

SMALL ARMS AND LIGHT WEAPONS
IMPLEMENTING THE UN PROGRAMME OF ACTION:
STRENGTHENING EXPORT CONTROLS

LANCASTER HOUSE CONFERENCE

CHAIRMAN'S SUMMARY

Participants and observers from 49 countries, along with representatives from interested international organisations and NGOs (details in the Annex) met in Lancaster House, London, from 14-15 January 2003. The Conference on Strengthening Export Controls on Small Arms and Light Weapons (SALW) considered how to implement the commitments and take forward the work laid out in the July 2001 *UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects* (UN PoA). In this Programme of Action, States resolved to implement and strengthen agreed norms and measures at the global, regional and national levels that would reinforce and further co-ordinate efforts to prevent, combat and eradicate the illicit trade in SALW in all its aspects.¹

Recalling the principles of the Programme of Action, and recommitting themselves to its implementation, participants recognised:

- that the illicit manufacture, transfer, and circulation of small arms and light weapons (SALW) and related ammunition, and their excessive accumulation and uncontrolled spread in many regions of the world, pose a serious threat to peace, reconciliation, safety, security, stability and sustainable development;²
- that the Governments of those States that transfer small arms and light weapons bear the primary responsibility for controlling the trade in such weapons;
- the particular need to prevent the acquisition of arms by terrorist groups and organisations and other groups that violate international humanitarian law or abuse human rights, as well as the need to prevent and combat transnational organised crime;

and

agreed to work together on measures to strengthen and enforce controls on arms transfers.

¹ Un PoA I.22a

² UN PoA, I.2

The meeting was an exploratory one. The following sections are the Chair's summary of the conclusions supported by all or most of the participants.

I. Export controls

Participants recognised the need to strengthen efforts to implement relevant commitments in the UN Programme of Action (including those contained in paragraphs 2 and 11 of Section II), and thus to:

- ensure that all States have adequate laws and procedures to exercise effective controls over SALW transfers; and
- assess applications for export authorisations according to strict national regulations and procedures that cover all SALW and are consistent with the existing responsibilities of States under relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade.

All participants recognised the value of having national guidelines that governments can use in their case-by-case assessments of applications for authorisation of SALW exports. Most participating States confirmed that they do use such national guidelines as a basis for national decisions.

There is potential at a global level for developing shared understandings of such guidelines or factors to be taken into account when assessing transfer applications. The final decision would remain at the discretion of the national government concerned.

There was wide agreement that the conference had explored many of the factors that any responsible exporting government takes into account when considering whether to authorise a specific SALW transfer.

Some guidelines are already included in the UN PoA, and thus these commanded consensus support.

These are:

- The risk of diversion, and;
- Consistency with existing responsibilities of States under relevant international law.

These guidelines could usefully be a focus for further international consideration, to clarify the scope and content of relevant existing international law, and to enhance shared understandings of their implications.

Most participants supported the view that States should take the following factors into account:

- i) The requirements of the recipient country to enable it to exercise its right to self-defence in accordance with Article 51 of the UN Charter;
- ii) The right of the recipient country to meet its legitimate national security needs.
- iii) The need to avoid destabilising accumulations of arms;
- iv) The risk that proposed SALW transfer might support or encourage terrorism;
- v) The risk that the proposed SALW transfer might facilitate organised crime;
- vi) The record of compliance with international obligations and commitments, in particular on the non-use of force and in the field of non-proliferation, or in other areas of arms control and disarmament; and the record of respect for international law governing the conduct of armed conflict;
- vii) Respect for human rights in the recipient country;
- viii) The risk that the proposed transfer will be used for internal repression;
- ix) The impact of the proposed transfer on internal tensions or conflicts;
- x) The impact of the proposed transfer on regional peace and security;
- xi) The nature and costs of the arms in relation to the objective of the least diversion of human and economic resources to armaments;
- xii) Whether the transfer would be an appropriate and proportionate response by the recipient country to the military and security threats confronting it; and:
- xiii) The consent of the importing state regarding transfers to territories under its control or jurisdiction.

A few states found some of the above factors problematic. Further discussion to facilitate shared understandings may therefore be required.

Many participants agreed that the adoption and strict implementation of guidelines for SALW transfers would go a long way towards addressing concerns about restricting transfers to non-state actors.

Participants recognised the need to ensure that transfers do not contravene States' existing responsibilities under relevant international law, including sanctions adopted by the Security Council of the United Nations and agreements on SALW.

Participants recognised that it would be valuable if States were regularly to exchange information on their national guidelines in line with UNGA Resolution 57/66 This would: clarify the factors that States take into account when taking national decisions on whether to authorise SALW transfers; promote shared interpretation of common guidelines; and help to provide a framework for international consultation. It would be useful if States could provide such information in their National Statements to the UN Biennial Meetings of States to review implementation of the UN PoA.

Many participants believed that States should be encouraged to exchange annually, on a voluntary basis, details of all transfers of small arms and light weapons that they have authorised.

Participants agreed that it was important to continue to work on these issues, to promote implementation of existing commitments, and to develop agreement on next steps as far as possible within a UN framework.

II. Trafficking and brokering

Participants recognised the importance of ensuring effective controls on SALW trafficking and brokering activities, and the need to strengthen efforts to implement relevant commitments in the UN PoA (including those contained in paragraph 14 of Section II and in paragraph 1d of Section IV), and thus to:

- Develop adequate national legislation or administrative procedures to regulate SALW brokering activities; and
- Undertake further steps to enhance international co-operation in preventing, combating and eradicating illicit brokering of SALW.

Participants agreed that, at a minimum, national controls should require that all brokering transactions be licensed by the relevant national authorities.

Participants agreed that States should consider requiring that brokers be registered. But that it was noted that there are a number of possible options.

Participants agreed that authorisation of SALW brokering transactions should be licensed and that all such transactions should be assessed against the same guidelines that States use in assessing applications for SALW exports.

Participants agreed that States should consider the development of an agreed international framework for effective national regulation of the activities of brokers. To this end, the conference agreed that it was important to take steps to develop shared understandings of the nature of trafficking and brokering, and to develop common approaches to controlling such activities (including understandings on definitions and scope of controls and issues relating to scope of jurisdiction). In this context, it would be valuable to develop agreed best practice or elements for model regulation of brokering and associated activities. The possibility of developing an international instrument should be reviewed as international understandings develop on the above issues.

There was wide support for the view that the above issues are ripe for taking forward in 2003 with a view to making recommendations at the UN 2005 Biennial Meeting of States.

III. Enforcement

Participants recognised the need to strengthen and support efforts to implement relevant commitments in the UN PoA (including those contained in paragraphs 11, 12 and 27 of Section II, paragraphs 6, 7 and 13 of Section III) and thus for States and other relevant bodies to:

- establish and maintain effective national systems of export and import authorisation of SALW transfers; and
- put into place and implement adequate laws, regulations and administrative procedures to ensure effective controls, including the use of authenticated end-user certificates and effective legal and enforcement measures;

Implementation and enforcement is a complex issue requiring a comprehensive approach and partnerships between government agencies, industry and relevant civil society groups, as well as bilateral, regional and international co-operation.

Participants agreed that it was important to strengthen capacity to make assessments relating to applications for authorisation of an SALW transfer, including: measures to facilitate checking of end use certificates and other relevant documentation; restrictions on authorised signatories for documentation provided in support of the application; minimum standards relating to information in such supporting documentation; and mechanisms for information sharing amongst relevant governments and agencies.

Participants agreed that States and other relevant regional and international organisations should increase co-operation and share expertise.

Participants agreed that efforts to strengthen enforcement of controls on SALW transfers should be embedded within a wider system to combat trafficking activities, and also to combat corruption. It was agreed that all States should ensure that activities such as bribery and facilitating illicit trafficking are criminalized, including the imposition of appropriate penalties.

Mechanisms for co-operation amongst law enforcement agencies should be used and further developed, including INTERPOL, WCO and regional organisations. In this context, enhanced information exchange is needed.

Participants underlined the great importance of full and early implementation of commitments contained in the UN PoA and the UN Firearms Protocol on marking, record keeping and tracing of illicit SALW. They agreed that international measures would be useful to facilitate and ensure appropriate co-operation amongst States and other relevant authorities in tracing investigations.

Mechanisms need to be developed to strengthen capacity to enforce UN arms embargoes, at the national, regional and international level. Capacity building assistance is often urgently needed in countries that neighbour embargoed countries.

Participants agreed that assistance should be provided to help countries develop national implementation plans, and that subsequent aid programmes should be developed within the framework of such plans.

Participants agreed that ‘clearing house’ mechanisms for matching needs with available assistance should be encouraged and further developed, to enhance co-ordination at the national, regional and sectoral levels.

IV. Follow up

Participants agreed to continue their dialogue in the margins of the UN Biennial Meeting of States in July 2003, further to address the issues of strengthening controls on SALW transfers and to exchange relevant information. All interested States should be welcome to participate, as well as other relevant international organisations and NGOs. Such dialogues should promote a shared interpretation of common guidelines and help to provide a framework for international consultation. They might lead to more UN work to frame guidelines acceptable to all.

Participants noted in particular the suggestion that international action to control trafficking and brokering be taken forward in 2003, with a mandate sought from the UN General Assembly for an open ended group to develop elements of internationally agreed model regulations by 2005.

They requested the British Government to submit a report to the UN biennial meeting of states in July 2003 based on these conclusions.