

Appendix 13A. The UN conference on the illicit trade in small arms and light weapons

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I. Introduction

Since the early 1990s there has been a growing realization in the arms control and disarmament policy-making community that, while major conventional weapons and weapons of mass destruction have previously received great attention, small arms and light weapons (SALW) play a significant role in most armed conflicts.¹ Control of the proliferation and availability of small arms is therefore considered an important instrument for conflict prevention and resolution and is the subject of a number of recent multilateral initiatives.² Activities in 2001 included the start of the implementation of the 2000 Organization for Security and Co-operation in Europe (OSCE) Document on Small Arms and Light Weapons and the extension of the 1998 Economic Community of West African States (ECOWAS) Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons.³

The global high point of the discussion on small arms was the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, held in July 2001. The conference and the document it produced—the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects—reflect the principal elements of other multilateral initiatives and form the global framework for the further development of these initiatives.

II. The UN conference

Since the mid-1990s, small arms have received growing attention within the United Nations.⁴ Based on a 1997 recommendation by the UN Panel of Governmental

¹ In this appendix the term ‘small arms’ refers to ‘small arms and light weapons’, for which there is as yet no agreed definition. The most common definition used is given in the UN Report of Governmental Experts on Small Arms, UN document A/52/298, 27 Aug. 1997, p. 11. The definition essentially categorizes small arms as weapons designed for personal use, and light weapons as designed for use by several persons serving as a crew. See also Wezeman, P. D., Wezeman, S. T. and Chipperfield, N., ‘Transfers of small arms and other weapons to armed conflicts’, *SIPRI Yearbook 2001: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2001), pp. 410–20.

² For further discussion of developments regarding multilateral initiatives in the field of small arms up until 2001 see Small Arms Survey, *Tackling the Small Arms Problem: Multilateral Measures and Initiatives, Small Arms Survey 2001* (Oxford University Press: Oxford, 2001), pp. 251–91; and Small Arms Survey, *Small Arms Survey 2002* (Oxford University Press: Oxford, 2002). The small arms debate also includes the use of weapons by criminals and individual citizens. It is not always possible to make a clear distinction between large-scale crime and conflict. Some multilateral efforts are aimed specifically at controlling the use of weapons to combat crime, such as the 2001 UN Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, UN document A/RES/255, 8 June 2001.

³ See OSCE Forum for Security Co-operation document FSC.DOC/1/00, 24 Nov. 2000; and, for the ECOWAS Moratorium, UN document A/53/763, 18 Dec. 1998.

⁴ The first concrete outcome of this debate took shape in 1995 when, in Resolution 50/70B, the UN General Assembly requested the Secretary-General to prepare a report on small arms and light weapons with the assistance of a group of governmental experts.

Experts on Small Arms, in December 1999 the UN General Assembly decided to organize the Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, which was held in New York on 9–20 July 2001.⁵ It was preceded by two meetings in 2000 and one in 2001 in which a draft Programme of Action was prepared to form the basis for the conference deliberations. Several groups of states, including the European Union (EU), the Organization of African Unity (OAU) and the Organization of American States (OAS), held regional conferences and meetings to prepare common positions at the UN conference.⁶

The aim of the conference was to agree a common Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.⁷ In the Programme of Action, which is a political statement and not legally binding, the states participating in the conference announced they would undertake a series of measures to prevent, combat and eradicate the illicit trade in small arms and light weapons.

At the national level these measures include: creating and enforcing controls over the production and international transfer of small arms; marking small arms during production; maintaining records of all holdings and transfers of small arms; using end-user certificates and notifying the original exporting state when small arms are re-transferred; developing regulations for arms brokering; establishing standards and procedures related to the management and security of weapons held by authorized bodies; developing disarmament, demobilization and reintegration of combatants; and destroying confiscated small arms.

At the regional level the measures include: working towards regional legally binding instruments aimed at combating the illicit trade in small arms, encouraging moratoria or similar initiatives on the transfer and manufacture of small arms, establishing trans-border customs cooperation and networks for information sharing, developing transparency to combat illicit trade in small arms, and addressing the special needs of children affected by armed conflict.

At the global level the measures include: cooperating in the UN system in order to ensure the implementation of UN arms embargoes, encouraging disarmament and demobilization of ex-combatants and their reintegration into civilian life, encouraging states to enhance cooperation with Interpol, and promoting dialogue and a culture of peace by encouraging education and public awareness programmes.

During the debate on the Programme of Action, the USA was the most vocal opponent to a number of provisions⁸ and stated that it would not support the Programme of Action unless certain provisions were removed. The US Government viewed these

⁵ For information and documents on the conference see the UN Department for Disarmament Affairs Internet site, URL <<http://www.un.org/Depts/dda/CAB/smallarms/>>. For a categorized database see the Internet site of the Small Arms Survey, URL <<http://www.smallarmssurvey.org/Database.html>>.

⁶ The EU adopted the Programme for the Preventing and Combating of Illicit Trafficking in Conventional Arms in June 1997; the OAU adopted the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons in Dec. 2001, UN document A/CONF.192/PC/23, 10 Jan. 2001; and the Latin American and Caribbean states adopted the Brasilia Declaration in Nov. 2000, UN A/CONF.192/PC/19, 19 Dec. 2000. For a list of international activities in preparation of the UN Conference see Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, UN document A/CONF.192/15, 20 July 2001, pp. 17–19.

⁷ Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (note 5).

⁸ For a detailed overview of the main points of discussion at the conference see Batchelor, P., 'The 2001 UN conference on small arms: a first step?', *Disarmament Diplomacy*, Sep. 2001, URL <<http://www.acronym.org.uk/dd/dd60/60op1.htm>>.

provisions as diverting attention from practical measures to cope with the illicit small arms trade or as falling under the sovereignty of state governments and therefore not legitimate areas for international cooperation and action.⁹ After the text had been amended, the USA accepted the provisions that called for: (a) constraining the legal trade and manufacture of small arms; (b) international advocacy activities by non-governmental organizations (NGOs); and (c) a mandatory review conference. Discussions on two other issues resulted in last-minute negotiations and the extension of the conference by one day.¹⁰

The draft Programme of Action contained a paragraph which stated that countries should supply small arms and light weapons only to governments, thereby excluding supplies to non-state actors without authorization from the government in the recipient country.¹¹ The USA insisted that the paragraph be removed, arguing that it would preclude assistance to oppressed non-state groups and that '[d]istinctions between governments and non-governments are irrelevant in determining responsible and irresponsible end-users of arms'.¹² The African states opposed the US proposal, arguing that the supply of small arms to non-state actors was the most important way in which the proliferation of small arms in Africa is exacerbated. The EU also supported the proposed ban on small arms supplies to non-state actors.

Another paragraph called for consideration of a prohibition on the unrestricted trade in and private ownership of small arms specifically designed for military purposes. The USA objected to this provision as well, which it perceived as possibly restricting the right of private persons to own arms, a prohibition that would be opposed by the strong pro-gun lobby in the USA. Because the USA stated that it would not support the Programme for Action if these paragraphs remained in the document, even in altered form, both paragraphs were deleted in the final version, following agreement by the African delegations in order for it to be possible for the conference to achieve consensus.

The US position was strongly criticized.¹³ However, the assertiveness of the USA made it possible for other states, which might otherwise have spoken out against certain provisions, to 'hide behind' the USA and thus avoid strong public and government criticism.

The conference was attended by a large number of NGOs and other representatives of civil society.¹⁴ The NGOs included both organizations that were strongly in favour of strict controls on small arms trade and possession, organized mainly in the Inter-

⁹ Under Secretary of State for Arms Control and International Security Affairs John R. Bolton, US Statement at Plenary Session of the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, 9 July 2001, URL <<http://www.un.org/Depts/dda/CAB/smallarms/statements/usE.html>>.

¹⁰ DDA 2001 Update, United Nations Department for Disarmament Affairs (DDA), June/July 2001, p. 4.

¹¹ Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, Working paper by the Chairman of the Preparatory Committee, A/CONF.192/PC/L.4/Rev.1, 12 Feb. 2001.

¹² Under Secretary of State for Arms Control and International Security Affairs John R. Bolton (note 9).

¹³ The president of the conference criticized the USA in expressing his disappointment at the Conference's inability to agree 'due to the concerns of one state—on language recognizing the need to establish and maintain controls over private ownership of these deadly weapons, and the need for preventing sales of such weapons to non-state groups'. Batchelor (note 8). For similar criticism see 'Small arms win', *International Herald Tribune*, 1 July 2001, p. 6; and Lynch, C., 'US fights small arms controls, stance on UN pact not shared by allies', *Washington Post*, 10 July 2001, p. A01.

¹⁴ A total of 119 registered NGOs and 380 representatives attended the conference. DDA 2001 Update (note 10), p. 3.

national Action Network on Small Arms (IANSA), and organizations that were in favour of liberal controls on the civilian possession of small arms, organized mainly in the World Forum on the Future of Sport Shooting Activities (WFSA).¹⁵ The conference stressed the role of civil society in combating the illicit trade in small arms and the Programme of Action encouraged regional organizations and states to facilitate the appropriate cooperation of civil society, including NGOs.

III. Conclusions

The Programme of Action adopted by the conference has no legal status and does not create a regime. Most of the provisions are of a general nature. They do not present new norms regarding the possession of and trade in arms but only call on governments to take proper action to prevent those forms of arms possession and trade that already have been declared illicit under national laws. Moreover, there are no specific guidelines for how to operationalize the agenda. The Programme of Action can therefore be perceived as a weak outcome of the conference.

On the other hand, it can be argued that the Programme of Action is a clear declaration of the political will of the international community to act against the proliferation of small arms and an important first step towards building norms and implementing collective measures against the illicit trade in small arms.¹⁶ It also represents the first global framework to guide the work of national governments, international organizations, especially regional organizations, and civil society in combating the illicit trade in small arms.

There is a risk that the international momentum created by the conference may wither away. In order to maintain the momentum the UN General Assembly decided to convene a conference in 2006 to review the progress of the implementation of the Programme of Action, preceded by biennial meetings of states.¹⁷

¹⁵ For an assessment of the influence of NGOs on the conference see Batchelor, P., 'NGO perspectives: NGOs and the small arms issue', *Disarmament Forum*, no. 1 (2002), URL <<http://www.unog.ch/unidir/2-01-e7%20batchelor.pdf>>.

¹⁶ A view taken by, e.g., the UN Secretary-General. DDA 2001 Update (note 10), p. 1.

¹⁷ UN General Assembly Resolution 56/24, 10 Jan. 2002.