



Foreign Affairs and
International Trade Canada

Affaires étrangères et
Commerce international Canada

Roundtable on Small Arms and Light Weapons

Hosted by the Department of Foreign Affairs and International Trade Canada
Helsinki Process on Globalization and Democracy

Montebello, Québec
25-27 March 2007

Participating Friends of the Helsinki Process: Algeria, Egypt, Canada, Finland, Hungary, Malaysia, Mexico, Spain, Tanzania, Thailand and the United Kingdom

Civil Society Organizations: Amnesty International, Geneva Forum, Peace Project of Finland and Project Ploughshares

REPORT

Introduction and Background

The Helsinki Process Roundtables provide an equal and inclusive multi-stakeholder platform for dialogue on global issues. The roundtables focus on the broad themes of poverty and development, peace and security, human rights, governance and the environment which need to be urgently addressed and would benefit from multi-stakeholder cooperation. The aim of the Helsinki Process Roundtables is to translate dialogue into multi-stakeholder action.

The proliferation and misuse of small arms and light weapons fuels armed conflict, hampers humanitarian efforts and impedes sustainable development. Ensuring effective control over arms transfers is key to addressing the humanitarian impact of the illicit trade in small arms and light weapons. Provisions relating to arms transfers are contained in the *UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (UN Programme of Action) and the issue of transfer controls has strong support within the international community.

Addressing the humanitarian and development impact of the proliferation and misuse of small arms and light weapons is an important aspect of Canada's foreign policy agenda. Canada strives to combat the illicit trade in small arms and light weapons in all its aspects, while ensuring that the interests of Canadian firearms owners, producers, brokers and retailers are respected.

Given the importance and urgency of the issue, Canada was pleased to host the most recent Helsinki Process Roundtable which focused on :1) exchanging information on transfer controls for small arms and light weapons; 2) discussion of global principles to guide arms transfers; and 3) international cooperation and assistance to develop capacity to implement transfer control principles.

Summary of Main Observations and Conclusions from the Helsinki Process Roundtable on Small Arms and Light Weapons

- Combating the illicit trade in small arms and light weapons in all its aspects is important to all States. States' efforts must be guided by the needs of the people that the UN Programme of Action was adopted to help.
- Implementation of the UN Programme of Action must be accelerated.
- Efforts to address transfer controls must be grounded in the UN Programme of Action.
- The UN Programme of Action should be considered in its entirety when examining the issue of transfer controls, given that various elements were carefully negotiated together.
- The Global Principles produced by civil society, and Nairobi Guidelines merit consideration.
- Global guidelines to guide arms transfers should address commonalities that have emerged from national and regional practices.
- Global guidelines must be practical and due consideration must be given to any unintended consequences.
- The development of guidelines to reduce the illicit flow of small arms and light weapons requires the participation of as many States as possible.
- Considering previously negotiated and agreed texts would avoid duplication in continued work on global guidelines.

- The right to individual and collective self-defence and security needs should be recognized in the development of guidelines.
- Transparency in small arms transfers should be reflected in global guidelines.
- Arms transfer guidelines produced or adopted by the international community would constitute only recommendations for individual States' to consider in relation to their respective national import/export regimes and would not involve collective implementation or enforcement.
- It is important to recognize that measures taken by States will be determined in part by their capacity to undertake appropriate action.
- International cooperation and assistance to build capacity for planning and implementation of transfer controls should be included in global guidelines.
- International cooperation and assistance needs to focus on the more-affected developing nations. The need for a practical and implementable model for cooperation and assistance is urgent.
- National Focal Points may be a key access point for cooperation and assistance in implementation of the UN Programme of Action.
- Technical assistance is valuable, as are broader support and capacity-building mechanisms. A clear framework for needs assessment is required.
- Civil society has made an important contribution to the issue of transfer controls and continues to be a resource and valuable partner.
- Parliamentarians have a unique and important role to play in terms of legislative initiatives and mobilizing resources for implementation of the UN Programme of Action.

Key themes and issues discussed in the meeting

1) exchanging information on transfer controls for small arms and light weapons

Key points of the discussion included:

Transfer Controls in the Context of the UN Programme of Action on Small Arms and Light Weapons

- The issue of transfer controls runs like a 'red thread' through the UN Programme of Action. The main provisions include commitments by States to implement a national system to assess export applications. Provisions in the UN Programme of Action relating to arms embargos, record-keeping, end-user certificates and re-transfer also relate to transfer controls for small arms and light weapons.

- Small arms transfers is the most thoroughly covered issue in countries' national reports on small arms and light weapons submitted annually to the United Nations.
- Over 80 countries wanted the issue of transfer controls to be on the agenda of the 2006 UN Review Conference on Small Arms.
- An "agreed" text on transfer controls was achieved at the Review Conference but was not adopted because there was no agreement on the outcome document in its entirety.
- There was great interest in information-sharing on best practices, national capacity-building and international cooperation and assistance for implementation.

Regional Instruments and Initiatives on Small Arms Transfer

- There has been much regional activity specifically to control transfers of small arms and light weapons, including:
 - i) Code of Conduct of the States of Central America (SICA) on the Transfer of Arms, Munitions, Explosives and Related Material
 - ii) ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and Other Related Materials
 - iii) EU Code of Conduct on Arms Transfers
 - iv) Inter-American Convention against the illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Material (CIFT)
 - v) Nairobi Protocol on Small Arms and Light Weapons (and Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons)
 - vi) OSCE Document on Small Arms and Light Weapons
 - vii) OSCE Handbook on Best Practices on Small Arms and Light Weapons
 - viii) Wassenaar Agreement
- Analysis of existing regional instruments reveals common concerns with respect to the need to: 1. establish national procedures for regulation; 2. prevent illicit arms transfers; 3. respect UN arms embargoes; 4. prevent diversion (especially for purposes of crime and terrorism); and 5. prohibit transfers that violate obligations under international law, or will be used (or likely used) for purposes of genocide or crimes against humanity, that adversely affect sustainable development, and/or will adversely affect national or regional security.
- 118 States have endorsed similar transfer standards through various regional, agreements based on international standards.
- Challenges include variations in regional standards and the fact that many States are still not party to any agreements.
- The issue of implementing regional agreements requires further attention.

Global Principles for Arms Transfers

- The *Global Principles* have been developed by civil society and experts in international law specifically for small arms transfers.
- Standards cannot be “common” unless reflective of States existing obligations under international law.
- Section II(11) of the UN Programme of Action calls upon States to ensure their transfers of small arms are consistent with relevant international law.
- The *Global Principles* contain requirements for: 1. national authorization; 2. limitations based on use; 3. factors to be taken into account; 4. transparency; and 5. comprehensive controls.
- Small arms transfer laws and policies consistent with the *Global Principles* will improve security.
- The *Global Principles* are still open to revision.

Transfer Control Initiative (TCI) and the suggested global guidelines for national controls governing transfers of small arms and light weapons adopted at the Nairobi Conference on Transfer Controls (21 April 2006):

- The TCI is a series of regional workshops held, consistent with Section III of the UN Programme of Action, to facilitate discussion on transfer controls, specifically for small arms and light weapons. Civil society is a participant in the TCI.
- The Nairobi Guidelines on transfer controls reflect three years of regional work under the TCI process. The Guidelines reflect the views expressed by regional leaders within the TCI at the Conference on Transfer Controls held in Nairobi in 2006, which considered a variety of views to serve as a basis of negotiation for a text on transfer controls in the outcome document at the 2006 UN Review Conference on Small Arms.
- The Nairobi Guidelines are to assist countries with their commitments on transfer controls under international law and prevent countries with strong controls from being hindered by illicit flows of small arms from countries and/or regions with lesser controls in place. The Guidelines speak to States “existing” commitments under international law and contain no new element of subjectivity. The Nairobi Guidelines also address the need for assistance to implement on transfer controls.
- The Nairobi Guidelines have no official status and intend only to summarize the debate at the Nairobi Conference which involved 11 States, several UN agencies and representatives of civil society.
- The Nairobi Guidelines are a reflection of principles which could form the basis of a more global document which would require official status in order to drive effective implementation.
- The Guidelines are open to revision.
- The TCI will continue toward enhancing countries’ national capacities in regional contexts.

Key points in the discussion period included:

- The UN Programme of Action is a framework for States to take action and engage one another on issues important to combating the illicit trade in small arms and light weapons in all its aspects. Experiences of implementation and identification of gaps need to be reported.
- Consensus decision making gives each country an effective veto, which can seriously hamper progress. On the other hand, it ensures that all countries are on board with decisions taken.
- Care must be taken to define key terms, including “misuse”, “self-determination”, “insurgency”, “non-state actor”.
- It may be that the provisions in the UN Programme of Action can be developed further, however a case can be made that implementation of existing commitments must take place before the UN Programme of Action is expanded. Nonetheless, many States do not see the UN Programme of Action as closed for further development. Some suggest the provisions of the UN Programme of Action can be elaborated upon concurrent with implementation and resource mobilization. In any case, the UN Programme of Action remains a solid foundation document.

2) discussion of global principles to guide arms transfers

Documents considered:

UN Programme of Action on Small Arms - Annex A
Global Principles on Arms Transfers - Annex B
Suggested global guidelines for national controls governing transfers of small arms and light weapons (Nairobi Guidelines) - Annex C

Key points made during exchange of views:

I. National Authorization

- Ensuring that small arms transfers are authorized by a national authority (e.g. permits) is the foundation of effective transfer control regimes.
- Export decisions are the domain of national authorities.
- As national authorization processes may require legal, regulatory and/or administrative processes, Parliamentarians have an important role to play.
- Effective training of national authority officials is key to controlling small arms transfers effectively.
- Language included in the Wassenaar Agreement and *UN Firearms Protocol* could be instructive in developing global guidelines concerning national authorization.

II. *Limitations on Transfers*

- Some States may require that an international standard or finding-of-fact be brought to bear with respect to a determination of genocide, crimes against humanity or war crimes States, before they would not authorize transfers on small arms and light weapons, in order to avoid subjective political considerations (i.e. insurgencies, oppressive regimes, etc.). However, determinations by international bodies can be slow and unwieldy.
- Normative principles may be of value in the absence of unanimously agreed formal standards.
- Under any global guidelines, these types of assessments would be made purely from a country's national perspective based on judgements informed by international law.

III. *Controls Based on Use*

- Some States have expressed concern that controls could impair the right to self-defence if states choose not to export to countries' whose defence capability is deemed sufficient.
- Nonetheless, States can choose whether or not to transfer small arms and light weapons to any country.
- A country's right to self-defence pursuant to the UN Charter is not impaired by a country's decision not to transfer arms to another country.
- The Global Principles and Nairobi Guidelines represent positive criteria which States can consider when deciding whether or not to authorize small arms transfers. The inclusion of a variety of considerations demonstrates a commitment to balance.
- A stronger, re-cast formulation of States' rights to self-defence could be considered in further work on global guidelines.

IV. *Other Factors*

- Enhanced transparency in the context of small arms transfers could be included as another factor in global guidelines.
- A guideline on international cooperation and assistance is required.

Discussion Period Highlights:

- The UN Programme of Action is a product of a very thorough negotiating process, so elaborating global principles must be undertaken with caution.
- The UN Programme of Action needs to be considered in its entirety when examining controls on small arms and light weapons, given that there are many provisions of the UN Programme of Action that relate to this issue.
- The Global Principles and Nairobi Guidelines do not address international cooperation and assistance, which are necessary for transfer control measures to be implemented effectively.
- Transparency measures need to be included in global guidelines for small arms transfers.
- The adoption of global guidelines could be useful for industry.
- Arms transfer guidelines produced or adopted by the international community would constitute recommendations for States' national import/export regimes and not involve collective implementation or enforcement.
- States would implement and interpret at the national level any global guidelines proposed by the international community.
- The Global Principles and Nairobi Guidelines can help governments assess arms transfer applications and would not prevent a State from ultimately deciding to make transfers.
- Recognizing that States must take reasonable measures within their capacity to undertake the considerations in global guidelines is important.

3) international cooperation and assistance to develop capacity to implement transfer control principles

- International cooperation and assistance was the least addressed issue at the 2006 UN Review Conference on Small Arms and represents a missed opportunity.
- Work in regions on small arms transfer guidelines is distinct from assistance to develop the national transfer control capacities of countries.
- Much of the assistance to implement the UN Programme of Action could go directly to States in order to enhance capacity.
- The UN Programme of Action does not contain a specific mechanism for international cooperation and assistance. The Geneva Process is working on specific models of resource mobilization for implementation. Resource mobilization is a priority for many countries.
- Resource levels for implementation of the UN Programme of Action are paltry, relative to needs. Much can be learned from experience mobilizing resources for mine action, for example.

- National Focal Points may be a key access point for cooperation and assistance in implementation of the UN Programme of Action, especially in terms of capacity-building and providing assistance in the form of human resources. Technical assistance is needed but so are broader support and capacity-building mechanisms. A clear framework for needs assessment is required.
- Action on implementation is important in addition to planning. International cooperation and assistance needs to focus on the more-affected developing nations. The need for a practical and implementable model for cooperation and assistance is urgent.
- A study proposing a programme and normative framework for assistance would be beneficial in terms of determining how cooperation and assistance could work.
- The ODEC is currently drafting guidelines on modalities of providing assistance on implementation.
- A reference to “sustainable development” and Article 26 of the UN Charter could be included in further work on global guidelines.
- Parliamentarians have a unique role to play in terms of mobilizing resources for international cooperation and assistance and legislative implementation of the UN Programme of Action. Society at large also needs to be engaged in this effort.

Conclusion and Next Steps

The Helsinki Process Roundtable on Small Arms and Light Weapons provided a most valuable informal, candid exchange of views concerning the transfer of small arms and light weapons. Participants expressed satisfaction with the Roundtable. The contribution of civil society to the meeting contributed a great deal to its success. The format of the roundtable was instructive as Canada is planning to host an informal meeting at the global level to continue work on guidelines to prevent illicit flows of small arms and light weapons.

The meeting will be held in Geneva at the Centre International de Conférences 27-31 August 2007. All States will be invited to attend and participation by civil society is encouraged. The meeting promises to be an interesting and useful opportunity to strengthen implementation of the UN Programme of Action.

For more information, visit: www.international.gc.ca/informalmeetinggeneva2007, contact: informalmeetinggeneva2007.ilx@international.gc.ca or telephone: 613-944-1268.

The next Helsinki Process meeting is scheduled for December 2007 in Dar es-Salaam, Tanzania (see: www.helsinkiprocess.fi).

Agenda

Sunday, 25 March 2007

19h00 Reception / Dinner

Monday, 26 March 2007

08h30 **Welcoming Remarks**

Mr. Ferry de Kerckhove, Director General
International Organizations Bureau
Department of Foreign Affairs and International Trade Canada

H.E. Mr. Jukka Leino, Ambassador for Global Issues
Ministry for Foreign Affairs of Finland

Mr. Earl Turcotte, Director, Mine Action and Small Arms Team
Department of Foreign Affairs and International Trade Canada

09h00 **Presentations**

*Transfer Controls in the Context of the UN Programme of Action on Small Arms
and Light Weapons*

Dr. Patrick McCarthy, Network Coordinator
Geneva Forum

*Regional Instruments and Initiatives on
Small Arms Transfer Controls*

Mr. Ken Epps, Senior Programme Associate
Project Ploughshares

Global Principles for Arms Transfers

Mr. Brian Wood, Manager of Research and Policy on Arms Control
Amnesty International

Discussion Period

10h30 Coffee Break

11h00 **Presentations**

The Transfer Control Initiative (TCI) and the Nairobi Guidelines

Mr. Brian Wood, Head, Proliferation and Arms Control Secretariat
UK Ministry of Defence

Discussion Period

12h30 Lunch

14h00 **Exchange of Views**

Identifying and Refining Global Principles to Control Illicit Transfers of Small Arms and Light Weapons:

- I. *National Authorization*
- II. *Limitations*
- III. *Controls Based on Use*
- IV. *Other Factors*

Facilitators: Ms. Richelle Smockum and Mr. Mike Perry
Mine Action and Small Arms Team
Department of Foreign Affairs and International Trade Canada

19h00 Working Dinner

Tuesday, 27 March 2006

08h30 **Exchange of Views**

*International Cooperation and Assistance –
Linking Needs to Resources*

Chair: Mr. Earl Turcotte, Director, Mine Action and Small Arms Team
Department of Foreign Affairs and International Trade Canada

11h00 **Outcomes and Summary**

12h30 **Concluding Remarks**