or authorization system

*Restricting ammunition supplies*

- further evaluation

### ***Illicit Trafficking***

*Improving data collection and information sharing*

- enhance cooperation
- centralize data

*Building capacity in affected regions*

- training and assistance
- enhanced cooperation
- joint efforts

### ***Existing Circulation and Surplus Stocks***

*Identifying existing stocks and surplus*

- increase transparency of holdings
- require destruction or restrict reexport

*Improving storage and security capacity*

- evaluate and enhance security of stocks
- support security upgrades
- sanctioning

*Developing and supporting collection programs*

- establish a secure and stable environment
- implement effective demobilization and reintegration
- support capacity-building for customs, police and weapons collection/monitoring
- standardize procedure/document experience
- improve mandate and preparedness of peacekeeping forces
- design and implement dedicated weapons collection programs
- provide phased assistance

*Mandating and supporting destruction*

- incorporate into accords
- external support
- immediate action
- include ammunition
- explore feasibility of recovery

### ***Unlawful Use and Civilian Possession of Military-Style Weapons***

*Adopting a clear and unambiguous legal basis for possession and use*

- provide a clear legal basis
- licensing and registration

*Suppressing and removing the tools of violence*

- disarmament and destruction
- awareness programs

# Appendix II. Excerpts from the Report of the UN Panel of Governmental Experts on Small Arms

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## GENERAL AND COMPLETE DISARMAMENT: SMALL ARMS

### Note by the Secretary-General

By its resolution 50/70 B of 12 December 1995 the General Assembly requested the Secretary-General to prepare a report on small arms, with the assistance of a panel of governmental experts.

Pursuant to that resolution, the Secretary-General has the honour to submit to the Assembly the report of the Panel of Governmental Experts on Small Arms.

## ANNEX

### Report of the Panel of Governmental Experts on Small Arms

#### FOREWORD BY THE SECRETARY-GENERAL

Readily available and easy to use, small arms and light weapons have been the primary or sole tools of violence in almost every recent conflict dealt with by the United Nations. In the hands of irregular troops operating with scant respect for international and humanitarian law, these weapons have taken a heavy toll of human lives, with women and children accounting for nearly 80 per cent of the casualties. Thus, the mandate given by the General Assembly in its resolution 50/70 B to report on the phenomenon of small arms was especially timely, drawing much-needed attention to what has become a priority concern in efforts to rid the world of the scourge of war and the burden of armaments.

While not by themselves causing the conflicts in which they are used, the proliferation of small arms and light weapons affects the intensity and duration of violence and encourages militancy rather than a peaceful resolution of unsettled differences. Perhaps most grievously, we see a vicious circle in which insecurity leads to a higher demand for weapons, which itself breed still greater insecurity, and so on.

Some of the most protracted armed conflicts in the world at present are those in which a recurring cycle of violence, an erosion of political legitimacy and a loss of economic viability deprive a State of its authority to cope with either the causes or the consequences of an excessive accumulation, proliferation and use of small arms. Effective measures against small arms would address both ends of that spectrum.

Towards that end, the Panel of Governmental Experts has prepared a pragmatic and results-oriented report, for which I am very grateful. The members of the Panel, deeply committed to the task entrusted to them, devoted more than their expertise: they financed their own field work which they viewed as essential for gaining a better understanding of several affected countries and subregions. The specific concerns of the subregions visited and the appeals contained in the appendices to the Panel's report merit prompt consideration.

In its report, the Panel recommends a set of practical measures to reduce the weapons already in circulation and to prevent future accumulations. The unanimity with which the Panel made those proposals deserves equally strong endorsement by the General Assembly.

...

## I. INTRODUCTION

1. The General Assembly, in paragraph 1 of resolution 50/70 B of 12 December 1995, entitled "Small arms", requested the Secretary-General to prepare, with the assistance of a group of qualified governmental experts, a report on:

(a) The types of small arms and light weapons actually being used in conflicts being dealt with by the United Nations;

(b) The nature and causes of the excessive and destabilizing accumulation and transfer of small arms and light weapons, including their illicit production and trade;

(c) The ways and means to prevent and reduce the excessive and destabilizing accumulation and transfer of small arms and light weapons, in particular as they cause or exacerbate conflict.

2. In paragraph 2 of the resolution, the Secretary-General was requested to seek the views and proposals of Member States, to collect all other relevant information and make them available for consideration by the panel of governmental experts. The Assembly also requested the Secretary-General, in the preparation of the report, to pay particular attention to the role of the United Nations in this field and to the complementary role of regional organizations.

3. In April 1996, the Secretary-General appointed, on the basis of equitable geographical representation, a panel of governmental experts from 16 countries: Belarus, Belgium, Canada, Colombia, Egypt, El Salvador, Finland, Germany, the Islamic Republic of Iran, Japan, Malaysia, Mali, the Russian Federation, South Africa, Sri Lanka and the United States of America.

4. The Panel held three sessions in New York, from 24 to 28 June 1996, from 20 to 31 January 1997 and from 7 to 18 July 1997. The Panel also met at Tokyo from 26 to 28 May 1997, at the invitation of the Government of Japan.

5. The Panel took account of the replies received from Member States in response to Assembly resolution 50/70 B. It reviewed the conclusions and findings of other United Nations bodies and groups concerned with issues related to small arms, within their areas of jurisdiction. It assessed the relevant information collected by the Secretariat from the research community. It heard presentations by scholars and other invitees on the subjects covered by paragraph 1 of Assembly resolution 50/70 B.

6. The mandate entrusted to the Panel was carried out without prejudice to the positions taken by Member States on, or the importance allocated by them to, the priorities accorded to nuclear disarmament, weapons of mass destruction and conventional disarmament. Anti-personnel landmines constitute a category of small arms and light weapons. The issue is, however, being addressed in other forums. The Panel, therefore, agreed to avoid duplication of effort and different approaches by excluding anti-personnel landmines from its deliberations.

7. In accordance with paragraph 1 (c) of Assembly resolution 50/70 B, the Panel concentrated its attention on the actual role of small arms and light weapons in exacerbating armed conflicts being dealt with by the United Nations.

8. The Panel decided to focus its attention on small arms and light weapons manufactured to military specifications, in view of the work currently being undertaken by the Commission on Crime Prevention and Criminal Justice on firearm regulation for the purpose of crime prevention and public health and safety. Duplication of United Nations efforts should be avoided as much as possible. The Chairman of the Commission's Expert Group on Firearm Regulation, Mr. James Hayes, briefed the Panel on the work of the Commission on 8 July 1997. The Panel endorses the draft resolution recommended by the Commission for adoption by the Economic and Social Council, entitled "Firearm regulation for the purpose of crime prevention and public health and safety".

9. To gain a better insight and clearer understanding of the problems created by the accumulation, proliferation and use of small arms in various regions, the Panel agreed to undertake inter-sessional work. As a result, the Panel organized three regional workshops to discuss the characteristics unique to each region and areas of common concern. The information collected at the workshops provided a major input to the preparation of the present report.

...

## II. OVERVIEW

13. In the position paper of the Secretary-General entitled "Supplement to An Agenda for Peace" (A/50/60-S/1995/1), it is noted that while there are some agreed global norms and standards against weapons of mass destruction, there are no such norms or standards that can be used in reducing the excessive and destabilizing accumulation of small arms and light weapons. These are the weapons increasingly used as primary instruments of violence in the internal conflicts dealt with by the United Nations, they are responsible for large numbers of deaths and the displacement of citizens around the world, and they consume large amounts of United Nations resources.

14. The excessive and destabilizing accumulation and transfer of small arms and light weapons is closely related to the increased incidence of internal conflicts and high levels of crime and violence. It is, therefore, an issue of legitimate concern for the international community. Groups and individuals operating outside the reach of State and government forces make extensive use of such weapons in internal conflicts. Insurgent forces, irregular troops, criminal gangs and terrorist groups are using all types of small arms and light weapons. The illicit trafficking in such weapons by drug cartels, criminals and traders in contraband goods has also been on the increase.

15. Small arms and light weapons have been or are the primary or sole tools of violence in several of the armed conflicts dealt with by the United Nations, particularly where fighting

involves irregular troops among the conflicting parties. Many of these conflicts have inflicted heavy casualties on the people involved. The vast majority of the casualties have been civilians, mostly women and children. It was estimated that, by 1996, over 35 million people in 23 countries throughout the world were at risk of facing civil strife either owing to ongoing humanitarian crises or as a result of a slow recovery from past ones.

16. Irrespective of their duration or level of violence, many such conflicts were or are being fought in populated areas, without concern for established norms of international law. In contrast to disciplined regular armed forces, irregular forces tend to make no distinction between a combatant and non-combatant. Irregular forces are equipped with whatever type of weapon they can acquire. Less expensive than major conventional weapons, ready to use without extensive prior training, particularly against civilians, and fit for transport on a person, pack animal or light vehicle, small arms and light weapons are often the weapons of choice in such situations.

17. Accumulations of small arms and light weapons by themselves do not cause the conflicts in which they are used. The availability of these weapons, however, contributes towards exacerbating conflicts by increasing the lethality and duration of violence, by encouraging a violent rather than a peaceful resolution of differences, and by generating a vicious circle of a greater sense of insecurity, which in turn leads to a greater demand for, and use of, such weapons.

18. A particularly disturbing feature of current conflicts is the participation of children. By 1988, as many as 200,000 children under the age of 16 were estimated to have participated in conflicts in 25 countries. Since then, the situation may even have worsened. In the case of protracted conflicts, entire generations of children have been affected.

19. Among the worst affected victims of recent conflicts fought primarily with small arms and light weapons are the inhabitants of some of the poorest countries in the world. Particularly vulnerable are multi-ethnic societies with a history of tension among groups. Also at risk are countries emerging from long wars of national liberation and confronted with the task of reintegrating former combatants into civil society. In many instances, weapons procured at an earlier stage for purposes of national liberation have become available for the violent overthrow of new Governments by insurgent forces or terrorists, or for acts of criminality for personal gain.

20. In one way or another, virtually every part of the United Nations system is dealing with the direct and indirect consequences of recent armed conflicts fought mostly with small arms and light weapons. Some of the most intractable armed conflicts being dealt with by the United Nations are those in which a recurring cycle of violence, an erosion of political legitimacy and a loss of economic viability have deprived a State of its authority to cope either with the causes or the consequences of the excessive accumulation, proliferation and use of small arms and light weapons.

21. The full extent of the destabilizing consequences of an excessive accumulation, proliferation, transfer and use of small arms and light weapons is only beginning to be assessed. In the process of negotiating and implementing peace accords to end armed conflicts, the United Nations has learned valuable lessons about the high priority that must be given to weapons-related issues. Among them are experiences with the imposition by Member States of United Nations embargoes in conflict situations; the retrieval, collection and disposal of weapons; the reintegration into society of former combatants; and the training of personnel for the maintenance of law and order. An encouraging lesson drawn from the recent United Nations experience is the willingness of local communities in some States to volunteer in uncovering, collecting and destroying small arms that are unaccounted for.

22. Given the serious consequences of the problem as described above, this is a promising time to analyse the small arms and light weapons in use in recent conflicts, the nature and causes of their accumulation and transfer, as well as to recommend to Member States, regional organizations and the international community as a whole, particularly as represented by the United Nations, practical measures to prevent and reduce the excessive and destabilizing accumulation and transfer of such weapons, with a view to diminishing their role in exacerbating conflicts.

### III. WEAPONS IN USE

23. The mandate assigned by the General Assembly to the Panel was to consider the types of small arms and light weapons actually being used in conflicts being dealt with by the United Nations. It is important to consider the unique characteristics of small arms and light weapons in developing the ways and means to solve the problems caused by their excessive accumulation.

24. Small arms and light weapons range from clubs, knives and machetes to those weapons just below those covered by the United Nations Register of Conventional Arms, for example, mortars below the calibre of 100 mm. The small arms and light weapons which are of main concern for the purposes of the present report are those which are manufactured to military specifications for use as lethal instruments of war.

25. Small arms and light weapons are used by all armed forces, including internal security forces, for, *inter alia*, self-protection or self-defence, close or short-range combat, direct or indirect fire, and against tanks or aircraft at relatively short distances. Broadly speaking, small arms are those weapons designed for personal use, and light weapons are those designed for use by several persons serving as a crew.

26. Based on this broad definition and on an assessment of weapons actually used in conflicts being dealt with by the United Nations, the weapons addressed in the present report are categorized as follows:

(a) Small arms:

- (i) Revolvers and self-loading pistols;
- (ii) Rifles and carbines;
- (iii) Sub-machine-guns;
- (iv) Assault rifles;
- (v) Light machine-guns;

(b) Light weapons:

- (i) Heavy machine-guns;
- (ii) Hand-held under-barrel and mounted grenade launchers;
- (iii) Portable anti-aircraft guns;\*\*
- (iv) Portable anti-tank guns, recoilless rifles;\*\*
- (v) Portable launchers of anti-tank missile and rocket systems;\*\*
- (vi) Portable launchers of anti-aircraft missile systems;
- (vii) Mortars of calibres of less than 100 mm;

(c) Ammunition and explosives:

- (i) Cartridges (rounds) for small arms;
- (ii) Shells and missiles for light weapons;
- (iii) Mobile containers with missiles or shells for single-action anti-aircraft and anti-tank systems;
- (iv) Anti-personnel and anti-tank hand grenades;
- (v) Landmines;



(vi) Explosives.

\*\* These weapons are sometimes mounted.

27. While small arms and light weapons are designed for use by armed forces, they have unique characteristics that are also of particular advantage for irregular warfare or terrorist and criminal action:

(a) Since weapons in this class are capable of being carried, if a small arm, by one person or, if a light arm, by two or more people, a pack animal or a light vehicle, they allow for mobile operations where heavy mechanized and air forces are not available or are restricted in their capabilities owing to difficult mountain, jungle or urban terrain;

(b) Under these conditions, mortars or mounted anti-aircraft guns sometimes constitute the main armament of light forces, providing them with high firepower that often causes heavy casualties among the civilian population if used indiscriminately;

(c) Light anti-aircraft and anti-tank missile systems not only provide the capability to sustain operations in favourable terrain against forces supported by tanks and aircraft but can also be used by terrorists against civil air traffic with devastating effects;

(d) Since many small arms require a minimum of maintenance and logistics they are suited for protracted operations;

(e) Since they can easily be concealed they are suited to covert actions and transfer;

(f) Since they are less complex and, therefore, normally of lower cost than major conventional weapons, especially if they are used or surplus, they are affordable by actors other than the State.

28. In conflicts dealt with by the United Nations, non-military weapons, that is, those weapons not manufactured to military specifications, such as hunting firearms and home-made weapons, have been used in violent conflicts, terrorism, and the intentional harming of civilian populations. In such cases, and where such weapons are used and accumulated in numbers that endanger the security and political stability of a State, the Panel considered them relevant for the purposes of the present report.

29. Ammunition and explosives form an integral part of the small arms and light weapons used in conflicts. The availability of ammunition is an important independent element, since weapons can be rendered useless without appropriate ammunition. The mass production of modern reliable and effective ammunition requires highly developed and precise industrial tools. It is assumed that all countries producing small arms (more than 70) and light weapons

are also capable of manufacturing the relevant ammunition. In addition, in many regions there is a widespread private production of less reliable ammunition by small enterprises and individuals.

30. Moreover, violence perpetrated through improvised explosive devices has recently exacerbated conflicts and caused severe destruction and death. Even a small quantity of such explosive devices has been used to devastating effect by terrorists and insurgents in various parts of the world. In this context, it has been observed that the unimpeded supply and availability of ammunition and explosives, especially by means of illicit trafficking, compound the effects of the proliferation of small arms and light weapons. Therefore, ammunition and explosives themselves are a cause for concern in conflicts affected by small arms and light weapons.

31. The indiscriminate use of anti-personnel landmines has created a significant global problem well within the mandate of the Panel. Since the international community is, however, addressing this issue in other forums, the Panel agreed to avoid duplication of effort and different approaches by not including anti-personnel landmines in its deliberations.

32. In contrast to anti-personnel landmines, small arms are constructed for and capable of precise direct fire without inherent indiscriminate effects. High civilian casualties in recent conflicts are the result of indiscriminate warfare that deliberately targets the civilian population with whichever weapons are available.

33. New technologies are constantly being developed and applied to small arms and light weapons. Attention needs to be paid to the potential impact of these new developments with respect to their proliferation, accumulation and potential for negative effects in those conflicts dealt with by the United Nations. Particular attention should be given to modern light-missile launchers, together with precision-guided munitions, such as the shoulder-fired surface-to-air missiles that can be used for terrorist attacks against sensitive targets, with devastating effects.

#### IV. NATURE AND CAUSES OF EXCESSIVE AND DESTABILIZING ACCUMULATIONS OF SMALL ARMS AND LIGHT WEAPONS.

##### Nature

34. While there is a growing recognition of problems associated with the proliferation, accumulation and use of small arms and light weapons, there are no globally agreed norms and standards to determine the excessive and destabilizing levels of this class of weapon.

35. A majority of the small arms and light weapons being used in conflicts dealt with by the United Nations are not newly produced. Those weapons which are newly produced come from many different countries, as illustrated in the data below on the production of assault rifles for the years 1945-1990:

Name of assault rifle	Number of countries using the weapon	Number of countries manufacturing the weapon	Number of weapons manufactured (millions)
FN FAL family	94	15	5-7
AK family	78	14 +	35-50
M-16 family	67	7	8
H&K G3 family	64 +	18	7

36. The terms “excessive” and “destabilizing” are relative and exist only in the context of specific regions, subregions or States. The mere accumulation of weapons is not a sufficient criterion by which to define an accumulation of weapons as excessive or destabilizing, since large numbers of weapons that are under the strict and effective control of a responsible State do not necessarily lead to violence. Conversely, a small number of weapons can be destabilizing under certain conditions.

37. Accumulations of small arms and light weapons become excessive and destabilizing:

- (a) When a State, whether a supplier or recipient, does not exercise restraint in the production, transfer and Such in contravention of the Charter of the United Nations, as well as other political and socio-economic inequities, have given rise to conflict.
- (b) When a State, whether a supplier or recipient, cannot exercise effective control to prevent the illegitimate acquisition, transfer, transit or circulation of such weapons;
- (c) When the use of such weapons manifests itself in armed conflict, in crime, such as arms and drug trafficking, or other actions contrary to the norms of national or international law.

### B. Causes

38. Accumulations of small arms and light weapons by themselves do not cause the conflicts in which they are used. They can, however, exacerbate and increase their lethality. These conflicts have underlying causes which arise from a number of accumulated and complex political, commercial, socio-economic, ethnic, cultural and ideological factors. Such conflicts will not be finally resolved without addressing the root causes.

39. There is no single cause for these accumulations and their subsequent transformation into instability and conflict. The variety of different causes is usefully categorized by demand and supply factors, although the distinction between both factors is not always clear-cut and there are grey areas in between. Accumulations are always a combination of both factors but the predominance of either demand or supply varies by subregion and State, as well as by time period.

40. At the global level, internal conflicts have served to attract large numbers of small arms and light weapons. In this context, one factor bearing on the availability, circulation and accumulation of these weapons in many areas of conflict is their earlier supply by cold war opponents. Foreign interference in areas of tension, or conflict by States which pursue strategic or specific regional interests, is still a feature of current realities. Also, alien domination or foreign occupation and violation of the right to self-determination of all peoples in contravention of the Charter of the United Nations, as well as other political and socio-economic inequities, have given rise to conflict.

41. Insurgency and terrorism remain as factors in the destabilizing use of small arms, light weapons or explosives. Other factors are drug trafficking and criminality. The link between terrorism and such weapons has been referred to by several international forums.

42. When the State loses control over its security functions and fails to maintain the security of its citizens, the subsequent growth of armed violence, banditry and organized crime increases the demand for weapons by citizens seeking to protect themselves and their property.

43. The incomplete reintegration of former combatants into society after a conflict has ended, in combination with the inability of States to provide governance and security, may lead to their participation in crime and armed violence.

44. In some States and subregions there is a culture of weapons whereby the possession of military-style weapons is a status symbol, a source of personal security, a means of subsistence, a sign of manliness and, in some cases, a symbol of ethnic and cultural identity. By itself, such a culture does not necessarily lead to a culture of violence in which the possession of these weapons connotes political power and a preference for the resolution of conflict by the use of arms. The transformation of a culture of weapons to a culture of violence, resulting in the increasing demand for weapons, most often occurs when a State cannot guarantee security to its citizens or control the illicit activities in which these weapons are utilized. The task of controlling or lowering the level of use of these weapons is made more difficult in a culture of weapons.

45. States have the right to export and import small arms and light weapons. The misuse of that right and the relatively recent awareness of the problems caused by the accumulation of small arms and light weapons have resulted in insufficient recognition being accorded to the need to better control the transfer of such weapons.

46. During the cold war, the increase in licensed production and transfer of technology led to a proliferation of legitimate producers of small arms and light weapons, mainly medium-sized and small enterprises, in an effort by States to become more independent in the production of weapons considered necessary to their security. This led to the search for export markets in order to dispose of surplus weapons. New production of small arms and light weapons has, however, declined owing to a reduction in national defence budgets.

47. Another factor to be considered is the large surplus of small arms and light weapons created by the reduction in armed forces in the post-cold-war period. While a significant portion of these weapons has been used to transfer weapons. The techniques used involve smuggling, concealment, mislabelling and false documentation. To hide financial transactions, use is made of coded bank accounts protected by the secrecy laws of some financial institutions. To transport weapons, various methods are used, such as ships with bogus registration and flags of convenience.

48. The problem of the accumulation of weapons is exacerbated by the fact that, during some conflicts, large quantities of weapons were distributed to citizens by Governments, in addition to being obtained from other sources, including illicit transfers. In several instances, self-defence units were formed by Governments and gun possession laws were liberalized. When the conflicts ended, the weapons remained in the hands of citizens and were available for recirculation within the society, in the region and even outside the region.

49. Several United Nations peacekeeping or post-conflict peace-building operations have resulted in the incomplete disarmament of former combatants owing to peace agreements or mandates which did not cover small arms and light weapons disarmament, or to shortfalls in the implementation of mandates because of inadequate operational guidance or resources. Thus, large numbers of surplus weapons became available in the conflict areas for criminal activities, recirculation and illicit trafficking.

### C. Modes of transfer

50. Much of the supply and acquisition of small arms and light weapons is legitimate trade which occurs among Governments or among legal entities authorized by Governments.

51. During the cold war and in the current period, States have secretly carried out transfers of small arms and light weapons. Such transfers are not necessarily illicit. Any transfer not approved by the competent authorities in the recipient State could, however, be classified by that State as interference in its internal affairs and therefore illegal.

52. The supply of weapons to regions of tension and conflict is characterized by a lack of transparency that is due to the characteristics of small arms and light weapons which can be easily concealed during transport.

53. Networks operating internationally and other modes of transfer used for the illicit transfer of a variety of commodities are also used to transfer weapons. The techniques used involve smuggling, concealment, mislabelling and false documentation. To hide financial transactions, use is made of coded bank accounts protected by the secrecy laws of some financial institutions. To transport weapons, various methods are used, such as ships with bogus registration and flags of convenience.

54. Illicit actors in this trade include certain groups in exile and private arms dealers, whose motives may include political support of groups within a country, or drug trafficking and other criminal activities conducted for profit.

55. Several insurgent and armed groups are known to procure weapons and obtain financial support with the assistance of allied groups and organizations based abroad which act as a front and which illicitly traffic in weapons, ammunition and explosives.

56. Criminal elements and groups engaged in armed internal conflict can also acquire small arms and light weapons by: an exchange between groups and among unauthorized persons; theft, robbery or loss of weapons in legal possession; and raids, ambushes and other hostile acts. Often, weapons resulting from legal transfers between Governments end up on the illegal market because of corrupt governmental officials.

#### D. Illicit trade in weapons

57. Illicit trafficking in weapons is understood to cover that international trade in conventional weapons, which is contrary to the laws of States and/or international law.

58. Illicit trafficking in such weapons plays a major role in the violence currently affecting some countries and regions, by supplying the instruments used to destabilize societies and Governments, encourage crime, and foster terrorism, drug trafficking, mercenary activities and the violation of human rights.

59. In some cases the illicit supply of small arms and light weapons has occurred because there is no adequate national system of controls on arms production, exports and imports, and because border and customs personnel are poorly trained or corrupt.

60. The differences that exist between the legislation and enforcement mechanisms of States for the import and export of weapons, as well as the lack of cooperation in that area, facilitates the circulation and illicit transfer of small arms and light weapons. There is also no international convention or agreement that restricts such trade, or a body of rules by which a given transfer can be declared illegal under international law other than the arms embargoes adopted by the Security Council.

61. Accumulations of weapons by means of illicit trafficking are facilitated by a lack of coordination and cooperation among the States involved. In the case of both the recirculation and supply of weapons from outside the region or subregion, efforts to diminish the negative effects of such weapons are hampered by States that will not or cannot cooperate in such basic functions as sharing information regarding illicit trafficking in weapons and coordinating the cross-border seizure and collection of weapons.

#### E. Regional realities

62. Based on United Nations reports on its peace operations, commissions of inquiry and, most important, the three regional workshops conducted by the Panel, it became clear that there are effects and consequences unique to specific regions, subregions and States.

## Africa

63. The African region is confronted with the challenges of both dealing with socio-economic reconstruction in post-conflict societies and containing various internal conflicts. The uncontrolled availability of small arms and light weapons is not only fuelling such conflicts but is also exacerbating violence and criminality. This undermines the State's ability to govern effectively, thereby threatening the stability and security necessary for socio-economic development. Porous borders, lack of resources and the absence of detailed and comprehensive data on the extent of this phenomenon are inhibiting the region's ability to effectively deal with the problem of proliferation.

64. Southern Africa is affected by the supply of small arms and light weapons left over from the conflicts in Mozambique and Angola, as well as licensed weapons being stolen or lost. There is a concern among the States in the region that the availability of these weapons is a major factor in exacerbating crime and armed violence, thereby threatening the consolidation of democracy and security which is needed for sustainable development. The weapons of most concern are, among others, handguns, assault rifles and home-made weapons.

65. Central Africa is dominated by recent internal and ethnic violence and violations of the Security Council arms embargo. The major factor impeding the development of ways and means of dealing with accumulations of weapons in this subregion is the collapse of the State's ability to govern and provide for its national security and the security of its citizens. This is compounded by the extreme levels of poverty in the subregion.

66. The weapons proliferating and available in West Africa are not newly produced but are left over from several civil wars of the recent past. This proliferation is enhanced by particularly long and unmanned borders. This destabilizing factor has forced some States in the Saharo-Sahelian subregion to ask for and receive United Nations assistance.

## Central America

67. The Central American subregion has seen the end of three major domestic conflicts in the past seven years, where the United Nations played a critical role in their conclusion. As one of the major areas of confrontation during the cold war, this subregion was supplied with large numbers of small arms and light weapons which are still in circulation. They remain available for acquisition by criminal gangs and armed groups, despite the encouraging results from several programmes for the collection and destruction of arms.

68. Geographically, Central America is a major transit area for the illicit trafficking in drugs and weapons between North and South America, which produces destabilizing effects for the entire region.

69. The States in Central America have a particular challenge in demobilizing and reintegrating a large number of former combatants into useful and productive roles in society, since much of the crime and armed violence is perpetrated by ex-combatants with the weapons they retained after the conflicts were concluded. As a result of post-conflict peace-building

processes, the subregion is marked by demilitarization and the development of democratic Governments which are increasingly able to build the basic institutions that can provide security for citizens of the State and its further economic and social development.

### South Asia

70. The problem of excessive and destabilizing accumulations of small arms and light weapons in South Asia was significantly shaped by the war in Afghanistan from 1979 to 1988. During that conflict, both sides in the cold war exported large quantities of both major conventional weapons and small arms and light weapons into the region. Today, Afghanistan is a leading source of unaccounted weapons. The conflict continues and much of the current inflow of weapons is due to illicit deals involving a circuitous network of manufacturers, buyers, suppliers and distributors which are able to operate because of a lack of State authority. There is a lack of cooperation among several States in the region that also contributes to the problems of covert supply and poor controls over small arms and light weapons.

71. Insurgents and terrorist groups, as well as drug traffickers, in the region are also supplied with small arms and light weapons by illicit or covert networks. This region is particularly plagued by illicit trafficking in explosives, especially improvised explosive devices which have been frequently used in armed attacks. Most armed groups are based overseas and conduct fund-raising abroad for the illicit procurement of arms and for violent acts in the region.

72. In this region, the production of and trafficking in drugs are directly linked to the proliferation and acquisition of small arms and light weapons. This problem, and illicit trafficking in weapons in general, is exacerbated by a lack of either local or international controls of land and maritime borders in certain States of the region.

### Europe

73. During the cold war, large numbers of weapons, including small arms and light weapons, were accumulated in Europe. After the end of the cold war in many European States, weapon holdings have been reduced through destruction or cascading. In some instances, the grave weakening or even collapse of State structures, and in particular the dissolution of the Soviet Union, has led to a greater availability of small arms and light weapons that is outside State control. The surfeit of weapons has often aggravated the general feeling of insecurity and, in some cases, fuelled ethnic confrontation and even civil war. The former Yugoslavia and Albania are the worst examples.

74. The above-mentioned developments, combined with serious economic difficulties, have also had an impact on other regions of the world in the form of an increased flow of weapons from sometimes poorly controlled stocks on the territory of some countries of Eastern Europe and of stationed forces in the former German Democratic Republic.

75. Although many European countries reduced weapons production after the end of the cold war, Europe still has significant domestic capabilities for the production of weapons.



76. In some European countries, insurgent movements, terrorist groups and criminal gangs are involved in the illicit use of and trafficking in small arms and light weapons.

Commonalities among affected regio

77. The observations made regarding some regions, subregions and States can be summarized in the following commonalities:

- (a) There is an apparent link between the availability of weapons, trafficking in drugs and arms, and the level of violence;
- (b) Transfers of weapons are often unchecked owing to inadequate controls over long and porous borders;
- (c) The crime and violence arising from the availability of small arms and light weapons have made it more difficult to conduct development projects and programmes that address the root causes of conflict. This has led to a decline in economic assistance and investment from donors. Also, States must use more of their scarce resources to provide security and relief to the victims of violence;
- (d) Illicit trafficking in arms in some regions has violent and destabilizing effects;
- (e) Where a culture of weapons exists, it may be more easily transformed into a culture of violence, particularly when tension escalates due to the root causes of conflict;
- (f) In some regions, young people are often the victims and perpetrators of violence, particularly where high unemployment and political hostilities exist. They are easily recruited and indoctrinated into violent groups and are more likely to follow a path of violence, even when political hostilities cease;
- (g) National efforts to address excessive and destabilizing accumulations of small arms are often insufficient owing to the magnitude of the problem and scarce resources. In many instances, multilateral and regional efforts have been undertaken;
- (h) Another reality in some regions is that an adequate level of security is necessary to solve the problems associated with the excessive and destabilizing accumulations of small arms and light weapons;
- (i) Most of the States and regions experiencing problems with armed violence stemming from the excessive and destabilizing accumulation and transfer of small arms and light weapons also have problems of poverty and lack economic development. These issues are linked;

(j) In some regions, drug control efforts have increased the demand for small arms and light weapons by both law enforcement authorities and drug traffickers, thereby raising the level of violence.

## V. RECOMMENDATIONS

78. The Panel's recommendations are comprised first of measures to reduce the excessive and destabilizing accumulation and transfer of small arms and light weapons in specific regions of the world where such accumulations and transfers have already taken place. These are followed by measures to prevent such accumulations and transfers from occurring in future.

79. The Panel recommends the following reduction measures:

(a) The United Nations should adopt a proportional and integrated approach to security and (c) for the collection of weapons and their disposal, preferably by destruction;

(b) The United Nations should support, with the assistance of the donor community, all appropriate post-conflict initiatives related to disarmament and demobilization, such as the disposal and destruction of weapons, including weapons turn-in programmes sponsored locally by governmental and non-governmental organizations;

(c) Once national conciliation is reached, the United Nations should assist in convening an inter-Afghan forum to prepare, *inter alia*, a schedule to account for, retrieve and destroy the small arms and light weapons left unaccounted for in Afghanistan;

(d) In view of the problems stemming from an excess of small arms and light weapons left over from many internal conflicts and the lessons learned from the peacekeeping operations of the United Nations, two sets of guidelines should be developed in order to:

(i) Assist negotiators of peace settlements in developing plans to disarm combatants, particularly as concerns light weapons, small arms and munitions, and to include therein plans for the collection of weapons and their disposal, preferably by destruction;

(ii) Provide assistance to peacekeeping missions in implementing their mandates, based on peace settlements;

Former peace negotiators and members of peacekeeping operations of the United Nations should be consulted in the preparation of such guidelines. In this connection, consideration should be given to the establishment of a disarmament component in peacekeeping operations undertaken by the United Nations.

(e) States and regional organizations, where applicable, should strengthen internatio-

nal and regional cooperation among police, intelligence, customs and border control officials in combating the illicit circulation of and trafficking in small arms and light weapons and in suppressing criminal activities related to the use of these weapons;

(f) The establishment of mechanisms and regional networks for information sharing for the above-mentioned purposes should be encouraged;

(g) All such weapons which are not under legal civilian possession, and which are not required for the purposes of national defence and internal security, should be collected and destroyed by States as expeditiously as possible.

80. The Panel recommends the following prevention measures:

(a) All States should implement the recommendations contained in the guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991, adopted by the Disarmament Commission in 1996;

(b) All States should determine in their national laws and regulations which arms are permitted for civilian possession and the conditions under which they can be used;

(c) All States should ensure that they have in place adequate laws, regulations and administrative procedures to exercise effective control over the legal possession of small arms and light weapons and over their transfer in order, *inter alia*, to prevent illicit trafficking;

(d) States emerging from conflict should, as soon as practicable, impose or reimpose licensing requirements on all civilian possession of small arms and light weapons on their territory;

(e) All States should exercise restraint with respect to the transfer of the surplus of small arms and light weapons manufactured solely for the possession of and use by the military and police forces. All States should also consider the possibility of destroying all such surplus weapons;

(f) All States should ensure the safeguarding of such weapons against loss through theft or corruption, in particular from storage facilities;

(g) The United Nations should urge relevant organizations, such as the International Criminal Police Organization (Interpol) and the World Customs Organization, as well as all States and their relevant national agencies, to closely cooperate in the identification of the groups and individuals engaged in illicit trafficking activities, and the modes of transfer used by them;

(h) All States and relevant regional and international organizations should intensify their cooperative efforts against all aspects of illicit trafficking mentioned in the present report that are related to the proliferation and accumulation of small arms and light weapons;

(i) The United Nations should encourage the adoption and implementation of regional or subregional moratoriums, where appropriate, on the transfer and manufacture of small arms and light weapons, as agreed upon by the States concerned;

(j) Other regional organizations should take note, and make use, as appropriate, of the work of the Organization of American States in preparing a draft inter-American convention against the illicit manufacturing of and trafficking in firearms, ammunition, explosives and other related materials;

(k) The United Nations should consider the possibility of convening an international conference on the illicit arms trade in all its aspects, based on the issues identified in the present report;

(l) To assist in preventing the illicit trafficking in and circulation of small arms and light weapons, the United Nations should initiate studies on the following:

(i) The feasibility of establishing a reliable system for marking all such weapons from the time of their manufacture;

(ii) The feasibility of restricting the manufacture and trade of such weapons to the manufacturers and dealers authorized by States, and of establishing a database of such authorized manufacturers and dealers;

(m) The United Nations should initiate a study on all aspects of the problem of ammunition and explosives.

**Appendix III.  
Inter-American  
Convention  
Against the Illicit  
Manufacturing of  
and Trafficking in  
Firearms,  
Ammunition,  
Explosives, and  
Other Related  
Materials**



GENERAL ASSEMBLY

TWENTY-FOURTH SPECIAL SESSION  
November 13, 1997  
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AG/RES. 1 (XXIV-E/97)

INTER-AMERICAN CONVENTION AGAINST THE ILLICIT MANUFACTURING  
OF AND TRAFFICKING IN FIREARMS, AMMUNITION, EXPLOSIVES, AND  
OTHER RELATED MATERIALS

HAVING SEEN the report of the Permanent Council on the draft Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials [AG/doc.6 (XXIV-E/97) rev. 1];

CONCERNED by the increase, at the international level, in the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials, by the serious problems resulting therefrom, and by the links of such activities with drug trafficking, terrorism, transnational organized crime, and mercenary and other criminal activities;

AWARE of the urgent need to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials because of the harmful effects of these activities on the security of each state and the region as a whole, which jeopardize the well-being of peoples, their social and economic development, and their right to live in peace;

CONVINCED that combating the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials calls for international cooperation, exchange of information, and other appropriate measures at the national, regional, and international levels, and desiring to set a precedent for the international community in this regard;

STRESSING the urgent need for all states, especially those that produce, export, or import arms, to take the necessary measures to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials;

REAFFIRMING the principles of sovereignty, nonintervention, and the juridical equality of states;

BEARING IN MIND:

The decision of the heads of state and government, meeting at the Summit of the Americas in Miami in 1994, to strengthen efforts to control firearms, ammunition, and explosives so as to prevent their diversion to drug traffickers and criminal organizations;

The communiqué of the Tenth Summit of Heads of State and Government of the Mechanism for Political Consultation and Consensus (Rio Group), issued in Cochabamba, Bolivia, on September 4, 1996, at which they considered, on an initiative put forth by Mexico, the advisability of preparing a draft convention to combat the illicit manufacturing of and trafficking in weapons in the region;

The declaration on the collection of illicit arms held by civilians in Central America, adopted by the presidents of the countries of the Isthmus in January 1997, in which they decided to intensify their efforts to eliminate the illicit traffic in arms; and

Other statements by heads of state or government of the Hemisphere on this problem, particularly the Declaration of Principles of Bridgetown, signed on May 10, 1997, by the elected leaders of the Caribbean countries and the United States, in which they recognized that the conclusion of an international instrument establishing rights and obligations would be one of the effective tools for fighting illicit trafficking in weapons, ammunition, explosives, and other related materials and, to that end, decided to work toward the prompt adoption of an international agreement on this subject;

EXPRESSING ONCE AGAIN its gratitude to the member countries of the Mechanism for Political Consultation and Consensus (Rio Group) for submitting a draft inter-American convention against the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials, prepared by experts who met twice in Cancún, Mexico;

BEARING IN MIND the pertinent resolutions of the United Nations General Assembly on measures to eradicate the illicit transfer of conventional weapons and on the need for all states to guarantee their security, as well as the efforts carried out in the framework of the Inter-American Drug Abuse Control Commission (CICAD); and

CONSIDERING:

That the General Assembly, in resolution AG/RES. 1445 (XXVII-O/97), instructed the Permanent Council, through its Working Group and with the participation of government experts, to intensify its efforts to conclude an Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials;

That in resolution AG/RES. 1445 (XXVII-O/97) the General Assembly also requested the Permanent Council to convene a special session of the General Assembly once the text of the Convention had been concluded, with the objective of adopting it and opening it for signature in 1997; and

That the Permanent Council, in resolution CP/RES. 711 (1141/97), convened the twenty-fourth special session of the General Assembly, as stipulated in operative paragraph 3 of resolution AG/RES. 1445 (XXVII-O/97), and scheduled it for November 13 and 14, 1997,

RESOLVES:

To adopt and open for signature the following:

INTER-AMERICAN CONVENTION AGAINST THE ILLICIT MANUFACTURING  
OF AND TRAFFICKING IN FIREARMS, AMMUNITION, EXPLOSIVES, AND  
OTHER RELATED MATERIALS

THE STATES PARTIES,

AWARE of the urgent need to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials, due to the harmful effects of these activities on the security of each state and the region as a whole, endangering the well-being of peoples, their social and economic development, and their right to live in peace;

CONCERNED by the increase, at the international level, in the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials and by the serious problems resulting therefrom;

REAFFIRMING that States Parties give priority to preventing, combating, and eradicating the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials

because of the links of such activities with drug trafficking, terrorism, transnational organized crime, and mercenary and other criminal activities;

CONCERNED about the illicit manufacture of explosives from substances and articles that in and of themselves are not explosives—and that are not addressed by this Convention due to their other lawful uses—for activities related to drug trafficking, terrorism, transnational organized crime and mercenary and other criminal activities;

CONSIDERING the urgent need for all states, and especially those states that produce, export, and import arms, to take the necessary measures to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials;

CONVINCED that combating the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials calls for international cooperation, exchange of information, and other appropriate measures at the national, regional, and international levels, and desiring to set a precedent for the international community in this regard;

STRESSING the need, in peace processes and post-conflict situations, to achieve effective control of firearms, ammunition, explosives, and other related materials in order to prevent their entry into the illicit market;

MINDFUL of the pertinent resolutions of the United Nations General Assembly on measures to eradicate the illicit transfer of conventional weapons and on the need for all states to guarantee their security, and of the efforts carried out in the framework of the Inter-American Drug Abuse Control Commission (CICAD);

RECOGNIZING the importance of strengthening existing international law enforcement support mechanisms such as the International Weapons and Explosives Tracking System (IWETS) of the International Criminal Police Organization (INTERPOL), to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials;

RECOGNIZING that international trade in firearms is particularly vulnerable to abuses by criminal elements and that a “know-your-customer” policy for dealers in, and producers, exporters, and importers of, firearms, ammunition, explosives, and other related materials is crucial for combating this scourge;

RECOGNIZING that states have developed different cultural and historical uses for firearms, and that the purpose of enhancing international cooperation to eradicate illicit transnational trafficking in firearms is not intended to discourage or diminish lawful leisure or recreational activities such as travel or tourism for sport shooting, hunting, and other forms of lawful ownership and use recognized by the States Parties;

RECALLING that States Parties have their respective domestic laws and regulations in the areas of firearms, ammunition, explosives, and other related materials, and recognizing that this Convention does not commit States Parties to enact legislation or regulations pertaining to firearms ownership,



possession, or trade of a wholly domestic character, and recognizing that States Parties will apply their respective laws and regulations in a manner consistent with this Convention;

REAFFIRMING the principles of sovereignty, nonintervention, and the juridical equality of states,

**Have decided** to adopt this Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials:

**Article I: Definitions**

For the purposes of this Convention, the following definitions shall apply:

1. “Illicit manufacturing”: the manufacture or assembly of firearms, ammunition, explosives, and other related materials:
  - a. from components or parts illicitly trafficked; or
  - b. without a license from a competent governmental authority of the State Party where the manufacture or assembly takes place; or
  - c. without marking the firearms that require marking at the time of manufacturing.
2. “Illicit trafficking”: the import, export, acquisition, sale, delivery, movement, or transfer of firearms, ammunition, explosives, and other related materials from or across the territory of one State Party to that of another State Party, if any one of the States Parties concerned does not authorize it.
3. “Firearms”:
  - a. any barreled weapon which will or is designed to or may be readily converted to expel a bullet or projectile by the action of an explosive, except antique firearms manufactured before the 20th Century or their replicas; or
  - b. any other weapon or destructive device such as any explosive, incendiary or gas bomb, grenade, rocket, rocket launcher, missile, missile system, or mine.
4. “Ammunition”: the complete round or its components, including cartridge cases, primers, propellant powder, bullets, or projectiles that are used in any firearm.
5. “Explosives”: any substance or article that is made, manufactured, or used to produce an explosion, detonation, or propulsive or pyrotechnic effect, except:
  - a. substances and articles that are not in and of themselves explosive; or
  - b. substances and articles listed in the Annex to this Convention.
6. “Other related materials”: any component, part, or replacement part of a firearm, or an accessory which can be attached to a firearm.

7. “Controlled delivery”: the technique of allowing illicit or suspect consignments of firearms, ammunition, explosives, and other related materials to pass out of, through, or into the territory of one or more states, with the knowledge and under the supervision of their competent authorities, with a view to identifying persons involved in the commission of offenses referred to in Article IV of this Convention.

## **Article II: Purpose**

The purpose of this Convention is:

to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials;

to promote and facilitate cooperation and exchange of information and experience among States Parties to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.

## **Article III: Sovereignty**

1. States Parties shall carry out the obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of states and that of nonintervention in the domestic affairs of other states.

2. A State Party shall not undertake in the territory of another State Party the exercise of jurisdiction and performance of functions which are exclusively reserved to the authorities of that other State Party by its domestic law.

## **Article IV: Legislative Measures**

1. States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.

2. Subject to the respective constitutional principles and basic concepts of the legal systems of the States Parties, the criminal offenses established pursuant to the foregoing paragraph shall include participation in, association or conspiracy to commit, attempts to commit, and aiding, abetting, facilitating, and counseling the commission of said offenses.

## **Article V: Jurisdiction**

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense in question is committed in its territory.

2. Each State Party may adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the offense is committed by one of its nationals or by a person who habitually resides in its territory.

3. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offenses it has established in accordance with this Convention when the alleged criminal is present in its territory and it does not extradite such person to another country on the ground of the nationality of the alleged criminal.

4. This Convention does not preclude the application of any other rule of criminal jurisdiction established by a State Party under its domestic law.

#### **Article VI: Marking of Firearms**

1. For the purposes of identification and tracing of the firearms referred to in Article I.3.a, States Parties shall:

- a. require, at the time of manufacture, appropriate markings of the name of manufacturer, place of manufacture, and serial number;
- b. require appropriate markings on imported firearms permitting the identification of the importer's name and address; and
- c. require appropriate markings on any firearms confiscated or forfeited pursuant to Article VII.1 that are retained for official use.

2. The firearms referred to in Article I.3.b should be marked appropriately at the time of manufacture, if possible.

#### **Article VII: Confiscation or Forfeiture**

1. States Parties undertake to confiscate or forfeit firearms, ammunition, explosives, and other related materials that have been illicitly manufactured or trafficked.

2. States Parties shall adopt the necessary measures to ensure that all firearms, ammunition, explosives, and other related materials seized, confiscated, or forfeited as the result of illicit manufacturing or trafficking do not fall into the hands of private individuals or businesses through auction, sale, or other disposal.

#### **Article VIII: Security Measures**

States Parties, in an effort to eliminate loss or diversion, undertake to adopt the necessary measures to ensure the security of firearms, ammunition, explosives, and other related materials imported into, exported from, or in transit through their respective territories.

#### **Article IX: Export, Import, and Transit Licenses or Authorizations**

1. States Parties shall establish or maintain an effective system of export, import, and international transit licenses or authorizations for transfers of firearms, ammunition, explosives, and other related materials.

2. States Parties shall not permit the transit of firearms, ammunition, explosives, and other related materials until the receiving State Party issues the corresponding license or authorization.

3. States Parties, before releasing shipments of firearms, ammunition, explosives, and other related materials for export, shall ensure that the importing and in-transit countries have issued the necessary licenses or authorizations.

4. The importing State Party shall inform the exporting State Party, upon request, of the receipt of dispatched shipments of firearms, ammunition, explosives, and other related materials.

#### **Article X: Strengthening of Controls at Export Points**

Each State Party shall adopt such measures as may be necessary to detect and prevent illicit trafficking in firearms, ammunition, explosives, and other related materials between its territory and that of other States Parties, by strengthening controls at export points.

#### **Article XI: Recordkeeping**

States Parties shall assure the maintenance for a reasonable time of the information necessary to trace and identify illicitly manufactured and illicitly trafficked firearms to enable them to comply with their obligations under Articles XIII and XVII.

#### **Article XII: Confidentiality**

Subject to the obligations imposed by their Constitutions or any international agreements, the States Parties shall guarantee the confidentiality of any information they receive, if requested to do so by the State Party providing the information. If for legal reasons such confidentiality cannot be maintained, the State Party that provided the information shall be notified prior to its disclosure.

#### **Article XIII: Exchange of Information**

1. States Parties shall exchange among themselves, in conformity with their respective domestic laws and applicable treaties, relevant information on matters such as:

- a. authorized producers, dealers, importers, exporters, and, whenever possible, carriers of firearms, ammunition, explosives, and other related materials;
- b. the means of concealment used in the illicit manufacturing of or trafficking in firearms, ammunition, explosives, and other related materials, and ways of detecting them;
- c. routes customarily used by criminal organizations engaged in illicit trafficking in firearms, ammunition, explosives, and other related materials;
- d. legislative experiences, practices, and measures to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials; and
- e. techniques, practices, and legislation to combat money laundering related to illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.

2. States Parties shall provide to and share with each other, as appropriate, relevant scientific and technological information useful to law enforcement, so as to enhance one another's ability to prevent, detect, and investigate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials and prosecute those involved therein.

3. States Parties shall cooperate in the tracing of firearms, ammunition, explosives, and other related materials which may have been illicitly manufactured or trafficked. Such cooperation shall include accurate and prompt responses to trace requests.

#### **Article XIV: Cooperation**

1. States Parties shall cooperate at the bilateral, regional, and international levels to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.

2. States Parties shall identify a national body or a single point of contact to act as liaison among States Parties, as well as between them and the Consultative Committee established in Article XX, for purposes of cooperation and information exchange.

#### **Article XV: Exchange of Experience and Training**

1. States Parties shall cooperate in formulating programs for the exchange of experience and training among competent officials, and shall provide each other assistance that would facilitate their respective access to equipment or technology proven to be effective for the implementation of this Convention.

2. States Parties shall cooperate with each other and with competent international organizations, as appropriate, to ensure that there is adequate training of personnel in their territories to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials. The subject matters of such training shall include, inter alia:

- a. identification and tracing of firearms, ammunition, explosives, and other related materials;
- b. intelligence gathering, especially that which relates to identification of illicit manufacturers and traffickers, methods of shipment, and means of concealment of firearms, ammunition, explosives, and other related materials; and
- c. improvement of the efficiency of personnel responsible for searching for and detecting, at conventional and nonconventional points of entry and exit, illicitly trafficked firearms, ammunition, explosives, and other related materials.

#### **Article XVI: Technical Assistance**

States Parties shall cooperate with each other and with relevant international organizations, as appropriate, so that States Parties that so request receive the technical assistance necessary to enhance their ability to prevent, combat, and eradicate the illicit manufacturing of and trafficking in

firearms, ammunition, explosives, and other related materials, including technical assistance in those matters identified in Article XV.2.

**Article XVII: Mutual Legal Assistance**

1. States Parties shall afford one another the widest measure of mutual legal assistance, in conformity with their domestic law and applicable treaties, by promptly and accurately processing and responding to requests from authorities which, in accordance with their domestic law, have the power to investigate or prosecute the illicit activities described in this Convention, in order to obtain evidence and take other necessary action to facilitate procedures and steps involved in such investigations or prosecutions.

2. For purposes of mutual legal assistance under this article, each Party may designate a central authority or may rely upon such central authorities as are provided for in any relevant treaties or other agreements. The central authorities shall be responsible for making and receiving requests for mutual legal assistance under this article, and shall communicate directly with each other for the purposes of this article.

**Article XVIII: Controlled Delivery**

1. Should their domestic legal systems so permit, States Parties shall take the necessary measures, within their possibilities, to allow for the appropriate use of controlled delivery at the international level, on the basis of agreements or arrangements mutually consented to, with a view to identifying persons involved in the offenses referred to in Article IV and to taking legal action against them.

2. Decisions by States Parties to use controlled delivery shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

3. With the consent of the States Parties concerned, illicit consignments under controlled delivery may be intercepted and allowed to continue with the firearms, ammunition, explosives, and other related materials intact or removed or replaced in whole or in part.

**Article XIX: Extradition**

1. This article shall apply to the offenses referred to in Article IV of this Convention.

2. Each of the offenses to which this article applies shall be deemed to be included as an extraditable offense in any extradition treaty in force between or among the States Parties. The States Parties undertake to include such offenses as extraditable offenses in every extradition treaty to be concluded between or among them.

3. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it does not have an extradition treaty, it may consider this Convention as the legal basis for extradition with respect to any offense to which this article applies.

4. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offenses to which this article applies as extraditable offenses between themselves.
5. Extradition shall be subject to the conditions provided for by the law of the Requested State or by applicable extradition treaties, including the grounds on which the Requested State may refuse extradition.
6. If extradition for an offense to which this article applies is refused solely on the basis of the nationality of the person sought, the Requested State Party shall submit the case to its competent authorities for the purpose of prosecution under the criteria, laws, and procedures applied by the Requested State to those offenses when they are committed in its own territory. The Requested and Requesting States Parties may, in accordance with their domestic laws, agree otherwise in relation to any prosecution referred to in this paragraph.

**Article XX: Establishment and Functions of the Consultative Committee**

1. In order to attain the objectives of this Convention, the States Parties shall establish a Consultative Committee responsible for:
  - a. promoting the exchange of information contemplated under this Convention;
  - b. facilitating the exchange of information on domestic legislation and administrative procedures of the States Parties;
  - c. encouraging cooperation between national liaison authorities to detect suspected illicit exports and imports of firearms, ammunition, explosives, and other related materials;
  - d. promoting training and exchange of knowledge and experience among States Parties and technical assistance between States Parties and relevant international organizations, as well as academic studies;
  - e. requesting from nonparty states, when appropriate, information on the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials; and
  - f. promoting measures to facilitate the application of this Convention.
2. Decisions of the Consultative Committee shall be recommendatory in nature.
3. The Consultative Committee shall maintain the confidentiality of any information it receives in the exercise of its functions, if requested to do so.

**Article XXI: Structure and Meetings of the Consultative Committee**

1. The Consultative Committee shall consist of one representative of each State Party.
2. The Consultative Committee shall hold one regular meeting each year and shall hold special meetings as necessary.

3. The first regular meeting of the Consultative Committee shall be held within 90 days following deposit of the 10th instrument of ratification of this Convention. This meeting shall be held at the headquarters of the General Secretariat of the Organization of American States, unless a State Party has offered to host it.

4. The meetings of the Consultative Committee shall be held at a place decided upon by the States Parties at the previous regular meeting. If no offer of a site has been made, the Consultative Committee shall meet at the headquarters of the General Secretariat of the Organization of American States.

5. The host State Party for each regular meeting shall serve as Secretariat *pro tempore* of the Consultative Committee until the next regular meeting. When a regular meeting is held at the headquarters of the General Secretariat of the Organization of American States, a State Party that will serve as Secretariat *pro tempore* shall be elected at that meeting.

6. In consultation with the States Parties, the Secretariat *pro tempore* shall be responsible for:

- a. convening regular and special meetings of the Consultative Committee;
- b. preparing a draft agenda for the meetings; and
- c. preparing the draft reports and minutes of the meetings.

7. The Consultative Committee shall prepare its own internal rules of procedure and shall adopt them by absolute majority.

#### **Article XXII: Signature**

This Convention is open for signature by member states of the Organization of American States.

#### **Article XXIII: Ratification**

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

#### **Article XXIV: Reservations**

States Parties may, at the time of adoption, signature, or ratification, make reservations to this Convention, provided that said reservations are not incompatible with the object and purposes of the Convention and that they concern one or more specific provisions thereof.

#### **Article XXV: Entry into Force**

This Convention shall enter into force on the 30<sup>th</sup> day following the date of deposit of the second instrument of ratification. For each state ratifying the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the 30<sup>th</sup> day following deposit by



such state of its instrument of ratification.

**Article XXVI: Denunciation**

1. This Convention shall remain in force indefinitely, but any State Party may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After six months from the date of deposit of the instrument of denunciation, the Convention shall no longer be in force for the denouncing State, but shall remain in force for the other State Parties.

2. The denunciation shall not affect any requests for information or assistance made during the time the Convention is in force for the denouncing State.

**Article XXVII: Other Agreements and Practices**

1. No provision in this Convention shall be construed as preventing the States Parties from engaging in mutual cooperation within the framework of other existing or future international, bilateral, or multilateral agreements, or of any other applicable arrangements or practices.

2. States Parties may adopt stricter measures than those provided for by this convention if, in their opinion, such measures are desirable to prevent, combat, and eradicate the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials.

**Article XXVIII: Conference of States Parties**

Five years after the entry into force of this Convention, the depository shall convene a conference of the States Parties to examine the functioning and application of this Convention. Each conference shall determine the date on which the next conference should be held.

**Article XXIX: Dispute Settlement**

Any dispute that may arise as to the application or interpretation of this Convention shall be resolved through diplomatic channels or, failing which, by any other means of peaceful settlement decided upon by the States Parties involved.

**Article XXX: Deposit**

The original instrument of this Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward an authenticated copy of its text to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the United Nations Charter. The General Secretariat of the Organization of American States shall notify the member states of the Organization of the signatures, of the deposits of instruments of ratification and denunciation, and of any reservations.

ANNEX

The term “explosives” does not include: compressed gases; flammable liquids; explosive actuated devices, such as air bags and fire extinguishers; propellant actuated devices, such as nail gun cartridges; consumer fireworks suitable for use by the public and designed primarily to produce visible or audible effects by combustion, that contain pyrotechnic compositions and that do not project or disperse dangerous fragments such as metal, glass, or brittle plastic; toy plastic or paper caps for toy pistols; toy propellant devices consisting of small paper or composition tubes or containers containing a small charge or slow burning propellant powder designed so that they will neither burst nor produce external flame except through the nozzle on functioning; and smoke candles, smokepots, smoke grenades, smoke signals, signal flares, hand signal devices, and Very signal cartridges designed to produce visible effects for signal purposes containing smoke compositions and no bursting charges.

# Appendix IV. EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms

*Council of the European Union, Declaration 9057/97, 26 June 1997*

## **EU PROGRAMME FOR PREVENTING AND COMBATING ILLICIT TRAFFICKING IN CONVENTIONAL ARMS**

The Council of the European Union,

convinced that peace and security are inextricably interlinked with economic development and reconstruction,

recognizing that the availability and accumulation of massive quantities of conventional arms and especially their illicit trafficking, often associated with destabilizing activities, are disturbing and dangerous phenomena, particularly for the internal situation of affected states and for the respect of human rights,

stressing the need for effective national control measures on the transfer of conventional arms,

recognizing also the curbing of illicit trafficking of conventional arms as an important contribution to the relaxation of tension and to reconciliation processes,

desirous to take concrete measures to curb the illicit traffic and use of conventional arms, as called for in UNGA resolution 51/45 F, to take practical disarmament measures, as called for in UNGA resolution 51/45 N, and to provide assistance to states for curbing the illicit traffic in small arms and collecting them, as called for in UNGA resolution 51/45 L, all of 10 December 1996,

recalling the EU Member States' common reply to UNGA resolution 50/70 B of 12 December 1995,

has adopted the following:

## **EU PROGRAMME FOR PREVENTING AND COMBATING ILLICIT TRAFFICKING IN CONVENTIONAL ARMS**

1. EU Member States will strengthen their collective efforts to prevent and combat illicit trafficking of arms (\*), particularly of small arms, on and through their territories. In particular, they will vigilantly

discharge their national responsibility to ensure the effective implementation of obligations resulting from Conventions and Joint Actions adopted in this field. Furthermore, consideration could be given to, *inter alia*:

- fostering enhanced cooperation and coordination, whilst respecting national legislation and policies, amongst intelligence, customs and other law enforcement agencies, both at the national and international level, in order to ensure adequate (customs) checks, as well as prompt investigation and effective prosecution in cases of illicit trafficking of arms;
  - improving the exchange of information and data on illicit trafficking of arms, e.g. through the use of international data bases and risk analyses.
2. The EC and its Member States, each within the limits of its respective competence, will take concerted action to assist other countries in preventing and combating illicit trafficking of arms, particularly of small arms. Specifically, this assistance could aim to:
- set up or strengthen, as appropriate, an adequate body of laws and administrative measures for regulating and monitoring effectively transfers of arms;
  - adopt strict measures, and provide an adequate number of appropriately trained police and customs officials, for the enforcement of national arms export control legislation;
  - set up (sub)regional points of contact to report illicit trafficking of arms;
  - set up national commissions against illicit trafficking of arms;
  - prevent corruption and bribery in connection with illicit trafficking of arms;
  - promote (sub)regional and national cooperation amongst police, customs authorities and intelligence services in this field;
  - promote the use of relevant existing international data bases.
3. The EC and its Member States, each within the limits of its respective competence, will take concerted action to assist affected countries, especially in post-conflict situations and in situations where a minimal degree of security and stability exists, in suppressing the illicit circulation and trafficking of arms, particularly of small arms. Specifically, they could aim to:
- ensure the incorporation of appropriate measures for suppressing the illicit circulation and trafficking of arms in peace keeping operations and cease-fire or peace agreements preceding such operations. To this end, they will cooperate closely, where appropriate, with the United Nations;
  - set up weapons collection, buy back and destruction programmes;
  - set up educational programmes to promote awareness among the local population of the negative consequences of illicit trafficking of arms;
  - promote the integration of former combatants in civilian life.

4. EU Member States will ensure adequate cooperation amongst the competent branches of their national authorities in giving concrete form to the objectives of this Programme. The Presidency of the Council will ensure the necessary coordination in this field.
5. The EC, according to its own procedures, and its Member States are prepared, where appropriate, to make funds available in pursuit of the objectives of this Programme.
6. The Council will annually review the actions taken in the framework of this Programme.

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\* For the purpose of this Programme and in conformity with the definition in paragraph 7 of the Guidelines for International Arms Transfers (UN Disarmament Commission, 7 May 1996), “illicit trafficking in arms” is understood to cover that international trade in conventional arms which is contrary to the laws of states and/or international law.

# Appendix V. EU Code of Conduct on Arms Exports

*Council of the European Union, Document 8675/2/98 REV 2, 5 June 1998*

## **EUROPEAN UNION CODE OF CONDUCT ON ARMS EXPORTS**

The Council of the European Union,

**BUILDING** on the Common Criteria agreed at the Luxembourg and Lisbon European Councils in 1991 and 1992,

**RECOGNISING** the special responsibility of arms exporting states,

**DETERMINED** to set high common standards which should be regarded as the minimum for the management of, and restraint in, conventional arms transfers by all EU Member States, and to strengthen the exchange of relevant information with a view to achieving greater transparency,

**DETERMINED** to prevent the export of equipment which might be used for internal repression or international aggression, or contribute to regional instability,

**WISHING** within the framework of the CFSP to reinforce their cooperation and to promote their convergence in the field of conventional arms exports,

**NOTING** complementary measures taken by the EU against illicit transfers, in the form of the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms,

**ACKNOWLEDGING** the wish of EU Member States to maintain a defence industry as part of their industrial base as well as their defence effort,

**RECOGNISING** that states have a right to transfer the means of self-defence, consistent with the right of self-defence recognised by the UN Charter,

have adopted the following Code of Conduct and operative provisions:

## **CRITERION ONE**

**Respect for the international commitments of EU member states, in particular the sanctions decreed by the UN Security Council and those decreed by the Community, agreements on non-proliferation and other subjects, as well as other international obligations**

An export licence should be refused if approval would be inconsistent with, *inter alia*:

- a) the international obligations of member states and their commitments to enforce UN, OSCE and EU arms embargoes;
- b) the international obligations of member states under the Nuclear Non-Proliferation Treaty, the Biological and Toxin Weapons Convention and the Chemical Weapons Convention;
- c) their commitments in the frameworks of the Australia Group, the Missile Technology Control Regime, the Nuclear Suppliers Group and the Wassenaar Arrangement;
- d) their commitment not to export any form of anti-personnel landmine.

## **CRITERION TWO**

**The respect of human rights in the country of final destination**

Having assessed the recipient country's attitude towards relevant principles established by international human rights instruments, Member States will:

- a) not issue an export licence if there is a clear risk that the proposed export might be used for internal repression.
- b) exercise special caution and vigilance in issuing licences, on a case-by-case basis and taking account of the nature of the equipment, to countries where serious violations of human rights have been established by the competent bodies of the UN, the Council of Europe or by the EU;

For these purposes, equipment which might be used for internal repression will include, *inter alia*, equipment where there is evidence of the use of this or similar equipment for internal repression by the proposed end-user, or where there is reason to believe that the equipment will be diverted from its stated end-use or end-user and used for internal repression. In line with operative paragraph 1 of this Code, the nature of the equipment will be considered carefully, particularly if it is intended for internal security purposes.

Internal repression includes, inter alia, torture and other cruel, inhuman and degrading treatment or punishment, summary or arbitrary executions, disappearances, arbitrary detentions and other major violations of human rights and fundamental freedoms as set out in relevant international human rights instruments, including the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights.

### **CRITERION THREE**

#### **The internal situation in the country of final destination, as a function of the existence of tensions or armed conflicts**

Member States will not allow exports which would provoke or prolong armed conflicts or aggravate existing tensions or conflicts in the country of final destination.

### **CRITERION FOUR**

#### **Preservation of regional peace, security and stability**

Member States will not issue an export licence if there is a clear risk that the intended recipient would use the proposed export aggressively against another country or to assert by force a territorial claim.

When considering these risks, EU Member States will take into account inter alia:

- a) the existence or likelihood of armed conflict between the recipient and another country;
- b) a claim against the territory of a neighbouring country which the recipient has in the past tried or threatened to pursue by means of force;
- c) whether the equipment would be likely to be used other than for the legitimate national security and defence of the recipient;
- d) the need not to affect adversely regional stability in any significant way.

### **CRITERION FIVE**

#### **The national security of the member states and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries**

Member States will take into account:

- a) the potential effect of the proposed export on their defence and security interests and those of friends, allies and other member states, while recognising that this factor cannot affect consideration of the criteria on respect of human rights and on regional peace, security and stability;



- b) the risk of use of the goods concerned against their forces or those of friends, allies or other member states;
- c) the risk of reverse engineering or unintended technology transfer.

## **CRITERION SIX**

**The behaviour of the buyer country with regard to the international community, as regards in particular to its attitude to terrorism, the nature of its alliances and respect for international law**

Member States will take into account inter alia the record of the buyer country with regard to:

- a) its support or encouragement of terrorism and international organised crime;
- b) its compliance with its international commitments, in particular on the non-use of force, including under international humanitarian law applicable to international and non-international conflicts;
- c) its commitment to non-proliferation and other areas of arms control and disarmament, in particular the signature, ratification and implementation of relevant arms control and disarmament conventions referred to in sub-para b) of Criterion One.

## **CRITERION SEVEN**

**The existence of a risk that the equipment will be diverted within the buyer country or re-exported under undesirable conditions**

In assessing the impact of the proposed export on the importing country and the risk that exported goods might be diverted to an undesirable end-user, the following will be considered:

- a) the legitimate defence and domestic security interests of the recipient country, including any involvement in UN or other peace-keeping activity;
- b) the technical capability of the recipient country to use the equipment;
- c) the capability of the recipient country to exert effective export controls;
- d) the risk of the arms being re-exported or diverted to terrorist organisations (anti-terrorist equipment would need particularly careful consideration in this context).

## CRITERION EIGHT

**The compatibility of the arms exports with the technical and economic capacity of the recipient country, taking into account the desirability that states should achieve their legitimate needs of security and defence with the least diversion for armaments of human and economic resources**

Member States will take into account, in the light of information from relevant sources such as UNDP, World Bank, IMF and OECD reports, whether the proposed export would seriously hamper the sustainable development of the recipient country. They will consider in this context the recipient country's relative levels of military and social expenditure, taking into account also any EU or bilateral aid.

## OPERATIVE PROVISIONS

1. Each EU Member State will assess export licence applications for military equipment made to it on a case-by-case basis against the provisions of the Code of Conduct.
2. This Code will not infringe on the right of Member States to operate more restrictive national policies.
3. EU Member States will circulate through diplomatic channels details of licences refused in accordance with the Code of Conduct for military equipment together with an explanation of why the licence has been refused. The details to be notified are set out in the form of a draft pro-forma at Annex A. Before any Member State grants a licence which has been denied by another Member State or States for an essentially identical transaction within the last three years, it will first consult the Member State or States which issued the denial(s). If following consultations, the Member State nevertheless decides to grant a licence, it will notify the Member State or States issuing the denial(s), giving a detailed explanation of its reasoning.

The decision to transfer or deny the transfer of any item of military equipment will remain at the national discretion of each Member State. A denial of a licence is understood to take place when the member state has refused to authorise the actual sale or physical export of the item of military equipment concerned, where a sale would otherwise have come about, or the conclusion of the relevant contract. For these purposes, a notifiable denial may, in accordance with national procedures, include denial of permission to start negotiations or a negative response to a formal initial enquiry about a specific order.

4. EU Member States will keep such denials and consultations confidential and not to use them for commercial advantage.
5. EU Member States will work for the early adoption of a common list of military equipment covered by the Code, based on similar national and international lists. Until then, the Code will operate on the basis of national control lists incorporating where appropriate elements from relevant

international lists.

6. The criteria in this Code and the consultation procedure provided for by paragraph 3 of the operative provisions will also apply to dual-use goods as specified in Annex 1 of Council Decision 94/942/CFSP as amended, where there are grounds for believing that the end-user of such goods will be the armed forces or internal security forces or similar entities in the recipient country.
7. In order to maximise the efficiency of this Code, EU Member States will work within the framework of the CFSP to reinforce their cooperation and to promote their convergence in the field of conventional arms exports.
8. Each EU Member State will circulate to other EU Partners in confidence an annual report on its defence exports and on its implementation of the Code. These reports will be discussed at an annual meeting held within the framework of the CFSP. The meeting will also review the operation of the Code, identify any improvements which need to be made and submit to the Council a consolidated report, based on contributions from Member States.
9. EU Member States will, as appropriate, assess jointly through the CFSP framework the situation of potential or actual recipients of arms exports from EU Member States, in the light of the principles and criteria of the Code of Conduct.
10. It is recognised that Member States, where appropriate, may also take into account the effect of proposed exports on their economic, social, commercial and industrial interests, but that these factors will not affect the application of the above criteria.
11. EU Member States will use their best endeavours to encourage other arms exporting states to subscribe to the principles of this Code of Conduct.
12. This Code of Conduct and the operative provisions will replace any previous elaboration of the 1991 and 1992 Common Criteria.

# Publications

BICC series such as *brief*, *report* and *paper* are published either in English (with a German summary) or in German (with an English summary).

**report 1:**

Edward J. Laurance and Herbert Wulf, with the assistance of Joseph Di Chiaro III, *Conversion and the Integration of Economic and Security Dimensions*, January 1995

**report 2:**

Nicola Mögel, Thomas Sachse und Hans-Henning Schröder, *Chancen und Probleme der Rüstungskonversion in der Gemeinschaft Unabhängiger Staaten: Konversionsprofile ausgewählter Regionen - Nizhny Novgorod, Republik Udmurtien, Ekaterinenburg, Republik Belarus [Problems and Prospects of Defense Conversion in the Commonwealth of Independent States: Conversion Profiles of Selected Regions—Nizhni Novgorod, Udmurtiya, Yekaterinburg, and Belarus]*, March 1995

**report 3:**

Joseph Di Chiaro III (ed.), *Conversion of the Defense Industry in Russia and Eastern Europe, Proceedings of the BICC/CISAC Workshop on Conversion, 10-13 August 1994*, April 1995

**report 4:**

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- Defense expenditures and budget reallocation
- Civilian applications for military R&D
- Industrial conversion and restructuring
- Demobilization and reintegration
- Base closure and redevelopment
- Dismantling and disposal of surplus weapons

BICC is an international think tank, which conducts research, makes policy suggestions and facilitates and mediates the conversion process at all levels—local, national and global. The Center provides consulting services to a range of public and private organizations. In order to function as an international clearing-house, BICC actively collects data and information on all conversion program areas, and

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Director: Dr. Herbert Wulf  
Publishing management: Michael Dedek  
An der Elisabethkirche 25  
D-53113 Bonn  
Germany  
Phone +49-228-911960  
Fax +49-228-241215  
E-mail: [bicc@bicc.uni-bonn.de](mailto:bicc@bicc.uni-bonn.de)  
Internet: <http://bicc.uni-bonn.de>

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