

## Conference Report

# Setting Course for the 2001 Conference on Small Arms

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# 1

## We've Got the Vienna Process; Who Needs 2001?

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### **Geraldine O'Callaghan**

*British American Security Information Council (BASIC), UK*

In preparing for the *UN 2001 Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects* (henceforth the "UN 2001 Conference"), knowing more about the Vienna Process is useful. O'Callaghan outlined its objectives, functions, limitations, and implications for the UN 2001 Conference, and made recommendations on how to make the two processes mutually reinforcing.

### **The Vienna Process and the Firearms Protocol**

The Vienna Process refers to negotiations by the Vienna-based Commission on Crime Prevention and Criminal Justice established by the UN Economic and Social Council (ECOSOC) to obtain a legally binding international instrument on illicit trafficking in small arms called the "Draft Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition," also known as "The Firearms Protocol." It supplements a convention on transnational organized crime which was signed in July 2000, and is expected to be concluded by early 2001. Once agreed, it will be the first global, legally binding measure to control the international movement of small arms and light weapons.

The stated purpose of the Firearms Protocol is to promote, facilitate and strengthen cooperation among state parties to prevent, combat and eradicate illicit manufacturing and trafficking in firearms, spare parts, components and ammunition. Through a series of articles and provisions, the Firearms Protocol seeks to criminalize the trafficking and manufacturing of firearms; to develop a harmonized system of licensing firearm exports, imports and movements and to strengthen export and border controls. In addition, it places a high premium on the

exchange of information among states and on cooperation and technical assistance in areas such as firearm tracing and identification. It also encourages states to develop new controls on arms brokers and shipping agents – one of the key areas of this agreement.

Although this has not yet been agreed, it is hoped that the Firearms Protocol will also institute a system of marking weapons at the points of manufacture and import, a matter that remains unresolved. In short, the agreement aims to bring together law enforcement officials in order to get a clearer picture of illicit trafficking, identify routes and cooperate in combating trafficking. The focus is on transparency and information exchange.

### **The Firearms Protocol and the UN 2001 Conference**

The aim of the Firearms Protocol – to combat and criminalize the illicit trafficking in small arms – is very similar to the aim of the UN 2001 Conference. It may seem that one negates the need for the other. On closer examination, however, one can see that the Firearms Protocol has limitations that the scope of the UN 2001 Conference can remedy.

The Firearms Protocol only addresses commercial transactions in weapons. It exempts state-to-state transactions and transfers. Furthermore, it defines "firearms" narrowly. It does not encompass many categories of small arms and light weapons that will be addressed at the UN 2001 Conference. Because of its wider scope, therefore, the UN 2001 Conference is extremely important.

### **Recommendations**

It is crucial to link the two processes and find ways to make them mutually reinforcing. Any remaining loopholes in the Firearms Protocol pose a threat to the UN 2001 Conference and must be corrected. The UN 2001 Conference should build on the substantial achievements of the Firearms Protocol and consider replicating some of the standards and controls on commercial shipments for state-to-state transactions. In particular, the UN 2001 Conference should:

- Adopt parallel controls on issues such as harmonizing licensing systems, marking weapons at manufacture and import and

introducing end-use licensing for state-to-state transactions. Minimum standards for state-to-state transactions should be the same as for commercial transactions.

- Build on the Firearms Protocol's norm to destroy illicit weapons that are seized, particularly surplus military weapons and weapons collected during peacekeeping operations.
- Further explore the agreement to develop controls on brokers.
- Discuss issues such as border controls and weapons marking.
- Review the Firearms Protocol to ensure ratification and implementation and think about how to obtain financial and technical assistance.

<b>Questions and Answers</b>
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**Q: Is there anything NGOs can do between now and January to persuade those involved in the Vienna Process to sign on the dotted line?**

A: There is a lot that individual NGOs can do. It is critical that they develop a collective position on issues such as definitions and marking. Ideally, this collective position could be voiced through the framework and umbrella of the International Action Network on Small Arms (IANSA).

**Q: If the Firearms Protocol is signed in January, how will it be translated into action in the UN 2001 Conference?**

A: We do not need to reinvent the wheel. We can adopt the information experts have gathered and the consensus of the Vienna Process on issues such as using a unique serial number, identifying the weapon name, place and date of manufacture. The system for marking weapons at manufacture for commercial shipments could be applied to state-to-state transactions on military weapons. The UN 2001 Conference should also discuss ways of funding the Firearms Protocol, increasing controls at export points and improving police training. All of these issues should be brought to the UN 2001 Conference.

**Q: What happened in October with the Firearms Protocol negotiation was a derailment of the Vienna Process. The negotiators really have to pick up the pieces of this important instrument and move the debate forward. I am not so optimistic. Judging from the delay in agreeing the Firearms Protocol, the UN 2001 Conference is likely to be a mirror image of the diatribes that caused the derailment of the Vienna Process.**

A: The focus should be on the completing the Firearms Protocol during the negotiating session scheduled for the 3<sup>rd</sup> and/or 4<sup>th</sup> week of January 2001. Swift conclusion should be pushed for, but not at all costs.

**Q: How should the UN 2001 Conference proceed on the issues covered by the Vienna Process if the latter has not succeeded by the time the UN 2001 Conference takes place?**

A: It would be politically damaging if the Firearms Protocol were not agreed in time for the UN 2001 Conference. Broader issues such as state-to-state transfers will be difficult to address if administrative and penal measures and a law enforcement context for small arms and light weapons have not been agreed. We should do all we can to push for the successful conclusion of the Firearms Protocol, since it is part of a legally binding convention.

**Q: Why has the Vienna Process been delayed? Is it because states were advancing to the final negotiations without having developed consensus? Are there lessons here for the UN 2001 Conference?**

A: I am not privy to all the information regarding this delay. It would be best to direct this question to governments. I believe, however, that one of the reasons is that developing countries were not sufficiently engaged in the Vienna Process at an early stage, either because they were unaware of the process, lacked the means to attend, or were insufficiently prepared for the sessions. The lesson is to engage developing countries in the process since they are very strong allies on the issue of small arms.

## 2 Why Do Regional Initiatives Matter?

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### 2.1 Regional Initiatives in Africa

#### **Virginia Gamba**

*Institute for Security Studies, South Africa*

Recent initiatives in Africa on the issue of small arms were examined to illustrate the continent's level and status of regional initiatives. The priority of the small arms issue varies from sub-region to sub-region and from region to region. Gamba outlined various sub-regional and regional initiatives and objectives.

#### **Overview**

Africa is one of the first regions to actually declare itself on issues of illicit arms. Many meetings and regional and sub-regional processes on all aspects of arms have been under way over the past three years.

The global debate on the difference between the licit and illicit trade in arms – and whether there is a connection between them – has never affected Africa where licit and illicit trade has always been interconnected. Licit firearms do become part of the illicit market. In every region of Africa, at least 50 percent of the illicit arms seized by police were originally licensed.

The illicit weapons that penetrate and circulate both nationally and regionally come from three sources: government stocks, licensed arms that escape control either through theft or negligence and stocks that have always been illicit. There has been a vast accumulation of illicit stocks. Some are still in caches. Some are re-circulating for economic or criminal purposes. All end up fueling the next hot conflict. In the last three years, every region of Africa has realized that when a strategy for arms control and non-proliferation is being considered, both the strengthening of regulations relating to legal

controls and the reduction of illicit stocks must be taken into account. The Vienna Process is, therefore, very important for all sub-regional initiatives in Africa.

#### **A Regional Approach**

Another element that is common to all African regions is the recognition that no single country can address the problem of illicit arms alone. The sub-regions of Africa do not tend to think regionally or to cooperate. They have yet to build trust among themselves. There is, however, a realization that the best approach to the arms issue is at the regional level.

This regional approach emphasizes capacity building, information exchange and transparency. Not transparency as it is understood in UN terms, but transparency between immediate neighbors, particularly in the area of information exchange on transnational criminal operations and movements of illicit firearms.

#### *Southern Africa*

Within the Southern African Development Community (SADC), crime has been the main factor motivating regional action. Statistics show that violent, armed crime, in general, and commercial violent armed crime, in particular, are on the rise and are discouraging investment. This is of great concern, particularly to southern countries such as Mozambique, Botswana and South Africa.

In response, SADC created a comprehensive protocol on firearms and ammunition, recognizing the need to raise public awareness of ways of reducing local demand for firearms, particularly of the illicit kind. SADC's action program also recognizes the need for mop-up operations, gun buy-back and voluntary collection programs. In addition, SADC has created a Small Arms Committee.

#### *Eastern Africa*

Eastern Africa has finalized a coordinated action agenda to combat illicit trafficking in small arms and light weapons and to strengthen the capacity of countries to contain their own licit and government stocks. The action agenda was recently agreed by ten countries in the region. A six-year implementation plan is now in place.

#### *West Africa*

The Economic Community of West African States (ECOWAS) is finalizing the first phase

of the ECOWAS moratorium on small arms. This single-item agenda was the result of an urgent appeal to control the flow of small arms into and out of the region. It is understood that a much more comprehensive agenda is needed. The Program for Co-ordination and Assistance for Security and Development (PCASD) thus emerged to deal with strengthening legislation, border controls, capacity-building and information exchange.

#### *Central Africa*

For the first time, the Economic Community for Central African States (ECCAS) is negotiating the creation of an action program on small arms similar to the SADC and Eastern Africa programs.

In all regions except West Africa, the discussions on curbing the illicit trade in small arms include the police, the military, development organizations and civil society. The aim is to create an approach that will generate research and statistics.

#### *The Organization of African Unity*

The Bamako process has been underway for a year now. Two meetings were held, one in May, one in June. Two public reports were produced. It was expected that a Bamako Declaration would result. However, no declaration can emerge from the OAU meeting on a common approach for Africa without prior consensus in the May and June meetings.

#### **Impact of the UN 2001 Conference on Sub-Regional Approaches in Africa**

The UN 2001 Conference is largely irrelevant to sub-regional work on small arms in Africa. Africa has a bottom-up, sub-region to sub-region approach which recognizes a link between the licit and illicit trade in small arms and light weapons. It already has an action program, something that the UN process has still not created. Every region has a project or program to fulfill within no more than six years. Institutionalizing these processes is making them implementable for the first time. And for the first time, donors are receptive to the need of each sub-region to generate funds to support implementation and technical assistance. It is a humble start, but it is a start nonetheless. It is very important that the UN 2001 Conference does not impede sub-regional initiatives.

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## 2.2

### The European Union Code of Conduct

#### **Martine Bernard**

*Amnesty International, France*

Bernard spoke from the perspective of a coalition of associations and NGOs called "Small Arms, It's Time for Us to Call the Shots," piloted by Amnesty International France in collaboration with the Observatory of Arms Transfers and the association *Agir Ici Pour un Monde Solidaire*.

#### **Background to the EU Arms Exports Code of Conduct**

On June 10th, 1999, tear gas manufactured in and exported from France was used in a brutal suppression of a peaceful demonstration in Nairobi. This information, reported in an Amnesty International document entitled "Terror Trade" illustrates that the European Union (EU) code of conduct on arms exports could greatly contribute to limiting or preventing human rights violations by EU countries. This code of conduct is an extremely important and pertinent initiative for Europe. In the wake of the Gulf War, during European Council meetings in 1991 and 1992, EU Heads of State and Government adopted eight criteria on arms exports. These criteria call for the following characteristics of the recipient country to be taken into account before arms are exported:

- The domestic and regional situation in which the country finds itself;
- the attitude of the recipient state to human rights and terrorism and
- the economic consequences for the recipient country of acquiring arms.

On the basis of the eight criteria, NGOs and Anglo-Saxon scholars created a code of conduct on arms trade for the EU in 1995 that was supported by 600 NGOs in Europe. This code of conduct outlined concrete and detailed steps to render these eight criteria operational. A report subsequently emerged analyzing how arms exports from France took into account the degree of respect for human rights in recipient countries. As a result, in no small part, of pressure applied by NGOs, the

EU code of conduct was adopted by the European Council in June 1998.

### **What Makes the EU Code of Conduct Effective?...**

The EU code of conduct is noteworthy for various reasons, all of which represent steps toward increased transparency. It involves a high level of interaction between NGOs and decision-makers. It is at the heart of the EU's common foreign and security policy. It provides criteria, consultation mechanisms and a list of military material the export of which is to be controlled. Finally, it provides for an annual review and for a consolidated annual report.

### **...and What Makes it Ineffective?**

The general criteria are too narrowly defined. The consultation mechanisms are restrictive in that they are only bilateral. The list of security and police equipment whose export is to be controlled has yet to be finalized. The first review has yet to take place. In addition, NGOs see this code of conduct as having three main shortcomings:

- It contains no regulation concerning brokers, carriers, manufacturers or licensing agents. It is promising, though, that under the Swedish presidency of the EU in the second half of 2001, the issue of arms brokers will likely become a priority.
- Neither the European Parliament nor national parliaments have the ability to implement any restrictions. It is comforting, however, that, in early October, the European Parliament published an assessment of the EU code of conduct and adopted a resolution to improve it.
- The code of conduct is politically but not legally binding, which limits its effectiveness.

### **Conclusion**

European NGOs, among others, would like to see the European Code of conduct being improved, strengthened, and made binding. We also need to examine further how it can work in parallel with other regional initiatives, particularly those in the USA – Europe's main

competitor in the area of weapons exports where an International Code requested by Congress is supported by NGOs – and also with the Western African moratorium, because one of the objectives of our last campaign was that light weapons transfers to regions where disarmament processes or moratoriums are in effect should cease.

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## 2.3 Regional Initiatives Versus Global Action

### **Owen Greene**

*Department of Peace Studies, Bradford University, United Kingdom*

Regional and national initiatives are important. Given that the problems of small arms and light weapons proliferation and misuse are closely related to issues of conflict, governance and humanitarian issues, the implementation of measures to tackle small arms and light weapons will depend on what happens on the ground, locally, nationally, sub-regionally and regionally.

Global action also matters. It is legitimate to ask, however, "Why does the UN 2001 Conference matter?" Clearly, it should not get in the way of important measures that are being undertaken at the regional level. However, we need the UN 2001 Conference to act on behalf of the entire international community to design an international action program that complements and reinforces national, sub-regional and regional initiatives.

An important task of the UN 2001 Conference should be, at a minimum, to prevent countries from undermining small arms initiatives in regions other than their own. Once that has been achieved, everything possible should be done to create a framework within which such initiatives can expand and improve. Another important task of the UN 2001 Conference should be to define the minimum standards, to which all states should adhere, which are necessary in order to prevent an intensification of the problem and the undermining of good regional initiatives.

### **Interregional Initiatives**

The capacity for inter-regional initiatives constitutes one of the great steps forward over the last few years (the EU/SADC cooperation to help tackle the problems of small arms and light weapons in southern Africa is a good example). These interregional initiatives can take place without a UN 2001 Conference, but it is much more efficient to conceive of them as a global framework of politically binding agreements and programs for action that mobilize support.

It is useful to have some global mechanisms at one's disposal in order to mobilize assistance. A strong agreement at the international level will help facilitate regional cooperation in an important way. It is difficult to develop a substantial regional initiative beyond the creation of basic norms. An international program can help develop that.

### **The Approach Negotiators Should Develop**

One minimalist philosophy that was adopted by some people in the early stages of the preparatory process argues that regions should be allowed to develop their own responses to specific problems. This is sufficient justification for the UN 2001 Conference to develop agreed minimum standards and mechanisms aimed at: preventing diversion of arms to unauthorised uses or destinations; enabling tracing of small arms through marking, record-keeping and information exchange; ensuring appropriate information exchange; and reassuring countries legitimately participating in the arms trade that they are not unwittingly making matters worse in other regions.

But the problem of small arms proliferation is so complex and far-reaching that it is better to take the reverse approach: We need to look at where the UN 2001 Conference can help. Diplomats and negotiators must do more at the 2001 Conference than simply replicating a regional agreement at the international level. Negotiators must identify and support international programs and measures that not only help initiatives in their own regions, but those in other regions as well. They should look for ways in which regional initiatives could help each other.

There is a lot that regional small arms initiatives can learn from each other: Virginia Gamba spoke today about Africa. Martine Bernard spoke about the EU. There is a wide

range of initiatives in the Americas such as the Organization of American States (OAS) convention on illicit firearms manufacture and trafficking. Southern Africa and Central America have immense experience in the areas of weapons collection in post-conflict situations. There are important discussions underway in the OSCE that should result in an agreement on small arms soon. There are discussions in East Asia in the ASEAN regional forum and through ASEAN itself to develop police cooperation on small arms issues. The UN 2001 Conference should seek to take up the best from each of these regional arrangements and to establish agreed global standards and programmes that reinforce and extend them.

### **Conclusion**

Each of the clusters of issues identified by the Chair of the UN 2001 Conference for potential agreement should be presented as an integrated set of international, inter-regional, regional, sub-regional, and national agenda. They should be designed to work together.

The other major issue is implementation. It will be a primary task of the UN 2001 Conference to design follow-up mechanisms to review implementation and tackle further problems. For example, one of those mechanisms could take the form of institutionalised ways in which the regions and sub-regions could regularly share their experiences, examine how to be mutually reinforcing and consider creating regional institutions that promote the implementation of whatever is agreed at the international level.

Success in reaching a strong, comprehensive and detailed agreement at the UN 2001 Conference requires that regions respect each other's initiatives on tackling the problem of small arms and light weapons and that they do their utmost to develop an international framework that allows for their further development.

### **Questions and Answers**

**Q: Regions and sub-regions should look to existing international instruments, such as UN-mandated arms embargoes (a binding instrument) and the UN Register for Conventional Weapons (a voluntary instrument). The UN 2001 Conference should also address implementing such instruments.**

A: A full article exists in the initiative of the Great Lakes Region and the Horn of Africa that specifically commits the ten member states to enforce sanctions on arms. Nevertheless, there is a clear need for a stronger commitment on the issue of supporting international arms sanctions. The UN Register on Conventional Weapons is less clear. African governments make a clear distinction between conventional arms and small arms, although we have been trying for at least six years to expand the scope of the register to include small arms. It should be noted, however, that every sub-region has a proposal and a means for registering small arms. For example, databases are planned for information exchange on criminal activities. A national register is being discussed that would contain information on both government stocks and civilian arms and which could be accessed by other states in the same region.

A: The UN Group of Experts met this summer and found it hard to find the necessary consensus to expand the scope of the UN Register. There is an emerging consensus, though, that would like to see the scope of the UN Register expanded, but two or three key states are blocking this.

**Q: Regions have been encouraged to develop a consolidated position vis-à-vis the UN 2001 Conference. There is concern, however, that the OAU, EU, and OAS are unlikely to do so. Will this be a problem?**

A: Serious thought should be put into what regions want to achieve from the UN 2001 Conference. They should avoid being locked into absolutely rigid negotiating positions. Flexibility is needed. That said, there are lots of agreements in principle, but the crystallization of the majority of countries' aims for this conference in terms of specific mechanisms and text is late. We only have six months left. The Second Preparatory Committee needs to be very substantive.

**Q: Is the Amnesty International France coalition involved in lobbying the French government to take a more central role concerning the EU code of conduct?**

A: We are doing all we can to present the ideas agreed upon by European NGOs to decision-makers in France. I should point out that when this coalition was created three years ago, we had no contact with decision-

makers. We have since become a preferred interlocutor of the French government. For example, we organized a conference on small arms in Paris in late September with the support of the French Foreign Affairs and Defense Ministries.

**Q: The African experience strongly suggests that the 2001 UN Conference should support regional initiatives. It should have a bottom-up approach and should not impose limitations on regional initiatives.**

A: Yes, the solution to the problem of small arms and light weapons lies in the regions. The UN 2001 Conference should encourage every region to develop an action plan to tackle the problem. If they already have one, it should encourage them to implement it. The conference could decide to review the experience of every sub-region in a massive international conference in three years time and use that opportunity to elaborate a realistic global framework. I don't see why we have to eliminate arms from the international agenda by next July and forget about it.

**Q: There is much talk about programs of action emerging from the UN 2001 Conference. Would it not be more realistic to expect political declarations of intention instead?**

A: The UN 2001 Conference might simply result in a political declaration of intention. But much more than that can be achieved. There is already consensus on a number of principles that can be built upon and the UN Group of Experts reports provide a lot of important bases on which political agreement can be developed.

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### 3.

## Working Together; Local and Global Responses

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#### 3.1 Local Responses in Sierra Leone

**Florella Hazeley**

*Christian Council of Churches, Sierra Leone*

##### **Background**

The political, economic and cultural changes in the world, especially those brought about by the collapse of the Soviet Union and the Eastern Bloc, have had far-reaching repercussions on the continent of Africa; Sierra Leone being the hardest hit. Over the past 15 years, civil society in Sierra Leone has witnessed social change, economic degradation and political upheaval culminating in a rebel insurrection. Where civil society is concerned, the rebel insurrection is both political and economic. What in 1991 seemed like a minor border scuffle between Sierra Leone and Liberia has resulted in a major conflict with new dimensions and demands evolving every day.

It has now become abundantly clear that there is a direct relationship between the small arms trade, diamonds and the rebel war in Sierra Leone. Since 1991, the rebels have resisted all efforts to remove them from mining areas, even following the signing of the Lome peace agreement in 1999. Sierra Leone's rich mineral resources – coupled with poverty, illiteracy and the selfishness, greed and corruption of its government – has made it a fertile ground for gun runners.

The government is unable to control the movement of goods of whatever nature across its borders. The flow of small arms into the hands of unprofessional combatants has had a devastating effect. Law and order were completely replaced by anarchy, ruthlessness, and a complete disregard for the rule of law and human rights. The effectiveness of the police was virtually wiped

out when over 200 police officers were murdered and almost all police stations burned down. There has been an increase in armed robbery, despite the existence of a curfew between the hours of 11pm and 5am. In sum, there is unprecedented violation with impunity, all in the face of a helpless government.

The trafficking and transfer of small arms in Sierra Leone presents a big challenge to the government and to the African region as a whole. Such trafficking is possible for the following reasons: The government is unable adequately to secure its land borders with neighboring countries and to monitor sea-going vessels that dock in Sierra Leone's ports. The government lacks information regarding the illicit arms trade and acts slowly upon information it has. The population of Sierra Leone is not properly informed about small arms issues and is paralyzed by its poverty. There are no channels of communication between the government and civil society on small arms issues, mainly due to a lack of trust on both sides.

Children are particularly affected by small arms in Sierra Leone. Children as young as eight are being forced to play active roles as spies, carriers, messengers, users, and links between gun-runners and gun-users. While adults use small arms for political and economic reasons, children use small arms basically for fun. Most of the time, they imitate what they see in violent films, in the process developing a culture of violence.

##### **What is Being Done?**

The 16 heads of state within the Economic Community of African States (ECOWAS) signed a 3-year renewable moratorium on the control of small arms and light weapons in 1998. While this is a significant move, the moratorium has yet to clarify its political and operational mechanisms. Requests for exemptions and waivers demonstrate a lack of commitment and political will on the part of Sierra Leonian government. The existing state of affairs leaves civil society unprotected and insecure. However, a number of community groups and strong local non-governmental organizations are educating themselves about the effects of small arms and responding to the problem through a number of actions.

One such organization is the Council of Churches in Sierra Leone (CCSL). CCSL had over the years been addressing developmental issues such as establishing

and building schools and hospitals and providing clean water and sanitation. After being inundated with refugees from neighboring Liberia, and from within Sierra Leone, CCSL realized that development could not take place where there is no peace. It became increasingly aware of the human insecurity that results from the uncontrolled illicit arms flows into the country. Something had to be done.

It was the Churches, and other religious institutions, that received the cry for help from their congregations. It was the Churches that had to do the praying, fasting and counseling. When the government and international organizations could not handle the situation in 1999, it was the CCSL that took the lead in opening dialogue with the rebels and their leaders, creating the conditions for the peace talks that were finalized with the signing of the Lome Peace Agreement.

The restructuring of the Council in 1996 had put in place certain mechanisms to strengthen it as a people-centered institution with a legal mandate – the voice of the voiceless. One such mechanism was the establishment of a public advocacy desk. The main aim was to address human rights violations and to equip communities with information on existing problems; such as the uncontrolled flow of small arms and the prevailing culture of violence.

CCSL added another strategic mechanism to its capacity by forming a coalition with the Islamic and Catholic communities within the country – the Inter-religious Council (IRC). This coalition primarily deals with humanitarian assistance and advocacy for human security. Since, in Sierra Leone, the two main religions are Islam and Christianity, we are able to reach almost every individual within the country through the IRC.

The CCSL has attempted to address the issue of small arms through on-going consultations with the IRC as well as with the leadership of warring factions, heads of state, cabinet ministers, UN bodies, representatives of foreign missions, and international agencies. It engages in community sensitization through the communication of information on the dangers of small arms and how to combat the illicit flows. We monitor the disarmament program and conduct reintegration training seminars and workshops for ex-combatants, on the one hand, and for the community, on the other, in preparation for peaceful re-integration. We try to establish a pragmatic relationship with the police and

support the re-integration of the police into the community.

There are also a number of campaigns, making adequate use of the available popular channels of communication such as radio and TV discussion programs. There are open forums, called experience-sharing sessions, and two national campaigns have been launched with the active participation of civil society and community-based organizations. There is a campaign against small arms and another campaign against toy weapons. And there are several other programs going on.

### **What Needs to Be Done?**

Governments simply do not recognize the work of local organizations. Civil society does not see itself as being part of government efforts to tackle the small arms problem since it is not involved in the decision-making process; something which is crucial to developing a sense of ownership. Because of this, government initiatives on small arms do not complement those of Civil Society.

Civil society and local groups should be involved at every level and at every stage. Every sector of the society should be involved when decisions are taken and when plans of action are being formulated regarding small arms. When they are involved in those decisions, they become part of the process and it is then very easy for them to give governments whatever assistance and whatever support they need.

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## 3.2 Governments, IOs, NGOs and UN 2001

### **Ed Laurance**

*Monterey Institute for International Studies  
International Action Network on Small Arms*

The resolution calling for a United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (hereafter the UN 2001 Conference) has made a space for the participation of civil society. At this point, however, the details of exactly how civil society will participate are still unclear. The question of NGO participation

should be an easy one to resolve, since the knowledge and experience that these organizations possess is absolutely critical to the solution of the problems posed by the illicit trade of small arms and light weapons.

The key to the success of the UN 2001 Conference will be a level of commitment by states to a set of principles and standards and to a program of action backed by funds and designed to reduce and prevent the illicit trafficking of small arms and light weapons. In order to get to such an outcome, states have to reach agreement on the following points:

- An excessive number of small arms/light weapons are available, are being accumulated and are proliferating. There are very few existing barriers to stop this.
- There is a verifiable link between the availability of small arms and a wide variety of negative effects – such as their impact on peacekeeping, on humanitarian operations, on development, children, healthcare, etc, and their ability to terrorize and intimidate.
- This problem has to be addressed at all levels, not just on the local, national and regional levels, but also at the global level.
- This problem can be solved.

The problem is that not all governments agree on these points and, therefore, there is no consensus among them that something should be done about the illicit trade in small arms and light weapons. And so the question is, where will the evidence in support of the above points come from? The answer is, from all levels.

At the first level, international organizations have already started to play a role, but before the UN 2001 Conference is concluded, we must hear from the humanitarian agencies of the UN system. What better source to tell of the effects of small arms and light weapons? The International Committee of the Red Cross (ICRC) has already shown the impact that these weapons have on their work in the field. Research is also underway that demonstrates that development and humanitarian agencies simply cannot do their work because of the presence of small arms and light weapons. While this is extremely useful, other agencies operating in the field where these problems exist – peace-keeping operations, Interpol, the World Bank, etc. – must contribute evidence in support of the above points.

At the second level are national governments. This level is more problematic because there is not much transparency here. Few governments share data on their export of arms, for example, let alone their negative effects. Having said that, however, if all governments were behaving responsibly in this area, there would be no need to hold a UN conference on small arms and light weapons.

The third level is that of civil society. What types of evidence can they contribute in support of these four critical points? Certainly, civil society organizations can provide much evidence regarding the negative effects of small arms. They experience first-hand what it is like to live in a society where everybody has an assault rifle, where there are gangs and gun violence. They know the fear and the general destabilization that the availability of these weapons cause. In terms of demonstrating the effects of small arms and light weapons, therefore, input from NGOs is crucial.

Local NGOs are already doing something about the problems caused by small arms. They are running weapons collection and awareness-raising programs, for example. In Brazil, the NGO Viva Rio – which works with the government at all levels – has participated in work to solve this problem. In one case, they helped Rio's under-staffed police force to create a database to track how small arms find their way into Brazil.

One of the biggest tragedies of small arms proliferation is that good people, normal citizens, have to go out and get a weapon in order to protect themselves. There are many governments who have tried, at the local and national levels, to collect these weapons by simply saying, "everybody turn in your weapons." What the governments don't seem to understand is that these people feel that they need those weapons in order to protect themselves against well-armed, organized criminals.

In many cases, strategic issues debated at the UN are not relevant at the local level. For example, at the local level, there is no difference between illicit and licit arms. They all have the same effect. The important thing is that something is done to alleviate the problem. A politically, or even legally binding set of standards on the trade in small arms, agreed by states, would greatly help the work of civil society organizations at the local level. It is extremely difficult for NGOs to work locally on a problem for which there are no standards or international norms.

Whatever formal mechanisms are worked out for NGO access to the UN 2001 Conference, the most important thing will be that civil society expertise is present. The International Action Network on Small Arms (IANSA) is already planning for the intensive participation of NGOs in the conference and its preparatory committees. Governments will not have to go far to go to take advantage of this expertise. There is a lot of debate surrounding the preparation for the UN 2001 Conference concerning NGO access. The overall and concluding point that I would like to make is that civil society is absolutely critical to the solution of this problem.

### Comments From the Floor

#### Cooperation with Civil Society

When governments take action to deal with the problem of small arms – for example, collecting or destroying small arms or raising awareness about them in local communities – they rely entirely on the work of NGOs. They cannot do it without NGOs and without civil society. And yet, when it comes to decision-making at the highest level – in government circles, in the United Nations and in regional organizations – many governments feel that they have to exclude the very people upon whom they rely to execute these things. If you exclude the very people you're going to charge with carrying out the work, how can you be making the right decisions?

Ed Laurance said that the UN has changed in the way it treats NGOs. It hasn't. A good colleague of ours was escorted by armed guards from the floor in May during a break and was not allowed to speak to the chairman about the fact that the ear-pieces did not work in the General Assembly so that none of the NGOs, despite all this talk about access, could even hear what was going on.

Also, I think we have some real problems with the way we view partnerships with civil society. It cannot be just a one-way use of civil society. It has to be a two-way, genuine partnership. I think if we look to other forums – such as the environment, human rights, or anti-personnel landmines – we see where the partnership between civil society at all levels – regional, international and local – actually has some meaning. And if we don't go along this route on small arms and light weapons, then, frankly, all of our talk will have very little meaning. Any program of action that does not contain real input from the

NGOs that will be expected to carry it out, will simply not be effective.

#### The Role of UNDP

The United Nations Development Programme (UNDP) addresses the issue of small arms in the human development perspective. Mandated by the United Nations Policy on Small Arms to address the socio-economic consequences of weapons proliferation, UNDP supports governments and civil society in the formulation and the implementation of weapons collection and demobilization initiatives which aim to create a safe environment conducive to sustainable development. UNDP's approach to small arms is founded on the proposition that the diffusion of weapons, especially their continued availability in post-conflict situations, not only undermines a country's ability to sustain peace, but represents a major block to sustainable human development.

UNDP aims to create a comprehensive approach to small arms building on its traditional activities in relevant areas, and seeking innovative ways to fill gaps. UNDP is fully cognizant that small arms proliferation and the insecurity that accompanies it has a variety of humanitarian and development linkages. Protracted armed confrontations in a number of countries affect years of progress in building social infrastructure, promoting economic development, establishing functional government institutions and fostering community-level solidarity. In view of the forthcoming 2001 conference, UNDP, in partnership with affected countries, supports a comprehensive approach in searching for lasting solutions, drawing upon the wide range of expertise and instruments available to international aid communities.

#### Transnational Corporations

When I hear the case of Sierra Leone and also the case of Angola, I cannot help but think of the influence of transnational corporations on regions and on governments. I think it would be very useful to have more information regarding the funds allocated by such companies to support the flow of small arms and light weapons to rebels and governments.

## 4. Legal Controls and Transparency Issues

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### 4.1 Legal Controls

**Paul Eavis**  
*Saferworld, UK*

Why is it important to focus on the legal controls on small arms/light weapons? Because this is a critical part of tackling their illicit trade. We know about the key sources of illicit trade; for example, theft from government stocks, diversion from transfers which started legally and exploitation of loopholes in the law which allow unscrupulous dealers to ship arms into conflict zones. It is important, therefore, to strengthen legal controls on the manufacture, domestic possession, and legal transfers of such weapons in order to prevent them from being diverted to illicit markets or from being used for proscribed purposes. In order to tackle the illicit trade, in other words, we need to be very clear about what is legal.

There is a tendency when speaking about legal transfers to refer only to transfers from the North. This is misleading since practically all countries are now suppliers; whether of new or second-hand weapons or of transit routes. The many arms re-circulating within regions means that all governments are to some extent suppliers. This calls for an international response to the issue of legal controls.

#### **Possible Measures**

What measures to control the legal transfer of small arms/light weapons could be agreed at the UN 2001 Conference? The recommendations made by the panel of UN experts on small arms/light weapons calls on states to exercise effective control over the legal transfer of these weapons. There have also been many additional calls, both by national governments, regulatory bodies, and other UN bodies. But it is clear that while

most states regulate their import and export of small arms, national practices still differ widely. They suffer from a range of technical and political weaknesses, such as lack of transparency, end-use controls and effective enforcement.

However, it is clear that export controls are most effective when applied consistently and on a multilateral basis. Over the last few years, there have been a number of initiatives at regional and international levels; for example, the OAS, ECOSOC, OSCE, EU, SADC and the Firearms Protocol. The question is; how can the UN 2001 Conference learn from these initiatives? One way would be to agree international standards on the manufacture and transfer of small arms/light weapons. Such international standards could then be elaborated into a very specific politically binding – or, ideally, legally binding – agreement. This would complement and reinforce regulatory obligations that are likely to be included in the Firearms Protocol. These could then be extended to state-to-state transfers. Such an agreement should focus on three important areas:

- The establishment of rigorous international criteria on the transfer of small arms/light weapons.
- The creation of more regulations providing minimum standards for harmonized import/export and in-transit certification.
- Agreement on improving systems of end-use verification and monitoring.

Of these three areas, the most contentious concerns criteria governing arms transfers. But some agreements on this issue have already been made by the UN Disarmament Commission when, in 1996, it outlined a number of principles, albeit rather vague, on the transfer of small arms/light weapons. In addition, the OSCE and the OAU have been very active in trying to develop principles on this issue. It is critical that the UN 2001 Conference examine the UN Disarmament Commission principles and then build on them by drawing upon what has been agreed by the OSCE, the EU the OAU and the OAS. Clearly, there are some major omissions in the UN Disarmament Commission guidelines, and attention should also be focused there. For example, there are no guidelines referring to the internal situation of a recipient country, or to the risk of diversion.

## Arms Brokering and Shipping Agents

Another critical task for the UN 2001 Conference is to agree controls on arms brokering and shipping agents. There are numerous examples of individuals and companies arranging arms deals through third countries in order to gain access to conflict zones such as Angola, the Democratic Republic of Congo, Sierra Leone, Sudan, India, Rwanda, etc. Some states have already introduced a level of control on brokering and shipping agents, notably Germany, Switzerland and Sweden and, probably the most comprehensive of all, the USA. There have also been discussions at regional levels; for example, the European Union is trying to harmonize its controls on brokering and shipping agents. A critical variable in this regard is what is likely to come out of the Vienna Process concerning the Firearms Protocol discussion. At the last session, there seemed to be agreement on brokering and shipping agents, although it basically only asked states to consider introducing controls on these elements.

But how to move states from simply considering such controls to actually agreeing legally binding commitments in these areas is the challenge facing the UN 2001 Conference.

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## 4.2

### Licit vs. Illicit Trade

#### Michael Klare

*American Academy of Arts and Sciences*

If we are to be successful in combating the illicit commerce in small arms and light weapons, we must first have a clear understanding of the nature and dynamics of this aspect of the arms trade. Illicit arms trading operates in a different fashion from legal arms trafficking, and so measures that are designed to curb the legal trade may not always work in attempting to curb the illicit trade in firearms. The legal trade involves a direct relationship between two sets of actors: suppliers and recipients. In a typical arms-transfer relationship, the prospective recipient approaches the supplier and arranges for the exchange of money or other goods for the desired weapons. Efforts to control or regulate this trade can occur on either side of

this relationship, by restricting supply or curbing demand.

The illicit trade, by comparison, involves *three* sets of actors: producers, recipients, and traffickers. The two outer sets to this relationship, the producers and recipients, rarely have any direct contact with one another. Rather, their relationship is mediated by the middle party to these transactions – the arms traffickers. This is so because the recipient is usually an insurgent group or a militia or another group that is barred from using the legal trade and must employ illicit channels. Typically, the intended recipient approaches the trafficker for assistance in obtaining arms and ammunition, and the trafficker employs various forms of deception or thievery to obtain the desired weapons from the (presumably) unknowing supplier. And once acquired, the trafficker arranges for the delivery of these weapons to the intended recipient, usually with the assistance of complicit shippers.

As in the case of legal sales, we can attempt to control the illicit trade by addressing the supply and demand ends of the equation. But we will not be successful in curbing this commerce unless we *also* take steps to curb the activities of illicit arms traffickers. This is so, I believe, because these actors have become very adept at circumventing existing national and international controls on arms transfers in their efforts to satisfy the demand in areas of conflict. We see this clearly in such existing conflict zones as Angola, Colombia, Congo, Sierra Leone, and Sri Lanka, where the various belligerents have proved successful in obtaining arms despite significant and ongoing efforts by the international community to prevent them from doing so.

Like international drug traffickers, those who engage in the illicit commerce in arms have established sophisticated transnational networks for the procurement, financing, and delivery of illicit items. Unless we can identify, monitor, and disable these networks, we will not succeed in curbing the illicit trade in small arms. At present, the international community has a very limited capacity to do this. Some states do, of course, employ their police and intelligence services to keep watch on suspected traffickers who operate in their territory. However, many states – especially in the developing areas – lack the resources to do this effectively.

### **Focusing on Illicit Trafficking Networks**

Any future drive to curb the illicit trade in small arms must include as one of its major components an effort to strengthen the international capacity to identify, track, monitor, and disable trafficking networks. This will require cooperation at all levels – locally, nationally and internationally. Ideally, the United Nations should play a key role in coordinating these efforts. This effort should entail the following steps, each of an increasingly vigorous character:

#### *Conduct a comprehensive study of the illicit arms trade in all its aspects:*

Although some research has been conducted on the illicit trade by specialists in the field, we still know relatively little about how international arms trafficking networks operate, on a day-to-day basis, to procure arms, to secure financing, to obtain the necessary documentation and to transport weapons from their point of origin to point of delivery. Without knowing more about these processes, we cannot devise effective methods for attacking them at the appropriate time and place. The first endeavor, therefore, should be to conduct a comprehensive study of the dynamics of the illicit arms trade, aimed in particular at illuminating the methods by which transactions are carried out. This study should be based on a systematic examination of police and intelligence data on illicit operations.

Ideally, the UN could appoint an panel of experts to conduct this study and call on member states to provide the panel with information gleaned from their investigation and prosecution of known traffickers. To the extent possible, this information should be filed in computerized form, so that analysts could identify frequently used trafficking routes, trans-shipment points, frequently used ports of entry and egress, sources of illicit documentation, etc. Ultimately, this information should form the basis for an on-line database of known and suspected illegal traffickers, financiers, shipping agents, brokers, etc.

#### *Establish a 'clearinghouse' for information on known and suspected illicit arms dealers:*

This requires establishing a central point of contact for the collection and dissemination of precise information on traffickers. This information should be stored in computer form and made available on a real-time basis to authorized government agencies – the police, customs agents, bank inspectors, etc. –

around the world. Police and customs agents should continually update this databank with information collected from their own investigations.

The idea for such a clearinghouse was originally proposed by U.S. Secretary of State Madeleine Albright in a speech to the U.N. Security Council on September 24, 1998. Speaking specifically of the situation in Africa, in a discussion on how to curb arms in zones of conflict, she said that the United Nations could develop "a clearinghouse for technical information on regional arms flows and for rapid exchange of data on possible violations."

Provisions for the exchange of information on illicit trafficking operations and for establishing a point of contact for this purpose are also incorporated into the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms.

#### *Establish uniform, easily authenticated documentation for arms transfers:*

From what we know about the illicit arms trade, it is clear that traffickers regularly use fraudulent end-user certificates to obtain government approval for sales to non-permitted recipients, or bribe officials in allowable recipient countries to lend their name to illicit transactions. It is now believed, for example, that senior Peruvian military officials, including former intelligence chief Montesinos, supplied false end-user certificates for the planned delivery of ten thousand surplus AK-47 rifles from Jordan to the guerrillas in Colombia. It is imperative, then, that the international community devise a uniform end-user certificate that is difficult to counterfeit, and require importers and exporters to employ these certificates in all arms transactions. And it must also be possible for government officials to authenticate the validity of the certificates through some kind of on-line information-exchange system linking police and customs officials around the world.

#### *Enhance the capacity of developing countries to monitor the flow of arms into, through, and from their territory:*

While many developing countries have expressed their desire to participate in international efforts to curb the illicit trade in small arms, they often lack the resources and expertise to monitor effectively the flow of arms into their territory. It is essential, therefore, that the international community – and especially the wealthier and more developed nations – commit themselves to

providing such states with the equipment and training and expertise they require to carry out effectively their obligations under any future convention on controlling small arms trafficking. This could include the delivery of computers, communications links, devices for detecting explosives, etc. The provision of such assistance is called for in the EU Programme for preventing and combating illicit trafficking in conventional arms. But we need more than a commitment. We need the provision of practical steps and resources that will make it possible to carry that commitment out.

*Declare known and suspected illicit arms traffickers persona non grata around the world:*

From our research on the illicit arms trade, it has become very apparent that illicit arms traffickers move from country to country to carry out their activities. Typically, a trafficker or broker located in one country acquires arms from a second country, obtains false documentation from a third country, conducts banking activities in a fourth, hires shippers based in a fifth, uses trans-shipment points in a sixth in order to deliver arms to their intended recipients in a seventh country. Clearly, it will not be possible to curb the illicit trade in small arms and light weapons unless steps are taken to prevent traffickers from operating in this fashion.

To do this, legal means must be found to declare known and suspected traffickers *persona non grata* in every country that might be used as a base for one or another facet of the illicit arms trade. People who have been convicted of selling arms illegally in one country should not be allowed to set up the same business in another country, or to use banks and shipping agencies in other countries for potentially illegal arms transactions.

*Establish mechanisms for collaborative multilateral efforts to track and disable illicit trafficking networks:*

Ultimately, the measures described above will only prove fruitful if concerned states employ them as the basis for joint action to identify, monitor, and eradicate illicit arms-trafficking networks. A major goal of the 2001 U.N. Conference, therefore, should be to establish the mechanisms for cooperation between member states in efforts to combat the illicit trade. Presumably, this would entail cooperation between intelligence services in monitoring the activity of known and suspected traffickers plus joint efforts by law

enforcement personnel to apprehend and bring to trial those found to be engaged in illegal trafficking activities. As in the case of anti-narcotics efforts, moreover, cooperative action is needed to prevent traffickers and their clients from using the international banking system to finance their illicit transactions.

Participants in the forthcoming 2001 U.N. Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects will have an historic opportunity to take concrete action to curb the illicit flow of arms and ammunition to areas of conflict and civil violence. These efforts must include measures aimed at tracking and disabling illicit arms-trafficking networks. I have described a number of steps that could be taken by the international community for this purpose. I hope that the UN 2001 Conference will adopt concrete steps of this sort in order effectively to curb the flow of weapons to areas of conflict.

### Questions and Answers

**Q: From the legal and political perspective, how could the issue of the illicit trade in small arms and light weapons by non-state entities that control territory be addressed and how can the UN 2001 Conference deal with this problem?**

A: The norm should be that you do not supply non-state actors. Otherwise, it's a free-for-all; any government will be able to supply whomever they support in a conflict situation.

**Q: Should the nexus between the illicit trafficking in small arms and light weapons, on the one hand, and other types of illicit trafficking – for example, money laundering – be the primary focus of the UN 2001 Conference?**

A: We need to use the experience we have gained in implementing comparable legislation; for example, in the areas of drug trafficking or terrorism. We should also use our experience of implementing international arms agreements such as the Chemical Weapons Convention.

**Q: As long as people in conflict areas live in poverty and need small arms to maintain or expand their power, or even to survive, the problem of the illicit trade in small arms will persist. Is it not the case**

**that we must also focus on reducing the demand for these weapons?**

A: We need to do far more to address the demand for small arms. Wherever people feel insecure, they will continue to want to hold on to their weapons. A related critical issue is the role of the security forces, including the police. Some important initiatives are underway on this front, for example in Malawi.

A: It is not entirely true that most conflict areas suffer from abject poverty. Research shows that they usually have something that can be used to generate cash; for example, diamonds, rare timber, ivory, endangered species, drugs or, even, human beings. Non-state actors cannot conduct military operations without engaging in some kind of illegal commerce in order to raise the funds to pay for the weapons that they want.

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## 5. Advancing International Action

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### 5.1 Convergence and Difference

#### **Bennie Lombard**

*Permanent Mission of South Africa to the UN,  
Geneva*

#### **Introduction**

It is an honour to have been requested to share some thoughts on points of convergence and points of differences in the context of the 2001 Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects.

This is a personal perspective and does not necessarily represent the views of the South African Government.

After nearly a full day of discussions on this issue, there is very little new information that could be added to the debate. However, to facilitate discussion I will focus on a list (by no means complete) of issues that may be considered to contain points that could advance international action on small arms.

#### **Origin of Small Arms**

The current elements in the small arms debate are mainly derived from national, regional and international initiatives. In this regard, the following initiatives could, among others, be identified which provide an indication as to what the so-called small arms elements are:

- OAS Conference on the illicit trafficking and manufacturing of firearms
- EU joint action on small arms
- 1998 Brussels Conference on Sustainable Disarmament for Sustainable Development (Brussels call for action)

- Firearms Protocol to be annexed to the Transnational Crime Prevention Convention
- Various UN reports on small arms and ammunition, as well as UN reports on the violations of Security Council embargoes.

### Convergence and Difference

On the macro policy level, the first point of difference became clear at the first preparatory committee meeting for the UN 2001 Conference where it appeared that, on the one hand, there are States who feel that the issue of small arms (firearms) is essentially a police and crime prevention matter and, therefore, that concentration should be placed on illicit arms only and, on the other hand, there are states who feel that a more holistic approach is necessary and, therefore, licit and illicit arms should be dealt with in the broader context of peace-building, good governance and disarmament.

In addition, the more comprehensive approach also implies that some attention should be paid to civilian possession of firearms. Increasingly West, East and Southern Africa, through its sub-regional and national initiatives, are being associated with the latter grouping of States.

Although the Preparatory Committee established in terms of General Assembly resolution 54/54V will deal with the issues of the Conference such as the final document, and the scope of the 2001 Conference, the Report of the group of government experts on Small Arms (A/54/258) already provides an idea of what the scope of such a conference should be.

The Group concluded that the scope of the international Conference would be illicit trade in small arms and Light Weapons in all its aspects. Regarding illicit trade, the Group clearly recommended that the Conference should consider all types of illicit transfers of small arms and light weapons. In addition the Conference should also consider the illicit manufacturing, acquisition, possession, use and storage of small arms and light weapons, since they are closely linked to illicit transfers of such weapons.

There is no major difference on the afore-mentioned issue. However, the meaning of 'illicit trade in all its aspects' is something to which States attach different interpretations. Some States interpret this as meaning all the aspects of illicit trade, while

others see a wider meaning in the words 'all its aspects,' including issues of licit trade.

The UN Group interpreted the meaning of 'illicit trade in all its aspects' so as to include aspects of the legal transfer of small arms and light weapons insofar as they are directly related to illicit trafficking in and manufacturing of these arms. Furthermore, the Group noted that the illicit trade in small arms and light weapons is closely linked to the excessive and destabilizing accumulation and transfer of such arms.

In terms of the 1997 UN Report of the Panel of Governmental Experts on Small Arms (A/S2/298), the accumulations of small arms and light weapons became excessive and destabilising:

- When a State, whether a supplier or recipient, does not exercise restraint in the production, transfer and acquisition of such weapons beyond those needed for legitimate national and collective defence and internal security.
- When the State, whether a supplier or recipient, cannot exercise effective control to prevent the illegitimate acquisition, transfer, transit or circulation of such weapons.
- When the use of such weapons manifests itself in armed conflict, crime (such as drug trafficking) or other actions contrary to the norms of national or international law.

To obtain a view on what the elements would be in terms of illicit small arms, the definition of illicit trafficking and manufacturing as contained in the OAS Firearms Convention and draft Southern African Development Community (SADC) Firearms Protocol provides an idea. Basically in the terms of these instruments:

- Illicit manufacturing means the manufacturing or assembly of firearms, ammunition and other related materials without a licence or permit from a competent authority.
- Illicit trafficking means the import, export, acquisition, sale, delivery, movement or transfer of firearms, ammunition and other related materials from, to or across the territory of one State Party if any one of the States Parties does not authorise it.

To deal with these illicit activities, the draft SADC Protocol lays down certain obligations for states Parties that could be interpreted as dealing with legal firearms (small arms). For example unrestricted possession of firearms is prohibited, standardisation of marking and identification of firearms at time of manufacture and transfer should be undertaken. Complete inventories of arms and ammunition should be undertaken. Systems should be established to verify the validity of documents issued by licensing authorities. States Parties should consider destroying surplus, redundant or obsolete state-owned firearms, ammunition and related material.

Against this background and in analysing current initiatives, which concentrate on combating and eradicating illicit small arms and light weapons, the following elements can be identified in the small arms debate, (in identifying these elements, an attempt will be made to comment on whether the elements could be considered as points of convergence or difference.)

- Recognition of the urgent need to address the illicit trade in small arms and light weapons in all its aspects (Convergence)
- Comprehensive approach at global, regional and national levels (Difference – there is also no internationally accepted definition of what is a proportional and integrated approach to security and development)
- Humanitarian and socio-economic consequences as a result of illicit trade of these arms in all its aspects (Convergence)
- Right to self-defence and self-determination (Convergence)
- Cooperation and facilitation of regional action on small arms and light weapons (Convergence)
- Marking and tracing weapons (Although there is agreement on the need for these actions, there is difference on the technical aspects; especially regarding the marking of weapons)
- Civilian ownership of arms (Difference – although it may be possible to have some agreement on the prohibition of civilian ownership of, for example, full automatic assault rifles and on the need to have in place laws and regulations governing civilian ownership of arms especially after the cessation of hostilities)
- Effective management and safe storage of weapons stockpiles, including ammunition and explosives (Convergence)
- Enhancement of the operational capacity of law enforcement/customs agencies to implement controls on illicit trafficking (Convergence)
- Controls on weapons transfers, including issues pertaining to end-user certificates (Difference – there may be some difficulties to agree on a set of common arms transfer criteria and references to this issue should be in the context of national and not agreed international controls. Some international agreement could be possible on issues such as end-user certificates)
- Norms and standards to promote supplier restraints (Difference)
- Enforcing applicable arms embargoes (Convergence)
- Regulating arms brokerages and shipping agents. (There is a possibility to agree on some issues and the UN expert report on this issue is important)
- Removing illicit, surplus and unlicensed weapons from circulation and ensuring their destruction (Convergence – although the destruction of surplus could be problematic for some States from a cost perspective)
- Effective disarmament, demobilisation and reintegration of former combatants (Convergence)
- Enhancing the capacity of states to provide citizens with a secure environment (Difference – this also relates to the issue of integrated and proportional approach to security and development)
- Enhancing transparency on small arms and light weapons as a confidence building measure (Convergence if this refers to exchange of information on illicit arms and maybe regional registers on legal transfers but difference as far as it refers to an expansion of the UN arms register or a new international register of small arms transfers)
- Improving information exchange and consultation between governments and intergovernmental organisations (Convergence)

- Improving co-operation between governments, civil society institutions and non-governmental organisations (Difference – although there seems to be some agreement that NGOs do play a useful role, there is disagreement on how close the cooperation should be).

## 5.2

### NGOs, IANSA and UN 2001

#### **Sarah Meek**

*International Alert, UK*

The UN 2001 Conference constitutes the beginning of coordinated international responses to the proliferation and misuse of small arms and light weapons. This is a complex, multi-faceted issue that requires numerous different approaches over time. It touches on issues of security, development and human rights that affect people in all regions. Responses will have to come from all levels – local, national, regional and international. Because of the transnational nature of the problem, coordinated international action has a special role to play.

#### **What Can the UN 2001 Conference Offer?**

The UN 2001 Conference provides the opportunity to create a framework for action. It has the potential to generate important agreements – some declaratory, some politically binding and some legally binding. If participants are brave enough, the conference could even consider some of the complex issues that sustain the demand for small arms and light weapons in regions of conflict. At a minimum, the conference must generate a firm commitment to take concrete, measurable steps to combat the illicit trafficking in small arms and light weapons. It cannot afford not to make progress. The issues are challenging. They are difficult to resolve because they are ultimately political in nature. But governments must try to be positive, proactive, and practical.

NGOs have a wealth of experience, expertise and information to contribute to the UN 2001 Conference process. Many civil society organizations are committed to finding constructive ways in which issues surrounding

small arms and light weapons can be discussed with governments. What happens at the conference is relevant to all those working on small arms and light weapons issues at local and regional levels. That is why the civil society and governmental processes cannot be allowed to become divorced. It is imperative that we find a mutually sustainable relationship between the two.

#### **What can NGOs bring to the process?**

NGOs can bring information, experience on what works in local contexts, as well as expertise on different facets of the issue. NGOs have a range of functions, one of which is to be challenging; to say, "We know you've done a lot, but you can do more." NGOs have the benefit of being outside of government. They can see other opportunities, other ways that civil society and governments can take action together.

#### **What has IANSA been doing?**

The International Action Network on Small Arms (IANSA) brings together a range of NGOs from different backgrounds and with different expertise. It includes development organizations, human rights organizations, research institutes, gun control organizations, etc., all working together under common principles and towards the achievement of common objectives.

IANSA was present at the first Preparatory Committee for the UN 2001 Conference during which it engaged proactively and positively with governments. IANSA held briefings with governments to discuss the issues it was working on. It was briefed by several delegations on the issues the governments are putting forward, but also on opportunities that IANSA should exploit. It worked very constructively with a few governments on the issue of NGO access to the UN 2001 Conference. IANSA is currently drafting a position paper on the UN 2001 Conference to be circulated to government missions in a few weeks.

#### **What happens after July 2001?**

What will happen the conference is over? Even the most optimistic realize that much work will remain to be done. We should consider the conference as a link in a chain of

events. It's not a beginning, and it's certainly not an end. It should result in commitments to move things forward. We need to start thinking now not only about how to implement the outcomes of the UN 2001 Conference but also about how better to support the implementation of ongoing regional initiatives.

Ultimately, the UN 2001 Conference must make a difference to the lives of those affected by small arms and light weapons. We cannot forget this. The conference cannot proceed at a level removed from where the problems lie. Nor can its outcomes be distant from the solutions we are seeking.

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## 6. In Conclusion

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### **Ambassador Carlos Dos Santos**

*Permanent Representative of Mozambique to the UN, New York*

*Chair of the UN 2001 Conference Preparatory Committee*

This meeting is very important; first, because it is a substantive contribution to the preparation for the UN 2001 conference and, second, because it brings together governments, non-governmental organizations, institutions and personalities involved with the issue of small arms and light weapons. It introduces into the debate important information and expertise, as well as experience gained on the ground. Even at the UN 2001 Conference, I do not think that there will be such a high level of interaction. The degree of success of the conference will be dependent upon the degree of success achieved in preparing for the conference. That is why meetings like this, and the Preparatory Committee meetings scheduled for January and March 2001, are so important.

Today's discussion has shown that we can work together towards a successful conference in July. If we continue along this path, I cannot imagine the conference failing. We should never forget that the main objective is to alleviate the suffering of the people caused by the excessive and destabilizing accumulation of small arms and light weapons.

### **Relationship with the Vienna Process**

What is the relationship between the Vienna Process and the UN 2001 Conference? I believe that the scope of the UN 2001 conference is wide enough to cover what is being dealt with within the Vienna Process and then to go beyond – well beyond – what is being covered there. While any positive outcome of the Vienna Process will influence positively the UN 2001 Conference, it is important that the latter not be allowed to become dependent on the success of the

former. We should do our best to support a positive outcome of the Vienna Process.

### **What Can We Expect from the UN 2001 Conference?**

The mandate of the UN 2001 Conference is to deal with illicit trade in small arms and light weapons in all aspects. The scope of the conference is wide-ranging enough to include those aspects of the licit, or legal, trade that have a bearing on the illicit trade. We have to look, therefore, at what causes the diversion of weapons from licit to the illicit. The conference will not discuss the legal trade in small arms and light weapons as such; only those aspects that lead to diversion. States object to interference in what they perceive to be their right to legally hold guns in order to defend their territorial integrity and sovereignty – a right defended by Article 51 of the UN Charter. We have to respect that. We will not gain anything by trying to go beyond that.

### **Regional and Local Initiatives**

Regional initiatives are the building blocks of our work in the area of small arms and light weapons. It is from there that the whole debate originated. We should reinforce and further develop those initiatives in order to help them to grow. These regional initiatives, in turn, will help to develop global arrangements. Local actions and initiatives should also serve to focus our attention on the real problems and to help find the right solutions. I support the idea that we should pursue a bottom-up approach.

### **The Role of NGOs**

The importance of the role of NGOs has been recognized by the General Assembly of the United Nations. We now need to approve the ways in which NGOs can make an effective contribution. Let's not discuss whether NGO participation is important or not, because it is important. This is acknowledged by member states themselves.

### **Preparation for the UN 2001 Conference**

I have prepared the "structure and elements" for a program of action, accepted by all member states, that will form the basis for a substantive discussion at the Second

Preparatory Committee. At that meeting, we will examine all the elements that we believe to be relevant to the issue of small arms. We will examine the national, regional and global levels of the problem. We will also look at prevention, reduction, and management.

We have the potential to achieve what has been suggested at this meeting: We must take realistic steps to reinforce what is happening already, and what has been done before. I am encouraged by the mood of today's meeting that we are bound to succeed in our efforts.

### **Follow-up and Implementation**

Follow-up and implementation are extremely important. In my "structure and elements" document, the final section deals with follow-up action and monitoring mechanisms. We have to be creative but realistic.

The momentum to move forward has already been built. The first Preparatory Committee meeting in New York was very encouraging and constructive. I think the environment is conducive to the success of our effort.

### **Questions and Answers**

**Q: It is often said that a successful conference has agreed consensus before it begins. How far do you think the process of consensus building will have advanced at the beginning of the conference in July 2001? Will a clear action plan already have been developed or will one have to be worked out at the conference itself? How will reporting mechanisms be built in and when?**

**A:** Yes, the success of the conference is prepared beforehand. And that's why we have this draft "structure and elements" for a program of action. The idea is to have substantive discussions in January. We are consulting now on the procedural issues. We have been able to deal with a few of them, and we are trying to get the rest solved before January so that when we begin the session, we can just take decisions on those and get down to work on the substance.

**Q: The cities of Rio, Johannesburg, Los Angeles, Lusaka, Kingston and Karachi have among the highest death rates in the world attributed to illicitly**

**acquired small arms. Handguns, not military-style automatic assault weapons, are mostly responsible. We should design solutions that mirror reality rather than conventional wisdom. In order to be able to do so, we must carry out more research on the problem in order to have a clearer idea of how to design solutions.**

A: I agree with the idea of going beyond conventional wisdom to design solutions that are related to realities on the ground. The involvement of grassroots groups in this process is important. The regional meetings have been trying to do that. Maybe the people we involve should be along the lines of what were suggested here.

**Q: The UN 2001 Conference will not be able to solve the problems on the ground associated with small arms and light weapons. This is a relatively new issue at the global level. It has not yet reached a very high degree of maturity. There are very different national positions for good and bad reasons. It is also important to remember that when we are operating in the UN environment, we are talking about the lowest common denominator. I would be a bit cautious. If we overload this process and we try to push it too far, it may backfire.**

A: I agree that we should be realistic. However, I don't think we have to go for the lowest common denominator. That's why we have to prepare well and cooperate closely especially with those who support us. The NPT success demonstrates that we can be successful if we work hard enough.

# The Geneva Forum

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