

Reaching Consensus in New York: The 2001 UN Small Arms Conference

5

Introduction

At about 6.00 a.m. on Saturday, 21 July 2001, the *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* ('the Conference') concluded. After two weeks of difficult negotiations at UN headquarters in New York and several years of preparation, delegates reached a final consensus agreement on a *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (*Programme*).¹

The *Programme* spelled out the security, humanitarian, and socio-economic consequences associated with both the illicit trade in these weapons and their excessive and destabilizing accumulation, and also included a set of norms to guide the actions of states in addressing this problem. By agreeing to this *Programme*, national governments made a commitment to implement a series of measures at the national, regional, and global levels. They also agreed to meet every two years and hold a conference no later than 2006 for the purpose of reviewing the implementation of the *Programme*.

The *Programme of Action* provides a mandate for the United Nations, national governments, donor states, and NGOs to develop and implement practical projects in every critical area of endeavour that will lead to the prevention and reduction of the problems associated with these weapons. UN Secretary-General Kofi Annan warmly welcomed the news that the Conference 'was able to reach a consensus on many important first steps in alleviating this grave threat to international peace and security and to human security'. He praised these steps as 'essential in building norms and in implementing collective measures against this global scourge' (United Nations, 2001b).

Despite these measures, many governments and NGOs were disappointed that critical elements needed for the solution of the problem were either not included in the *Programme* or were watered down to the point of irrelevance. Sally Joss, Co-ordinator of the umbrella group International Action Network on Small Arms (IANSA), stated: 'When this whole process began we were aiming for a clear international plan of action. Instead this has been eroded to the lowest common denominator, and the framework that remains falls short of what is so urgently needed.' While welcoming the consensus *Programme*, IANSA expressed disappointment that certain key elements—including commitments to negotiate international legal instruments on marking and tracing, as well as brokering, or promises of greater transparency—had been left out of the *Programme* (IANSA, 2001). Human Rights Watch termed the outcome a 'Program of Inaction' (HRW, 2001).

The issue areas that left many disappointed were those that had been identified as contentious from the beginning of the process in 1995. The debate was largely over the extent to which the Conference would address legal as well as illicit small arms and light weapons. As the production, import, and export of these weapons is a legal activity critical to their national defence, many governments resisted any attempt by the Conference to limit their sovereign rights in this area. Others insisted that, since legal arms were the source of most illicit transfers, a comprehensive response required consideration of legal activity too.

SMALL ARMS SURVEY 2002

The debates during the Conference centred on the following key issues:

- the linkage of small arms to human rights violations;
- excessive and destabilizing accumulations of both legal and illicit small arms;
- transparency;
- a commitment to negotiate legally binding instruments on arms brokering and on the marking and tracing of weapons;
- national regulation of civilian possession of military weapons;
- export and re-export control criteria; and
- the supply of arms to governments only.

This chapter provides a description of the events leading up to the Conference and the two weeks of the Conference itself. It also offers an in-depth analysis of the *Programme of Action*, and looks at how the various contentious issues were resolved.

BOX 5.1 Chronology of events

- 12 December 1995: in its Resolution 50/70B, the UN General Assembly requests the Secretary-General to prepare a report on small arms with the assistance of a panel of governmental experts (UNGA, 1995b).
- June 1996–August 1997: the 1997 Panel completes its report, recommending that the UN consider holding ‘an international conference on the illicit arms trade in all its aspects, based on the issues identified in the present report’ (UNGA, 1997a, para. 80(k)).
- 9 December 1997: in its Resolution 52/38J, the General Assembly requests the Secretary-General to seek the views of Member States on the convening of a conference, and to prepare a second report on small arms with the assistance of a group of governmental experts (UNGA, 1997b).
- May 1998–August 1999: the 1999 Group produces a report addressing the objectives, scope, agenda, dates, and venue of the Conference (UNGA, 1999a).
- 15 December 1999: in its Resolution 54/54V, the General Assembly launches the last stages of the Conference process (UNGA, 1999b).
- February 28–3 March 2000: the first session of the Preparatory Committee (PrepCom) solicits state views on procedures for the Conference and on a programme of action (UNGA, 2000a).
- 6 October 2000: the Chairman of the PrepCom produces an informal paper as a basis for a first draft of a programme of action (dos Santos, 2000).
- 11 December 2000: the first draft of the *Programme of Action* (L.4) is completed, serving as a basis for further drafts (UNGA, 2000b).
- 8–19 January 2001: during the second session of the PrepCom, states submit views on the first draft of the *Programme of Action*.
- 12 February 2001: the second draft of the *Programme of Action* (L.4/Rev.1) is distributed to states (UNGA, 2001a).
- 19–30 March 2001: the third session of the PrepCom begins negotiating the final *Programme of Action*.
- 4 June 2001: the PrepCom Chair issues an Informal Paper containing his assessment of PrepCom III.
- 9 July 2001: the Conference begins.
- 16 July 2001: the third draft of the *Programme of Action* (A/CONF.192/L.5) is distributed to states.
- 21 July 2001: Conference participants agree on a consensus *Programme of Action* (UNGA, 2001d).
- 24 December 2001: the UN General Assembly welcomes the adoption by consensus of the Conference *Programme of Action* and calls upon states to implement it. It also decides to hold the first in a series of biennial meetings in 2003, and to convene a conference no later than 2006, for the purpose of reviewing progress made in implementing the *Programme* (UNGA, 2001f).

The road to the Programme of Action

The initial task of defining the problems associated with small arms and light weapons fell to the UN Panel of Governmental Experts on Small Arms ('1997 Panel'), constituted pursuant to General Assembly Resolution 50/70B of 12 December 1995 (UNGA, 1995b). The 1997 Panel met from June 1996 until issuing its report to the UN Secretary-General in August 1997. This report addressed the following issues:

- the types of small arms and light weapons actually being used in conflicts being dealt with by the United Nations;
- the nature and causes of the excessive and destabilizing accumulation and transfer of small arms and light weapons, including their illicit production and trade; and
- the ways and means to prevent and reduce the excessive and destabilizing accumulation and transfer of small arms and light weapons, in particular as they cause or exacerbate conflict (UNGA, 1995b, para. 1).

As part of its recommendations, the 1997 Panel called for an 'international conference on the illicit arms trade in all its aspects, based on the issues identified in the present report'. The specific objectives of the Conference recommended by the Panel were only gradually delineated and not formally agreed until the Conference itself.

While some states favoured holding such a conference, others were opposed, for a variety of reasons. Some states viewed the conference as a way to raise awareness, develop norms of behaviour where none existed, and—they hoped—begin to develop specific actions to which states would formally commit themselves. Additionally, some viewed a conference as the only way to broaden the issue of illicit arms beyond a narrow arms control focus. Others were more cautious, fearing that it was too soon to hold such a conference, which could detract energy from the 'real work' of dealing with the small arms issue, or even be hijacked by the pro-arms lobby. Some states were also concerned about putting the small arms issue into the orbit of the UN disarmament system, given the success achieved on the landmines issue outside the UN system.

Some states were concerned about putting the small arms issue into the orbit of the UN disarmament system.

Agreeing to hold a conference

In the end a compromise was agreed whereby the views of states would be solicited on convening such a conference and a Group of Governmental Experts on Small Arms ('1999 Group') would be convened to assess the implementation of the Report of the 1997 Panel and further develop the concept of the Conference (UNGA, 1997b).

As of May 1998, the 1999 Group was meeting to develop the recommendations of the 1997 Panel, one of which was an international conference. Many states had in fact indicated their support for a conference on the illicit trade in small arms and light weapons and, as a result, the General Assembly resolution on small arms of 1998 contained the decision 'to convene an international conference on the illicit arms trade in all its aspects' (UNGA, 1998, para. 1).

By late 1998, the move towards a conference had been significantly affected by the signing in 1997 of the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction* ('*Ottawa Treaty*'). The UN bureaucracy and those states which relied on the UN to solve global problems were very concerned that the *Ottawa Treaty* would set a precedent that would see more and more disarmament issues go outside the UN for solution, and were thus intent on keeping the small arms issue within the organization. They were well aware that the International Campaign to Ban Landmines (ICBL) and supportive governments felt that the UN process had failed them. While only in its formative stages, IANSA, an NGO modelled on the ICBL, was beginning to push governments for a solution to the small arms problem in all its dimensions.²

SMALL ARMS SURVEY 2002

The 1999 Group paves the way

The mandate of the 1999 Group was twofold. First, it was to assess progress made on the 1997 Panel's recommendation of measures designed 'to reduce the excessive and destabilizing accumulation and transfer of small arms and light weapons in specific regions of the world where [these] have already taken place' and 'to prevent such accumulations and transfers from occurring in future' (UNGA, 1997a, para. 78). The second task of the 1999 Group was to report 'on further actions recommended to be taken'. This included developing specific aspects of the Conference, such as venue, agenda, objectives, and other procedural matters (UNGA, 1997b).

In the process of addressing 'further actions to be taken' by the United Nations, international and regional organizations, and states (UNGA, 1999a, sec. IV), the 1999 Group provided a set of recommendations that served as a major source of actions for the Conference to consider. It should be noted that the 1999 Group was quite representative of the UN as a whole as it comprised European Union (EU) states, the US, China, and key members of the Non-Aligned Movement (NAM). In fact, the debates that took place within the 1999 Group during 1998–99 served to preview the difficulties that would dominate the Conference itself two years later.

In Section V of its Report, the 1999 Group made specific recommendations on issues relating to the Conference. These had a significant impact on the Conference process—including its Preparatory Committee (PrepCom)—and outcome. Significantly, the Group recommended that the objective of the Conference should be to develop and strengthen *international* efforts to prevent, combat, and eradicate the illicit trade in small arms and light weapons in all its aspects. Prior to this, several key states, especially the US, had played down the need for initiatives of an international nature. Other states were concerned that the focus on international efforts would reduce, or undermine, regional and subregional efforts.

The Group also recommended that the Conference seek to strengthen or develop norms and measures at the global, regional, and national levels. As for the scope of the Conference, the 1999 Group addressed the fine line between illicit and licit in a comprehensive manner, noting that:

the illicit trade in small arms and light weapons is closely linked to the excessive and destabilizing accumulation and transfer of such arms. The scope of the Conference should therefore not be limited to criminal breaches of existing arms legislation and export/import controls but consideration should be given to all relevant factors leading to the excessive and destabilizing accumulation of small arms and light weapons in the context of the illicit arms trade (UNGA, 1999a, para. 132).

Like its predecessor, the 1997 Panel, the 1999 Group did not, however, attempt to establish a formal agenda. It also deferred decisions on dates and venue to the PrepCom.

A formal mandate for the Conference

By late 1999, states knew that there would be a conference and, despite the misgivings some states had about the initiative, the contentious work of shaping its outcome began with the drafting of the enabling General Assembly Resolution 54/54V. Prior agreement on key assumptions and principles were codified in this resolution, adopted in December 1999. States had little difficulty agreeing on many of the preambular paragraphs. These defined the

The 1999 Group recommended that the objective of the Conference should be to develop and strengthen international efforts to prevent, combat, and eradicate the illicit trade in small arms and light weapons in all its aspects.

CONFERENCE

problem as urgent, and recognized the importance of civil society, the humanitarian and socio-economic consequences stemming from the ready availability of small arms and light weapons, the links to terrorism, organized crime, and drug trafficking, and the need for a comprehensive approach to a resolution of these problems (UNGA, 1999b).

In Resolution 54/54V, states decided to convene the Conference in June/July 2001 and hold three PrepCom meetings, with the date for the first set for 28 February to 3 March 2000. Details on the venue and dates were left to the PrepCom to decide, along with objectives, agenda, and a draft final document that would include a *Programme of Action*. States could not agree on whether to accept an offer by Switzerland to hold the Conference itself in Geneva, so this was also deferred.³

Getting organized

The work of the Conference began with the first meeting of the PrepCom at UN Headquarters in New York, from 28 February to 3 March 2000. This meeting got bogged down in procedural issues—such as NGO participation—and there was little discussion of substantive issues. Despite this, the proposed *Programme of Action* began to take shape as states laid out their basic positions.

Significantly, there was a fair amount of agreement on a range of measures more strictly related to the illicit trade in small arms. These included the need for effective border controls, better enforcement of UN arms embargoes, some improvement in marking and tracing across state boundaries, the destruction of surplus weapons, the need for safe and secure storage of stockpiles, and the right of sovereign states to acquire, use, and export small arms and light weapons. Predictably, there was no agreement on the more contentious issues.

Given the preliminary and inconclusive results from its first meeting, the PrepCom Chairman, Ambassador Carlos dos Santos of Mozambique, conducted two informal consultations prior to the second PrepCom session. These were held in New York from 17 to 19 July 2000 and on 6 October 2000. At the second consultation, Ambassador dos Santos circulated an Informal Proposal of the Chairman titled *Draft Structure and Elements for a Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*. States generally agreed that this document should serve as the basis for the first draft of a *Programme of Action* that would be debated at the second PrepCom. Based on informal responses to this *Draft Structure*, the PrepCom Chairman revised it and in early November gave it to those assigned the task of drawing up the draft *Programme of Action*.

Agreements reached before the Conference

The second meeting of the PrepCom was held at UN Headquarters in New York from 8 to 19 January 2001. At this meeting, states mainly concerned themselves with starting negotiations on a consensus text of the *Programme of Action*. Crucially, procedural issues were less evident, and proved far less controversial, than in the first PrepCom.

The first draft of the *Programme of Action* (A/CONF.192/PC/L.4) was issued a month before the second PrepCom meeting. This 18-page document attempted to integrate various proposals for a preambular section, measures at the



© Associated Press/Stephen Chernin

Helen Mirren, actress and anti-gun violence activist, in front of the UN New York headquarters during the Conference.

SMALL ARMS SURVEY 2002

national, regional, and global levels, and for an implementation and follow-up process. The central part of the draft delineated measures to be adopted for each of the following issues:

- illicit manufacturing, acquisition, stockpiling, and transfer;
- measures to prevent diversion from legal manufacture, acquisition, and transfer;
- stockpile management and safe storage;
- collection and destruction of illicit and surplus small arms;
- civilian possession;
- post-conflict situations; and
- transparency, confidence building, and exchange of information (UNGA, 2000b).

The fact that the first draft was issued only a month prior to the second PrepCom meant that most delegations had very little time to study it before the start of the session. Some delegations, including the US, voiced strong objections to many of the elements it contained. Many delegations also criticized its structure, arguing that, while it was extremely comprehensive, it was also repetitive and unduly complicated.

While the first draft, by necessity, incorporated a wide range of views gathered from many sources over a two-year period, the second draft (A/CONF.192/PC/L.4/Rev.1), issued on 12 February 2001, more than a month before the third PrepCom, was much more concise and reflected much of the discussion of the January meeting. In effect, it removed much of the language from the first draft that was considered too controversial for the achievement of consensus. It also narrowed the *Programme of Action* to focus only on those critical issues that had been identified during the debates at the second PrepCom (UNGA, 2001a). Most countries were much more positive about the second draft, and many delegations stated that it provided a good basis for negotiating the final Conference text.

By the end of the third session of the PrepCom, there was a fair amount of agreement on large sections of the second draft—about 60 per cent of a text covering 86 paragraphs. This momentum carried through to the Conference.

Preamble. States agreed that solving the problems associated with the illicit trade in small arms and light weapons was urgent and that their humanitarian consequences were serious. The impacts on women and children were particularly noted. It was also agreed that the illicit trade sustains conflicts, exacerbates violence, fuels terrorism, and is linked to drug trafficking.

There was also agreement in the Preamble on a basic set of norms or principles that should form the basis for the measures agreed to in the *Programme of Action*. These included: references to the UN Charter; the right of states to import, produce, and retain arms; the need for compliance with arms embargoes; and the need for a co-operative international effort to fully address this global issue.

Operational measures. While states continued to differ on specific language, by the end of the third PrepCom a range of measures had been agreed which ultimately found their way into the final *Programme of Action*. At the national level, these were:

- to put in place adequate laws, regulations, and administrative procedures to exercise effective control over the production, export, import, transit, and retransfer of small arms and light weapons (UNGA, 2001d, sec. II, para. 2);

CONFERENCE

- to establish national co-ordination agencies responsible for policy guidance, research, and monitoring of efforts to prevent, combat, and eradicate the illicit trade in small arms and light weapons in all its aspects (sec. II, para. 4);
- to identify groups and individuals engaged in the illegal manufacture, trade, stockpiling, transfer, possession, and financing for acquisition of illicit small arms and light weapons, and take action against them (sec. II, para. 6);
- to ensure responsibility for all small arms and light weapons held and issued by the state, and effective measures for tracing them (sec. II, para. 10);
- to put in place and implement adequate laws, regulations, and administrative procedures to ensure the effective control over the export and transit of small arms and light weapons, including the use of authenticated end-user certificates (sec. II, para. 12);
- to develop and implement, where possible, effective disarmament, demobilization, and reintegration programmes, including the effective collection, control, storage, and destruction of small arms and light weapons, particularly in post-conflict situations (sec. II, para. 21); and
- to address the special needs of children affected by armed conflict (sec. II, para. 22).

Among the measures agreed at the regional level were the following:

- to encourage negotiations with the aim of concluding relevant legally binding instruments aimed at preventing, combating, and eradicating the illicit trade in small arms and light weapons in all its aspects, and, where they do exist, to ratify and fully implement them (sec. II, para. 25); and
- to establish subregional or regional mechanisms, in particular trans-border customs co-operation and networks for information-sharing among law enforcement, border, and customs control agencies (sec. II, para. 27).

The third PrepCom also saw agreement on a series of global measures, including:

- to co-operate with the United Nations system to ensure the effective implementation of Security Council arms embargoes (sec. II, para. 32);
- to encourage the disarmament and demobilization of ex-combatants, and their subsequent reintegration into civilian life (sec. II, para. 34);
- to encourage states and the World Customs Organization, as well as other relevant organizations, to enhance co-operation with the International Criminal Police Organization (Interpol) to identify those groups and individuals engaged in the illicit trade in small arms and light weapons in all its aspects (sec. II, para. 37);
- to encourage relevant international and regional organizations and states to facilitate the co-operation of civil society, including NGOs, in activities related to the prevention, combat, and eradication of the illicit trade in small arms and light weapons in all its aspects (sec. II, para. 40); and
- to promote a dialogue and a culture of peace by encouraging education and public awareness programmes on the problems of the illicit trade in small arms and light weapons in all its aspects, involving all sectors of society (sec. II, para. 41).

Other processes

The interplay between regional and international processes was an important part of the politics surrounding efforts to develop concerted international action on small arms proliferation issues (Greene, 2001). Regional organizations provided an important focus for wider agenda setting and coalition building, while the Conference process helped

SMALL ARMS SURVEY 2002

to stimulate action at the regional and national levels.⁴ It is also important to recognize the important interactions between the Conference process and other international negotiations, particularly those resulting in the legally binding *Firearms Protocol* (UNGA, 2001c).

As international awareness and concern about illicit trafficking and proliferation of small arms grew after 1996, regional initiatives developed alongside the work of UN bodies. In addition to those regional initiatives, discussed below, which fed directly into the *Programme of Action*, several other regional processes contributed to the general momentum that built up before the Conference and helped foster a more positive attitude towards it. In November 1997, members of the Organization of American States (OAS) signed the *Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials* (OAS, 1997), complemented by the 1998 Model Regulations (OAS, 1998). In Africa, the Economic Community of West African States (ECOWAS) Moratorium was signed in October 1998 after some two years of discussions (ECOWAS, 1998). *The Southern Africa Regional Action Programme on Light Arms and Illicit Arms Trafficking* was prepared in May 1998 (SADC, 1998).

Such substantial regional initiatives added momentum to the UN process. However, they also highlighted the ways in which different regions and subregions tended to frame the problems and priorities relating to small arms in distinct ways. For example, the OAS addressed the issue primarily as a problem of illicit arms trafficking by criminal groups; the EU addressed it more as a problem of arms export controls and of developing appropriate security assistance to regions emerging from conflict; and Southern African Development Community (SADC) countries addressed it as a problem of enabling post-conflict development and stability and of strengthening co-operation and control over small arms in the subregion.

These frameworks were in many ways complementary, but they did contribute to the controversies in the 1999 Group about the appropriate focus and scope of the Conference. Latin American governments wanted the Conference to concentrate on combating and preventing illicit trafficking in small arms, and thus joined with those in Asia and the Middle East that were suspicious of any broader mandate. Meanwhile the EU—together with Japan, the United States, and virtually all other Western democracies—insisted that the Conference should also address the issues of arms holdings and inter-state transfers, along with norms for assistance in war-torn or vulnerable countries.

The existence of regional agreements reflecting these perspectives tended to consolidate these differences. Diplomats naturally tend to try to internationalize the standards to which their country is already committed, and to avoid new commitments that would require significant changes to domestic policy.

Interestingly, government support for stringent and comprehensive measures at the regional or subregional levels did not always translate into support for similar commitments in the *Programme of Action*. Whereas the EU and Canada, for example, consistently fought for the inclusion of strong international commitments where these were consistent with their regional and national policies, countries such as Australia, New Zealand, Norway, and South Africa tended to adopt a rather more reserved, or minimalist, stance. In part, these different approaches stemmed from a difference in negotiating tactics; yet they also reflected an ongoing debate among various states about the relationship between regional measures and the UN process. There were some fears that the UN negotiations could encourage an inappropriate 'one size fits all' approach which did not adequately recognize regional differences, or that they could detract from the urgent task of developing necessary national and regional measures. Thus, provided the *Programme of Action* was adequately comprehensive in scope and established a reasonable set of principles and

Government support for stringent and comprehensive measures at the regional or subregional levels did not always translate into support for similar commitments in the *Programme of Action*.

CONFERENCE

norms, Australia, New Zealand, and other South Pacific states, for example, were generally content to focus on developing detailed commitments and programmes at the regional level within the Pacific Island Forum rather than at the international level.

Similarly, South Africa did not support the EU proposals for stringent or fully developed international commitments in several areas (such as national criteria for export controls), even though they were part of the EU-SADC joint action programme on small arms and SADC countries planned to adopt a legally binding Protocol containing such commitments in the near future. These differing priorities caused friction between the EU and some SADC countries during the PrepCom and at the Conference itself.

As the second PrepCom approached, governments began to take the Conference process more seriously. Evidence of this came in the form of a number of regional meetings held towards the end of 2000, which adopted declarations designed to shape the final outcome of the Conference. They were literally being completed as the first draft of the *Programme of Action* was being developed.

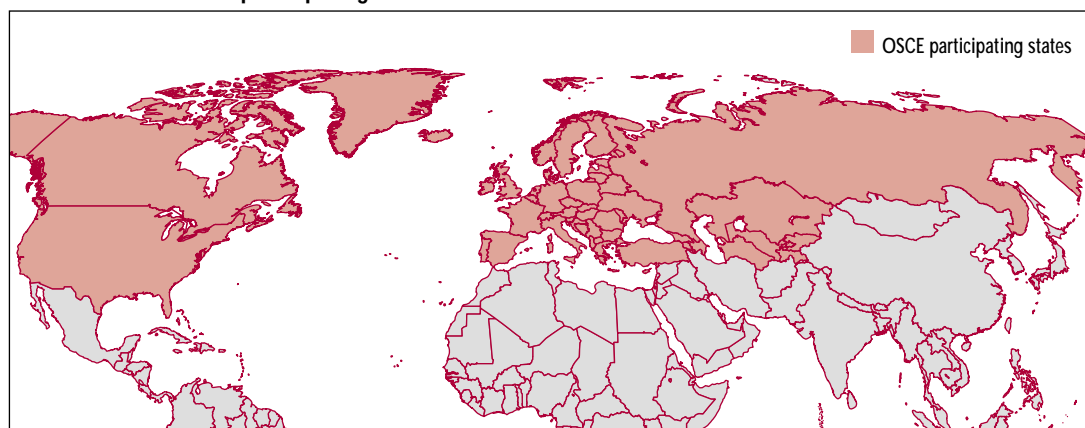
The OSCE Document, 24 November 2000

The Organization for Security and Co-operation in Europe (OSCE), after two years of relative neglect of the topic, agreed at its November 1999 Istanbul summit to mandate the OSCE Forum on Security Co-operation to initiate discussions on the problem of small arms proliferation. With 54 members (55 from November 2000) whose national interests cover the gamut of the small arms issue, from states seriously affected by the proliferation and misuse of these weapons to many major suppliers, the organization spoke with unusual authority. It also provided an effective framework within which a coalition of Canada, the EU, Norway, Switzerland, and the United States could co-ordinate positions and aim to persuade other member states—particularly Russia, Ukraine, and other countries of the former USSR—to agree to substantial measures to deal with the small arms issue. Within a year, this was successfully achieved.

On 24 November 2000, the OSCE adopted the *OSCE Document on Small Arms and Light Weapons* (OSCE, 2000). This comprehensive, 29-page document contained many measures that were directly applicable to the global level, with the added relevance of having been negotiated by 54 states. The negotiations of certain parts of the document were precursors for what was to follow at the Conference and its PrepCom sessions:

- The terms 'norms, principles and measures' were used to describe the nature of the contents of the document.

MAP 5.1 OSCE participating states



SMALL ARMS SURVEY 2002

- For the purposes of its document, the OSCE adopted the definition and typology of small arms and light weapons that had been agreed in the report of the 1997 Panel. In so doing, it stated that there was not yet an internationally agreed definition of small arms and light weapons, noting that the OSCE definition did not prejudice any future agreed international definition.
- Until the very last moment, the OSCE draft contained a paragraph in which states agreed to supply arms only to governments and to government-approved organizations. The US had made it clear from the start that this was unacceptable. Meanwhile, the EU pushed for an agreed set of export control criteria reflecting those of the EU, which was also resisted by many OSCE states. In the end, it was agreed to delete the paragraph on supplying arms to non-state actors while retaining the export control criteria.
- The provisions for weapons marking and tracing were very specific but stopped short of a legally binding mechanism that contained standard marking for all countries. The specific markings were left up to individual states.
- No OSCE system was developed to control brokering. National efforts were merely urged.
- Very specific guidelines for identifying weapons surplus to a state's needs were adopted.
- OSCE members agreed that the document was 'politically binding'.

The OSCE document was very specific and comprehensive. Some states viewed it as a source of measures to be adopted at the global level, introducing various elements from the document during the negotiations in the PrepCom sessions. Other states, particularly the US and Russia, used the document as evidence that the basic work to solve the problems stemming from small arms should be conducted primarily at the regional level. Overall, it was the latter view that prevailed during the PrepComs. The same states also pushed this view during the Conference negotiations, making it difficult to reach consensus on measures at the international level.

The Brasilia Declaration of Latin American and Caribbean States, 24 November 2000

With the path-breaking OAS *Inter-American Convention* of 1997 and the *Model Regulations* of 1998 on controlling the international movements of firearms, the states of Latin America had already agreed on some norms and developed measures on small arms that could have been used to shape their positions at the Conference. As a result of the Convention and the *Model Regulations*, many states in the region (e.g. Brazil, Colombia, and Mexico) felt a strong sense of ownership of the small arms issue. However, since the OAS Convention did not address many of the issues to be taken up at the Conference, the states of Latin America and the Caribbean held a special meeting in Brasilia, Brazil, in November 2000 for the purpose of developing a common position to take to the Conference.

While the *OSCE Document*, submitted to the UN for use in developing the *Programme of Action*, was designed as a stand-alone agreement to be implemented by a well-developed institutional structure, the *Brasilia Declaration* was different. It was a short two-page document that simply acknowledged the importance of various existing norms and principles to the development of a UN *Programme of Action*. It also listed a number of goals for the Conference including the need for concrete measures at the global level. While emphasizing the role civil society must play at the Conference, it specifically mentioned 'educational initiatives and publicity campaigns'. Not surprisingly, the meeting gave a strong endorsement to the candidacy of Ambassador Camilo Reyes Rodriguez of Colombia for the presidency of the Conference itself, noting also his endorsement from NAM countries.

The OAU Bamako Declaration, 1 December 2000

As with the OSCE, the Organization of African Unity (OAU)⁵ had been conducting meetings and expert workshops on the issue of small arms and light weapons for some time, serving as an important focus for coalition building amongst African states during 1999–2000. In many ways, the effects of small arms proliferation in Africa were a primary motive for trying to develop an effective UN *Programme of Action* on small arms (Mali, 1996; 1997; South Africa, 1998).⁶

Yet African states rarely spoke with one voice on the small arms issue, and many scarcely followed the UN debates before 1999. Most strikingly, a major difference of perspective had become

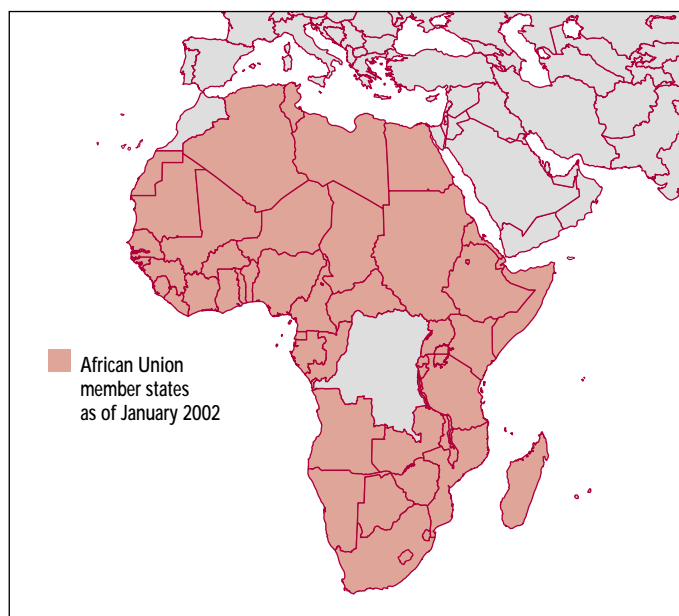
apparent on small arms issues between the countries of sub-Saharan Africa and those of North Africa. Countries like Algeria and Egypt generally played a leading role in UN negotiating processes, and the general preference for consensus among the NAM meant that they were rarely opposed by other African states in UN negotiations. Yet their positions on small arms were much closer to those of other Arab League countries than to those of sub-Saharan Africa.

After two consultative meetings of national experts in May and June 2000, and against the clear preferences of Egypt and some of its North African neighbours, the *Bamako Declaration* adopted at the OAU Ministerial Conference in Bamako, Mali, in December 2000 largely reflected the comprehensive approach preferred by Sub-Saharan African countries (OAU, 2000). The repeated references to the *Bamako Declaration* during the PrepCom sessions and the Conference itself were as much an effort to maintain North African and wider NAM support for sub-Saharan African preferences as they were aimed at negotiating with other governments. Ultimately the *Bamako Declaration* proved to have an important impact on the final text of the *Programme of Action*.

South Africa had played a leading role on the small arms issue for a number of years, and arrived at the 30 November–1 December 2000 meeting in Bamako, Mali, with a well-developed draft document that formed the basis for the final declaration. Given the severity of the problems related to small arms in Africa, as well as the influence of a co-ordinated African effort in shaping the landmine treaty of 1997, the *Bamako Declaration* was designed, from the beginning, to ensure that Africa had an influence on the final text of the Conference *Programme of Action*.

Unlike the OSCE and Brasilia documents, the eight-page *Bamako Declaration* was in a UN format designed to easily convert into a UN text. The preambular section reaffirmed the importance of regional work and the principles of the UN Charter, and noted the ‘devastating consequences’ that the ‘problem of the illicit proliferation, circulation and trafficking of small arms and light weapons continues to have ... for stability and development in Africa’ (OAU, 2000, para. 1). In describing these problems, OAU states presented a comprehensive list of impacts, mentioning inter-

MAP 5.2 African Union states



A major difference of perspective became apparent between the countries of sub-Saharan Africa and those of North Africa.

SMALL ARMS SURVEY 2002

national humanitarian law, cultures of violence, security and development, women, children, good governance, and human rights (para. 1). They laid out a general and comprehensive set of measures which emphasized transparency, conflict prevention, strengthening of democracy and respect for human rights, a focus on both supply and demand, capacity-building, and respect for international humanitarian law. The *Bamako Declaration* contained specific recommendations for action at the national and regional levels, setting out a wide range of measures that included practically all of those steps that had long been recommended by many states and NGOs. These included actions that would later be opposed by some OAU members, such as Algeria and Egypt, during the UN deliberations, including transparent controls on manufacturers, suppliers, traders, and brokers (para. 3.A.vii), as well as the 'active involvement of civil society in the formulation and implementation of a national action plan' (para. 3.A.viii).

It was at the international level that OAU states held back their enthusiasm for any mechanisms or commitments that would tie their hands in acquiring or exporting small arms. The approach was to appeal instead to arms supplier countries to change their behaviour. In a sense this section put much of the blame for the problem on those outside Africa. For example, it asked that non-African states 'Accept that trade in small arms should be limited to governments and authorized registered licensed traders' (para. 4.i), a restriction the OAU states did not place on themselves.

OAU states sought a commitment at the UN Conference to a change of behaviour by supplier states. This theme had been put forward, especially by South Africa, in all subregional, regional, and international forums leading up to the *Bamako Declaration*. The aim, however, was not to create a mechanism for supplier restraint at the global level. In the view of OAU states, before international mechanisms were put in place time had to be given to let regional efforts develop. This approach was clearly seen in the final section of the *Bamako Declaration* where OAU states called for an 'international partnership to curb the illicit proliferation, circulation, and trafficking of small arms and light weapons in Africa' (sec. 5). This involved an appeal for technical and financial support for national and regional initiatives and closer co-operation among regional and international organizations.

During the Bamako meeting, some OAU members disagreed with many of the paragraphs in the final text, particularly Algeria and Egypt, which are also part of the Arab bloc. In the interest of a common African position, many of these disagreements were papered over. However, they soon resurfaced at the Conference itself.

The EU Plan of Action, 11 December 2000

Of all the regional declarations prior to the second PrepCom, only the one agreed to by the EU in Brussels on 11 December 2000 was not completed in time to be fully integrated into the first draft of the *Programme*. However, since the EU had well developed policies on small arms, and had consistently submitted proposals for the *Programme of Action* throughout the PrepCom process, many of its text suggestions were integrated into the first draft, which was also published on 11 December.

As with the *Bamako Declaration*, the EU document was in a format designed to be easily transferred to a draft *Programme of Action*. The EU had already enacted a *Code of Conduct on Arms Exports* (European Union, 1998a) with specific export control criteria, as well as the *Programme for Preventing and Combating Illicit Trafficking in Conventional Arms* (European Union, 1997) and its *Joint Action on Small Arms* (European Union, 1998b). It came as no surprise that the EU *Plan of Action* (2000) contained many elements of these various measures. Key elements of the Plan, that were to surface as the EU position in negotiating the draft Conference *Programme of Action*, included:

- a strong commitment to international humanitarian law and human rights;

OAU states held back their enthusiasm for any international mechanisms or commitments that would tie their hands in acquiring or exporting small arms.

CONFERENCE

- linking security and development;
- restrictive national legislation and procedures that include criminal sanctions for the illicit possession of small arms;
- support for regional and subregional moratoriums;
- transparency of legal arms transfers;
- universal standards for marking of weapons;
- regional and subregional codes of conduct to control and restrain arms exports; and
- capacity-building in support of national and regional actions (European Union, 2000).

In its section on implementation, the EU *Plan* called for increased co-operation, extensive information exchange, effective tracing of weapons through the negotiation of an international convention, linking assistance and co-operation to a state's compliance with human rights and international humanitarian law norms, and the facilitation of the active involvement of civil society. The *Plan* also called for a 'Review Conference' in 2005, reports by states and regional organizations, and the setting up of a committee to prepare the Review Conference and consider additional proposals to prevent, combat, and eradicate the illicit trade in small arms and light weapons in all its aspects.

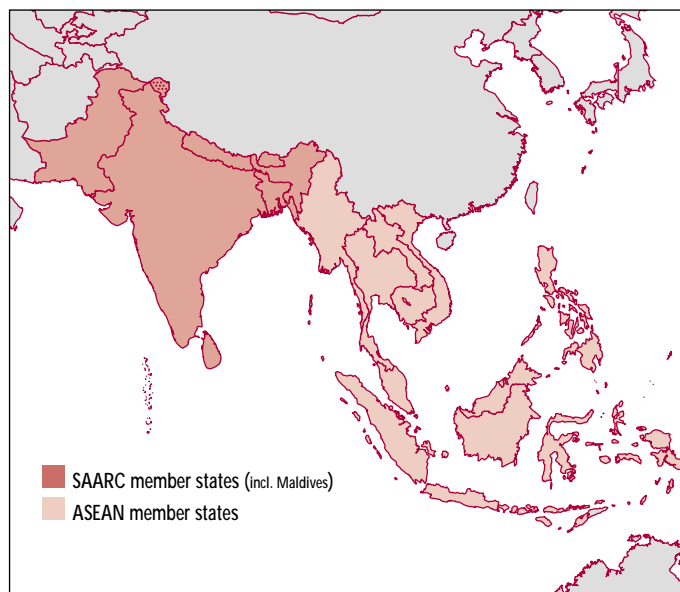
Though they all agreed to the *Plan*, there were important differences of opinion—and of negotiating strategy—between EU member states in some areas. Most of the EU candidate countries also aligned themselves with the *Plan*, not least for wider foreign policy reasons.⁷

While the regional declarations provided valuable inputs—in terms of both language and content—into the early drafts of the *Programme of Action*, it should also be noted that throughout the deliberations of the Conference many states warned that measures applicable to regions might not be applicable at the global level. The development of the *Programme of Action* was centred on this reality, stressing only those regional measures that did apply at the global level and that all states could agree to by consensus.

Frustrated regional processes: Southeast and South Asia

In addition to the relatively successful efforts of those regions previously noted, there were less auspicious efforts to develop regional outlooks in other parts of the world. There were significant attempts to develop a common position amongst the countries of the ASEAN Regional Forum (ARF). Building on the Jakarta Regional Seminar on Illicit Trafficking in Small Arms and Light Weapons of May 2000, the Asian Regional Workshop on Small Arms in Tokyo of June 2000, and elements of the PrepCom draft text, Australia prepared elements of a draft ARF declaration on small arms and light weapons. These

MAP 5.3 ASEAN and SAARC states



SMALL ARMS SURVEY 2002

were considered at a series of ARF meetings from late 2000 with a view to adopting a statement at the ARF summit in June 2001, just before the UN Conference. Canada and Japan also sponsored a special ARF conference in Cambodia, in February 2001, to raise awareness and promote action on small arms transfers among ASEAN states and their ARF partners.

In practice, these were attempts to use the UN Small Arms Conference process to stimulate action on small arms within ARF rather than the other way around. However, China was unwilling to support this. With the backing of Myanmar and the acquiescence of several other ASEAN states, China was able to use the ARF consensus rule to block the adoption of any declaration. As a result of the failure of these attempts, regional efforts relating to small arms control in Southeast Asia have remained restricted to programmes primarily designed to combat trans-national crime (Small Arms Survey, 2001, pp. 267–68).

Similarly, there were moves to stimulate co-operative action on small arms in South Asia through a series of sub-regional workshops and seminars during 2000–01. For example, two workshops organized by the Regional Centre for Strategic Studies, based in Colombo, were held in Sri Lanka during 2000. These brought together officials and civil society experts from South Asia and elsewhere. They contributed to raised awareness among South Asian governments, including India and Pakistan, of the relevance of the comprehensive approach to small arms control to their circumstances (up to that point, most South Asian governments tended to believe that their problems with small arms control primarily related to covert and illicit shipments in which their neighbours were implicated). However, the South Asian Association for Regional Cooperation (SAARC)—the primary subregional organization—remains politically paralysed. So efforts to enhance co-operation have had to be developed either through broader international agreements or through bilateral arrangements.

During the PrepCom sessions and the Conference itself, several states from these regions, including India and Sri Lanka, pointed out that they were suffering from the effects of these weapons but had been unable to articulate regional positions. As a result, they constantly reminded the Conference that this situation created a need for global norms, principles, and measures—not just regional action.

The UN Firearms Protocol

The final *Programme of Action* was shaped not only by the interplay with regional initiatives but also by parallel international processes. The most important of these were the negotiations for the UN *Firearms Protocol*, successfully concluded in March 2001 (MEASURES). The existence of this parallel initiative significantly weakened arguments that the Conference should, like the Protocol, primarily focus on combating and preventing illicit trafficking in small arms. The effective implementation and further development of the *Programme of Action* and the *Firearms Protocol* appear closely linked. Provisions governing such specific areas as marking and tracing, end-use controls, and brokering will be far more effective where they complement and reinforce one other. At a more general level, there are intrinsic links between the issues of crime prevention, security, and disarmament that underpin each instrument (Greene, 2001).

The effective implementation and further development of the *Programme of Action* and the *Firearms Protocol* appear closely linked.



© IANSA/Poster design Bob Boucher

NGO members of IANSA made their presence felt at the UN Conference.

BOX 5.2 NGOs and the 2001 UN Small Arms Conference

No picture of those two weeks in July 2001 would be complete without a view of the variety of roles played by NGOs both before and during the Conference. Just as they influenced the Conference, one clear result of the Conference has been its impact on NGOs.

Throughout the preparatory process and during the Conference itself, there were two distinct NGO communities at work. By far the largest was the broad coalition of some 300 groups working to control the proliferation of small arms and their effects, brought together under the International Action Network on Small Arms (IANSA). The second group represented the firearm community, which saw the Conference as a threat to the rights of gun owners and sport shooters. Chiefly represented by the World Forum on the Future of Sport Shooting Activities (WFSA), this group worked vigorously to minimize Conference outcomes. Its most outspoken member, the National Rifle Association of America (NRA), worked closely with the US delegation throughout the Conference. One issue on which both NGO communities agreed—and on which they worked together during the PrepCom process—was maximizing the official role of NGOs at the Conference.

NGO access to UN processes is typically controversial, especially where these touch on national and international security matters. Yet one of the key functions of holding a UN conference is to draw greater public attention to the relevant issue. NGOs have thus been seen, from the UN's earliest days, to play an important public relations role for the organization. In the case of the Conference, not surprisingly, states differed widely on the permissible degree of NGO participation. During the first two sessions of the PrepCom there were differing views among states over the types of NGOs that should be allowed to be present. For example, states such as Algeria and China wished to restrict NGO participation because they feared they would highlight human rights issues. The modalities agreed at the third PrepCom in March 2001 gave NGOs a recognized role in the remainder of the preparatory process and in the Conference itself (UNGA, 2001b).

A number of NGOs were present during the three PrepCom sessions, and groups of NGOs were allowed to address special meetings of the second and third sessions. These presentations were well received and helped to allay the fears of certain delegations (e.g. Algeria, China) that NGOs would 'hijack' the Conference or cause embarrassment to certain delegations. The NGO presence during the PrepComs also helped to 'normalize' the presence of NGOs at the Conference itself.

A large number of NGOs were present at the Conference—119 organizations registered and 380 representatives attended the Conference (UNDDA, 2001). They represented domestic gun control groups, groups concerned by the humanitarian effects of small arms proliferation or their impacts on development or health, research organizations, church groups, gun collector and sport shooting bodies, and others. While these numbers were modest in comparison with some other UN conferences, they succeeded in making their presence felt.

The plenary session, held on 16 July, was probably the most important expression, at least in symbolic terms, of the NGO role at the Conference. The 42 presentations given by representatives of both NGO communities reflected the full range of their concerns and expertise. A series of side events was held by various NGOs in rooms near the main Conference room on themes like 'The Impact of Small Arms on Children' or particular regions of the world such as 'Small Arms Issues in Africa'. Considerable NGO attention and support was also given to the gun destruction events held by various governments in different parts of the world on 9 July, the opening day of the Conference.

NGOs were also an important source of information on Conference developments, issuing daily reports distributed inside the UN and worldwide. A number of countries such as Canada, Ireland, Netherlands, New Zealand, Norway, Switzerland, and the United Kingdom included NGO representatives on their delegations.

It is difficult to determine with any precision the impact on the Conference outcome of the NGO presence in New York in July. The *Programme of Action* that emerged from the process represented a watering down of previous drafts. In this sense, the firearm community had the greater influence, because of its influence on the negotiating position of one state—the US. It was widely credited as inspiring the uncompromising US position that forced the withdrawal of key provisions from the *Programme of Action* (Stohl, 2001).

However, the real long-term impact of the IANSA-affiliated NGOs on the Conference process is undoubtedly much more substantial. The presence of these NGOs in New York not only underlined the importance of this agenda but also strengthened the hand of those states which struggled to hold the line against further erosions of the language contained in previous drafts of the *Programme of Action*. At the same time, the encounters of delegation members and NGOs in New York will undoubtedly consolidate relationships that will form a key part of post-Conference follow-up.

SMALL ARMS SURVEY 2002**BOX 5.2 NGOs and the 2001 UN Small Arms Conference (continued)**

It is also important to note that the Conference was the result of years of activity by governments and NGOs alike. Arguably more important than the impact of NGOs on the results of any UN conference is the impact the holding of the conference has had on NGOs themselves. In the small arms case, as with so many previous UN conferences, the run-up to the Conference saw NGOs develop their positions, strengthen their networks, engage new constituencies, and raise essential funds. Indeed, it seems clear that July 2001 has strengthened the capacity of NGOs to further engage in the post-Conference work that lies ahead. The experience of NGO involvement in the 2001 UN Conference process can leave no doubt that they will continue to be essential actors in the next stages of international action on small arms—as recognized in the *Programme of Action* itself.⁸

Source: Atwood (2001)

The Conference**The end game: Negotiating a consensus at the Conference**

At the end of the third and final PrepCom session in March 2001 it was agreed that the Chairman would produce an Informal Paper containing his assessment of the discussions during the third PrepCom.⁹ It was also agreed, largely as a result of pressure from NAM states, that the Chairman would not produce a rolling text of the second draft of the *Programme of Action*, based on the discussions during the third PrepCom, and that L.4/Rev.1 as issued on 12 February would provide the basis for negotiations at the July Conference. As a result, delegations arrived at the Conference at UN Headquarters in New York on 9 July with only L.4/Rev.1 plus a compilation of views—often contradictory—from the discussions at the second and third sessions of the PrepCom.

Actual negotiations on the final *Programme of Action* did not start until the second week of the Conference. At the third PrepCom it had been agreed that the first week would be devoted to statements at the ministerial level. This is standard practice for major international conferences, intended to give added weight to the proceedings.

Ministerial level attendance at the Conference was poor, arguably reflecting a lack of commitment to the issue on the part of many countries. During the first week the Conference heard statements from 143 speakers, including one vice-president, two deputy prime ministers, 38 foreign and other ministers, and 23 deputy ministers. Of those, 131 represented their countries, four spoke for regional groups, and eight spoke for UN agencies and intergovernmental organizations (Batchelor, 2001).

Despite the presence of few ministerial-level officials at the Conference, the ministerial session turned out to be much more than a pro forma event. On the first day, the US representative, Under-Secretary of State for Arms Control and International Security John Bolton, gave a tough speech, which literally woke up the Conference. He called the draft *Programme of Action* defective and identified several aspects, which the US could not, and would not, support (see Box 5.3). Most of the other ministerial-level statements were not nearly as critical or provocative as the US one. Generally they tended to highlight specific dimensions of the illicit trade in small arms related to their own country and/or region, while at the same time reaffirming their commitment to ensuring the success of the Conference.

The Conference President, Ambassador Camilo Reyes of Colombia, also used the first week of the Conference to give states a final opportunity to comment on the draft *Programme of Action* (L.4/Rev.1). He felt that he needed to hear directly from states himself, as it was clear that he would be required to write a new draft prior to the final phase of negotiations. He also appointed various vice-presidents of the Conference to conduct consultations on problematic paragraphs in the hope of developing more acceptable text for his final draft.

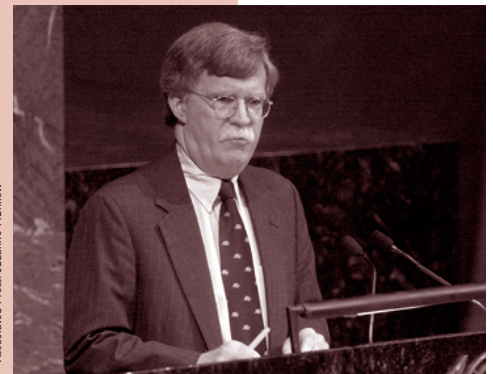
BOX 5.3 John Bolton at the UN Conference

The United States was a major player throughout the Conference process. At the Conference itself, however, its primary role was one of obstructionist. This was clearly demonstrated on the opening day of the Conference on 9 July, when the US Under-Secretary of State for Arms Control and International Security, John R. Bolton, gave a blistering speech that literally woke up the Conference. After a few words praising the goals of the Conference, Bolton made it clear that the US would not support a *Programme of Action* which he characterized as defective. Specifically he stated that the United States would not support:

- measures constraining legal trade and legal manufacturing of small arms and light weapons;
- the promotion of international advocacy activity by international or non-governmental organizations;
- measures that prohibit civilian possession of small arms;
- measures limiting trade in small arms and light weapons solely to governments; and
- a mandatory Review Conference.

The media covering the event used various phrases to describe this speech—tough, mean, hard, a warning, prepared to do battle, adding insult to injury, etc. The speech also made news for reasons other than its tone. The extensive citation of the Second Amendment of the US Constitution reflected the NRA's influence on the American position, which was cemented through the presence of some of its members on the US delegation.

The paragraph in L.4/Rev.1 referring to advocacy (UNGA, 2001a, sec. III, para. 18) was so uncontroversial that it had not drawn one intervention during the third PrepCom. Delegations were truly puzzled by the reference and assumed that the US had included it to increase the unpleasantness of its attack on the draft text. Veteran disarmament diplomats at the Conference had a more sober assessment. Their goal was to reach a consensus on a *Programme of Action*, even if imperfect, for the cost of failure was unacceptable. In their view, two of the points made by Bolton on supplying non-state actors and civilian possession were well known. The brusqueness of the attack was not surprising to them, given that the various drafts of the *Programme* had kept these paragraphs in despite strenuous US objections. The speech merely emphasized that the US was indeed serious and something had to be negotiated on these two points. The paragraph on advocacy was not that important. The point on constraining legal trade and manufacturing was somewhat exaggerated, and in any case many other states shared that view. Finally, many felt that the threat to not support a Review Conference was a bargaining chip that the US would give up in exchange for the deletion of the two sensitive paragraphs on supplying non-state actors and civilian possession.



© Associated Press/Suzanne Plunkett
US Under-Secretary of State, John Bolton, warns against a Programme of Action that intrudes on sovereignty.

The final push

On the basis of statements heard during the first week of the Conference, on Monday 16 July the President distributed a revised version of the draft *Programme of Action* (A/CONF.192/L.5). Since very little new text had been suggested since the end of the third PrepCom, this draft mainly reflected the review conducted in the first week of the Conference. The draft contained some new paragraphs that had been agreed during the third PrepCom, but, with a few exceptions, it left much of the language on the contentious issues the same as the previous draft (L.4/Rev.1). Some states, including the Arab League, however, were still uncomfortable with the language on humanitarian concerns and transparency that remained in the draft text.

At this point the President began a series of formal consultations on the key contentious issues, such as the use of the phrase 'excessive and destabilizing accumulations', civilian ownership, supplying non-state actors, transparency, self-determination, export controls, and follow-up. Based on his assessment of the debate, he invited the representatives of selected states to meet with him privately on each issue. By Thursday 19 July there were still a number of paragraphs that could not be agreed.

SMALL ARMS SURVEY 2002

On Friday 20 July, the last scheduled day of the Conference, the President introduced a package of proposals in the form of six Conference Papers (CRP1–CRP6) with new language on all the outstanding contentious issues. One by one, as the end of the Conference approached, agreement was reached on all issues except supplying non-state actors and civilian ownership, the two issues that the US alone had insisted be dropped if it were to join a consensus on the draft *Programme of Action*.

Given the late hour most delegations had conceded that these two paragraphs would have to be removed. In exchange, the US delegation agreed to allow a follow-up conference (not capitalized) to be held in 2006. They were also able to insist that the date and venue would be decided at the 58th session of the General Assembly in 2003. The African bloc, in a display of unity characteristic of its overall behaviour at the Conference, insisted that the two paragraphs remain in the text. This stalemate held until around 6.00 a.m. on Saturday, 21 July, when the African states agreed to drop the two paragraphs in exchange for a strong final statement by the Conference President describing what had happened. Ambassador Reyes did so during the adoption of the final *Programme* later that afternoon, noting:

While congratulating all participants for their diligence in reaching this new consensus, I must, as President, also express my disappointment over the Conference's inability to agree, due to the concerns of one State, on language recognizing the need to establish and maintain controls over private ownership of these deadly weapons and the need for preventing sales of such arms to non-State groups.

The States of the region most afflicted by this global crisis, Africa, had agreed only with the greatest of reluctance to the deletion of proposed language addressing these vital issues... They did so strictly in the interests of reaching a compromise that would permit the world community as a whole to proceed together with some first steps at the global level to alleviate this common threat (Reyes, 2001).

In the afternoon of Saturday 21 July, the Conference adopted the orally amended draft *Programme of Action* (A/CONF.192/L.5/Rev.1) and its report to the General Assembly by consensus.

The Programme of Action: Reaching consensus

The struggle to achieve consensus on the draft *Programme of Action* was in the end reduced to negotiations around two issues: civilian possession and transfers to non-state actors. In both cases the US delegation wanted these dropped from the final document, while many other delegations strongly supported their inclusion. While it appeared that the US was isolated on the two issues, many delegations were in fact content to hide behind the US stance and remain silent during the negotiations on them. This section provides an analysis of the *Programme of Action*, focusing on how some of the contentious issues were resolved.

The Preamble (Section I)

In all UN conferences, the negotiating of the Preamble is critical. It establishes agreed causes and consequences of the problem, the norms and principles needed to solve it, and the objectives of the conference itself. If certain proposals fall by the wayside in negotiations, at a minimum the Preamble stands to guide further action by the inter-

The struggle to achieve consensus on the draft *Programme of Action* was in the end reduced to negotiations around two issues: civilian possession and transfers to non-state actors.

CONFERENCE

national community after the conference is concluded. Hence the serious debate on many of the provisions of the *Programme* Preamble.

Definition of small arms and light weapons.

Defining the subject of a negotiated document is always controversial. States will logically argue that a programme requires a shared understanding of the problem. On the other hand, delegations opposed to any treaty or programme would just as soon tie up the process in definitional arguments. By the final round of negotiations, three different ways of dealing with the definitional issue had been tabled: specific definitions by the US and the EU that limited the weapons to strictly military types, the definition developed by the 1997 Panel, and no reference at all to a definition. The differences arose from the interest of specific countries in tailoring the *Programme of Action* to the types of small arms and light weapons of greatest concern to them. For example, India, Sri Lanka, and some African states insisted that the *Programme* address ammunition and explosives. The US was under pressure from the NRA to ensure that the *Programme* did not cover civilian weapons.

In the first draft, the solution proposed was to simply refer in a footnote to the definition developed by the 1997 Panel, a three-page section of the report. The option adopted at the final session of the Conference was to have no definition. Proponents explained that precision was not necessary in a political document. The issue melted away in the final days of the Conference. Nowhere in the *Programme* is there a definition of small arms and light weapons.

Humanitarian issues and human rights. Despite some early resistance, most states came to see that small arms were in very important ways a humanitarian issue (HUMANITARIAN). Much of the Preamble reflects this and was agreed early in the process. The one exception was the link between the illicit trade and the excessive accumulation of these weapons on the one hand, and violations of human rights and international humanitarian law on the other. Despite efforts by the EU, Canada, Costa Rica, and some African states, this did not make it into the final text. This reflected the position of a number of states, including China, which made it clear they would not agree to any *Programme of Action* that contained any reference to human rights violations. The final *Programme* thus contains no language on human rights violations.

Multifaceted nature of the problem. A majority of states came to see small arms as more than a narrowly defined arms control problem. These states made a major effort to get as many dimensions of the problem as possible into the Preamble. This was opposed by other states that did not wish to see the subject expanded into other issue areas. One such dimension was the effect on children, suggested by Canada and some African states. The US particularly wished to limit such references. Another example was Norway's fight to keep 'health' in the preambular paragraph listing the dimensions of the problem, in order to provide a mandate for the World Health Organization to continue to develop its work on this issue. In the end the Preamble covered a wide range of consequences and



Conference President Camilo Reyes of Colombia and Secretary-General João Honwana of the UN Department for Disarmament Affairs co-ordinating political and procedural aspects.

A number of states made it clear they would not agree to any *Programme of Action* that contained any reference to human rights violations.

SMALL ARMS SURVEY 2002

dimensions of the problem (UNGA, 2001d, sec. I, paras 2, 5, 6), which in effect created additional legitimacy for a full range of international and non-governmental organizations—in addition to national governments—to take action to prevent and reduce problems associated with small arms and light weapons.

Self-determination. Veterans of multilateral disarmament diplomacy were very familiar with the debate that took place over the inclusion of a paragraph that recognizes the right of self-determination of all peoples. While this issue is always contentious, it was particularly so in the *Programme of Action*, since the illicit trade in small arms is very closely linked to self-determination and the arming of non-state actors (TRANSFERS). In the Israeli view, ‘reference made to this principle is outside the scope of the mandate of the Conference and could be mistaken as legitimization of the illicit traffic in small arms and their use, thus inducing terrorism on the pretext of self-determination’ (Israel, 2001). Israel and several countries facing secessionist threats, including Sri Lanka and India, wanted to eliminate this paragraph or at least tone it down by adding a proviso that the rationale is unacceptable if it challenges the territorial integrity of a state.

In the final *Programme of Action* (sec. I, para. 11), the delegates were able to agree on a final text containing both points of view.¹⁰ However, the Israeli delegation in a note verbale dated 20 July 2001 disassociated itself with the language of this paragraph, asserting that it served ‘the narrow political interests of certain participants’ (Israel, 2001).

Excessive and destabilizing accumulation. Since the small arms issue emerged on the UN agenda in 1995, the excessive and destabilizing accumulation of these weapons had been identified as one of its major manifestations. This implied that the negative consequences of small arms go beyond the ‘illicit trade’ in them. The phrase had therefore become a code for addressing the legal acquisition, production, and transfer of these weapons, and was an invitation for controversy.

During the third PrepCom session, the Arab group in particular began to call for the elimination of all references to ‘excessive and destabilizing accumulation’ and tried to substitute the much narrower ‘illicit trade’. In one of the more innovative solutions to stalemate at the Conference, the phrase remained in the Preamble (paragraph 22(c)) but was removed from the Measures section of the *Programme*. The definition of the term, as given in the Report of the 1997 Panel, was included as a footnote reference in the Preamble. The removal of the term from the Measures section meant that no (implied) reference was made to restraint in the legal acquisition or export of these weapons—a disappointment to the EU and others who felt that some sort of restraint provision was crucial to an effective solution.

Preventing, Combating, and Eradicating the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (Section II)

National measures

National transparency. Like the term ‘excessive and destabilizing accumulation’, the concept of transparency was critical to those states who wanted a strong and effective *Programme of Action*. In their view, legal production and transfers first had to become transparent if the illicit trade was to be tackled. The EU and Canada pushed from the beginning to list government transparency as a basic principle of the *Programme of Action*. While such a principle was in the first draft (L.4), Arab League states and China, among others, objected strenuously to it during the Second PrepCom.

CONFERENCE

The President's draft of 16 July (L.5) did not mention transparency as a norm or principle in the Preamble. It did contain a national measure committing states to provide relevant information on illicit trade (sec. II, para. 23), but did not extend this, as the EU had proposed, to cover all small arms exports and imports. At the regional level, the final *Programme* included 'measures to enhance transparency' (sec. II, para. 31). There are no transparency measures at the global level.

Marking. Some states wished to go beyond what was accomplished in the UN *Firearms Protocol* (MEASURES) and establish a uniform and mandatory marking system for all small arms. But at the Conference there was support only for language calling for a unique, appropriate, and reliable marking on each small arm as part of the production process (sec. II, para. 7). There was no serious attempt to push for a universal, international marking standard at this point, given the resistance of some states such as China.

Many states felt that the *Programme* had to establish that even legal exports could have negative consequences.

Export and re-export controls. Many states, such as the EU and Canada, felt that, if the *Programme* did not establish that even legal exports could have negative consequences, then it would contain a loophole large enough to render ineffective much of the rest of the *Programme*. The key for these states was export and re-export control provisions that would commit states to consider the implications of their exports in advance.

Throughout the deliberations states such as China, Russia, and some NAM states resisted any measures that would restrict their ability to export or re-export small arms. This was consistent with long-standing differences between arms suppliers like the EU and the US and recipient countries that have historically resisted any restrictions on their ability to acquire military equipment. However, the President's draft of 16 July (L.5) attempted to reach a compromise by including language committing states to assess export applications 'according to strict norms and procedures ... consistent with States' existing responsibilities under international law'. This reference to international law was seen as too weak by the European Union. In a further compromise, the President added 'relevant' before 'international law'. When the phrase 'taking into account in particular the risk of diversion of these weapons into the illegal trade' was added, and the word 'norms' replaced with 'national regulations', a consensus was reached (UNGA, 2001d, sec. II, para. 11).

A similar debate took place over states' ability to re-export weapons imported from another state. In this case, both sides got what they wanted. States undertook to make every effort to 'notify the original exporting State in accordance with their bilateral agreements before the retransfer of those weapons', but 'without prejudice to the right of States to re-export small arms and light weapons that they have previously imported' (sec. II, para. 13).

Civilian possession. A majority of national delegations saw the possession of small arms by civilians as a potential problem and believed that the Conference should deal with the issue. No state, however, was prepared to have common rules for civilian possession applied at the national level. That is why the earlier language in L.4/Rev.1 was general, asking states to 'seriously consider the prohibition of unrestricted trade and private ownership of small arms and light weapons specifically designed for military purposes' (UNGA, 2001a, sec. II, para. 20).

The US, not surprisingly, opposed this provision, citing its own constitution. South Africa stated that keeping this paragraph in the document was a 'red line' issue for it. Norway, among others, gave an extensive defence of the paragraph, arguing that civilian possession was directly linked to many of the consequences outlined in the Preamble.

SMALL ARMS SURVEY 2002

In the clearest case of the NRA's influence on the US position, the latter rejected any mention of the term 'civilian possession' in the text, no matter how general or lacking in commitment. Several states suggested compromise language stressing the prohibition of fully automatic weapons. Others reminded the US that the language of the civilian possession paragraph came from the Report of the 1999 Group, to which the US and the whole General Assembly had agreed (UNGA, 1999a, para. 120). Several options were presented from the floor in this vein, each of which was dismissed by the US.

Reflecting suggestions from the floor, paragraph 22 of the national measures section of the *Programme* was changed to read: 'To establish or maintain, subject to the respective constitutional and legal systems of States, regulations on the ownership of small arms and light weapons and to apply those regulations in a manner consistent with the Programme of Action.' Again, the US dismissed the deal, as did other states that insisted that the issue was important enough to be retained as an operational measure. The US delegation did try to propose language on this issue, but it was unacceptable to the rest of the Conference. Eventually the Conference decided to drop this paragraph altogether.

BOX 5.4 A North–South divide?

On arms control issues generally, states from the South with little capacity for indigenous defence production jealously guard their right to acquire weapons. This norm is enshrined in the Preamble to the *Programme of Action*: 'Reaffirming also the right of each State to manufacture, import and retain small arms and light weapons for its self-defence and security needs'. This explains why, with few exceptions, these states did not support proposed measures that would interfere with this right.

The result was a North–South divide in the Conference on such measures as export and re-export controls, indicators (definitions) of surplus weapons, transparency relating to the legal small arms trade, and linking the *Programme* to development and the prospect of conditionality. Few, if any, southern states supported these measures, but they were the major focus of the European Union, United States, Japan, and other northern industrialized states. For example, the EU's proposals on these measures were systematically excluded from drafts, putting them in a bad bargaining position as time ran short.

One effect of the rejection of the EU proposals on export controls was a hardening of the positions the EU and its supporters held on these issues. At the beginning of the process, the EU had been pushing only for export control criteria at the regional level. Subsequently, along with Canada, it began insisting that specific criteria be developed at the global level. It also pushed for legally binding treaties on marking and tracing, and brokers—sooner rather than later.

The *Bamako Declaration* was a very influential source of proposals by the NAM states for the *Programme of Action*. Significantly, this declaration contains no language that would restrict the right of states to import weapons.

The Conference as a whole, however, did not divide along North–South lines, since on most other contentious issues the coalitions were less clear. For example, the Arab bloc was basically alone among states from the South in opposing the use of the phrase 'excessive and destabilizing accumulation' as it was seen to relate to the Arab–Israeli conflict. Opposition to legally binding instruments was led by the US, China, the Arab group, and a few other key states from the South. And the South certainly did not behave as a bloc on many issues, including marking and tracing, civilian ownership, transparency, destruction of weapons, and the suggestion that Conference follow-up be enhanced with an *ad hoc* committee to monitor progress on the *Programme of Action*. On these and other issues, Canada, the EU, Norway, and Switzerland were supported by a number of affected states from Africa, Asia, and Latin America.

Supplying arms to governments only. Early on in the Conference process, the US flagged as one of its 'red line issues' the paragraph in the draft *Programme* establishing that 'Exporting countries will supply small arms only to Governments, either directly or through entities authorized to procure arms on behalf of Governments' (UNGA, 2000b, sec. II, para. 9(f)). It objected that this would constrain legal commercial sales to collectors and hunters, and would tie government hands more broadly in the future. The speech by the American Under-Secretary of State John Bolton at the ministerial portion of the Conference made this abundantly clear when he stated that 'this proposal

CONFERENCE

would preclude assistance to an oppressed non-state group defending itself from a genocidal government' (Bolton, 2001). Yet many other delegations took the floor in support of the paragraph, suggesting some slight modifications that did not alter its meaning.

The President's compromise package contained new text on this issue, taking it out of the Measures section and making it part of the Preamble: '*Believing* also that Governments bear the responsibility to supply small arms and light weapons only to Governments, or to entities duly authorised by governments.' As in the case of civilian possession, the United States rejected the proposed text, rebuffing the African bloc which had decided to stand firm against the US on this issue.

It is interesting to note that at no time in the debate did any other state side with the US on the non-state actor question, even though many countries regularly export arms to them. Since they knew that the US would not back down, these states could afford to hide behind the US position—letting it appear as the sole obstacle to agreement on this issue.

Destruction of surplus weapons. Prior to the writing of the first draft, there was a relatively strong consensus on the need to destroy surplus weapons. Indeed, it was already happening in many places. So the opposition that emerged to the measures on destruction of surplus weapons came as a surprise to some.

A primary concern was ensuring that national authorities alone had the authority to declare weapons surplus. An EU-Canadian proposal to have universal guidelines for determining a surplus never gained enough support to be included in the final text. Several countries, especially the Arab group, opposed any reference to international standards for destruction, insisting that this should be left to state discretion. There was also opposition to destruction as the preferred means for disposing of collected weapons. Many countries prefer to recycle confiscated weapons for use by their own police and armed forces, or sell them commercially. The prior agreed text of this paragraph was much weaker than many desired. The final text did, however, contain language encouraging public destruction and voluntary surrender of weapons (UNGA, 2001d, sec. II, para. 20).

There was opposition to destruction as the preferred means for disposing of collected weapons.

Regional measures

With few exceptions, points of contention at the regional level involved concepts that some states would find unacceptable if applied in their own region or at the global level. If these could be discouraged or watered down, it would lower the risk that they could be considered at the global level or applied to their regions.

Since several regions have adopted far-reaching measures, such as the EU, the OAS, and the OSCE (Small Arms Survey, 2001, ch. 7), it was more difficult for states from those regions to object. Instead it was countries such as China and India, along with some of the Arab states, that were most active in limiting agreement on regional measures. To ensure that these would be applied only to specific regions and not globally, the terms 'as needed', 'where appropriate', and 'encouraged' were sprinkled liberally throughout this section of the *Programme*. In this way, most objections were met.

The only example of resistance to a regional issue that lingered to the end of the negotiations was objection to the encouragement of moratoriums on small arms acquisition. This came especially from the Arab group, China, and Cuba. This extreme position, despite a text that clearly left it to the countries of the region to develop and implement such moratoriums, arose from their determination to keep legal transfers sacrosanct. Small arms moratoriums were seen as a threat to legal transfers—a bad precedent that ought not to be encouraged. Despite this opposition,

SMALL ARMS SURVEY 2002

the final text encourages moratoriums on the transfer and manufacture of small arms and light weapons in affected regions as well as 'regional action programmes to prevent, combat and eradicate the illicit trade'. It also calls on countries outside such regions to respect these moratoriums and action programmes (UNGA, 2001d, sec. II, para. 26).

Global measures

Marking and tracing. The fate of marking and tracing measures was more critical than most, especially for France and Switzerland, which had tabled a well-developed plan to put a marking and tracing regime into effect. This was their major initiative to significantly help reduce and prosecute the illicit trade in small arms (France and Switzerland, 2000; 2001a; 2001b). The concept itself was not controversial, as indicated by the strong language in support of national marking that had gone unchallenged since the first draft (L.4) of the *Programme of Action* in December 2000.



© Associated Press/Richard Drew

Multilateral diplomacy produced a consensus Programme of Action, but no commitment to negotiate legally binding instruments.

The controversy initially surrounded the goal of a universal marking system, which disappeared early in the process. This was followed by disagreement on negotiation of a legally binding instrument on marking and tracing. The Arab group, China, and the US weighed in heavily against such measures. China had held such a view since negotiations to develop the UN *Firearms Protocol* started in the mid-1990s, and objected to the call for a commitment to negotiate a legally binding marking and tracing instrument at the global level. American opposition reflected a desire to see efforts to eradicate the illicit small arms trade focused on the regional level, and, if global, placed in the criminal context exemplified by the *Firearms Protocol*. The US also opposed such a commitment as it opposed any reference to legally binding UN disarmament action.

The text that did make it into the final document urged the strengthening of 'the ability of States to co-operate in identifying and tracing in a timely and reliable manner illicit small arms and light weapons' (UNGA, 2001d, sec. II, para. 36). Even without a strong global mandate, advocates of a marking and tracing regime, such as France and Switzerland, believed that this paragraph, along with a much stronger commitment to national action (sec. II, para. 7) was enough to begin developing support for an international mechanism, even prior to the completion of the feasibility study called for in the follow-up section of the *Programme* (sec. IV, para. 1(c)).

Brokering. A similar debate took place on the question of small arms brokering. However, discussion of how to tackle illicit arms brokering was much less advanced than in the case of marking and tracing. Whereas marking was accepted in almost all states and needed only to be elevated to the global level, much less was agreed on brokering. As a result there was much less confidence that the regions and the international community were prepared to start negotiating a legal instrument.

The Conference quickly developed a consensus that states needed to regulate the activities of brokers at the national level, especially since very few states actually had such regulations. The United States suggested that model legislation be developed as a precursor to an international instrument. The final *Programme of Action* has a global measure committing states 'To develop common understandings of the basic issues and the scope of the problems related to illicit brokering' (sec. II, para. 39).

The Conference quickly developed a consensus that states needed to regulate the activities of brokers at the national level, especially since very few states actually had such regulations.

CONFERENCE

Implementation, International Co-operation, and Assistance (Section III)

Section III was the least controversial part of the *Programme of Action*, and many paragraphs from the earlier draft (L.4/Rev.1) were included in the final document. The only new paragraphs are paragraph 15, relating to the provision of 'assistance to combat the illicit trade in small arms and light weapons linked to drug trafficking, transnational organized crime and terrorism', and paragraph 17, concerned with addressing the 'problems related to human and sustainable development' in post-conflict situations.

The majority of paragraphs in this section are concerned with international co-operation, the sharing of information, and the provision of financial and technical assistance with respect to issues such as marking and tracing, stockpile management, the destruction of surplus stocks, and the disarmament, demobilization, and re-integration of ex-combatants. Many delegations, particularly from NAM states, insisted on the inclusion of language such as 'upon request' or 'subject to their national practices' to ensure that such assistance did not undermine national sovereignty. The concerns of donor states and international organizations were also reflected in the use of language such as 'where appropriate', 'in a position to do so', and 'within existing resources'. The US particularly resisted any language that implied any financial obligations or commitments, and in many places the language was diluted to suggest non-financial forms of assistance.

Follow-up to the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (Section IV)

During the PrepComs and throughout the Conference, views had diverged widely on how formal the follow-up to the Conference and its *Programme of Action* should be. This was reflected in the struggle to reach consensus on Section IV.

Time frame for review meetings. Many countries wanted a firm commitment establishing when the Conference review process would start. Many were anxious to see something happen before 2006. Some suggested biennial meetings, starting in 2003. At the insistence of the US, the final wording in the compromise package produced by the Conference President on the last day of the Conference called for a conference (not capitalized) in 2006, the date and venue to be decided by the 58th session of the General Assembly in 2003. This conference will review progress on implementation of the *Programme of Action* (UNGA, 2001d, sec. IV, para. 1(a)).

Section IV also provides for biennial meetings, but does not state when these will begin (sec. IV, para. 1(b)).¹¹ This was a classic compromise, setting a firm date for a review and establishing a monitoring mechanism (biennial meetings), while giving the US and other sceptics time to resist a review conference if the implementation of the *Programme of Action* is not going well. It also tries to keep the process within the UN, giving those who might be unhappy with the rate of progress reason not to take the issue outside the UN.

Topics for review. The agenda of any review process was equally important to Conference follow-up. This involved a repeat of the debate over determining the agenda for the Conference itself. Colombia submitted a lengthy proposal outlining the information it thought should be submitted for review. Canada and the EU wanted the follow-up to include not just monitoring implementation of the *Programme* but also consideration of new measures. Until the very end of the negotiations, the draft of the Conference President included the mandate to 'examine ways to

SMALL ARMS SURVEY 2002

strengthen and develop measures contained' in the *Programme*. This was resisted and dropped from the final text. It is now an open question whether the work of the biennial meetings will deal exclusively with the *Programme of Action* as written.

Ad hoc review mechanisms. Sharply divergent views developed on how formal the follow-up to the Conference and its *Programme of Action* should be. The first draft of the *Programme of Action* (L.4) suggested a variety of mechanisms, including a specific *ad hoc* mechanism to assess and monitor progress implementing the *Programme of Action* soon after the end of the Conference. A number of states, including South Africa, responded that since the General Assembly called for the Conference, it was up to the General Assembly to develop all aspects of the review process.

Brazil, Canada, and many other states continued to advocate an *ad hoc* mechanism until the very end of the Conference. Some states argued that they could not afford to participate in such *ad hoc* mechanisms, as opposed to formal General Assembly-sanctioned meetings that provided funding. But most of the opposition stemmed from fears that an independent global body might impinge on states' national small arms policies. No reference to an *ad hoc* mechanism is included in the final text.

BOX 5.5 Small arms and terrorism

The association between terrorism and the illicit trade in small arms and light weapons appears in several places in the final *Programme of Action*:

I. Preamble...

5. Recognizing that the illicit trade in small arms and light weapons in all its aspects sustains conflicts, exacerbates violence, contributes to the displacement of civilians, undermines respect for international humanitarian law, impedes the provision of humanitarian assistance to victims of armed conflict and fuels crime and terrorism...
7. Concerned also about the close link between terrorism, organized crime, trafficking in drugs and precious minerals and the illicit trade in small arms and light weapons, and stressing the urgency of international efforts and co-operation aimed at combating this trade simultaneously from both a supply and demand perspective...

II. Preventing, combating, and eradicating the illicit trade in small arms and light weapons in all its aspects...

38. To encourage States to consider ratifying or acceding to international legal instruments against terrorism and transnational organized crime...

III. Implementation, international co-operation, and assistance...

15. Upon request, States and appropriate international or regional organizations in a position to do so should provide assistance to combat the illicit trade in small arms and light weapons linked to drug trafficking, transnational organized crime and terrorism...

Sri Lanka took the lead in attempting to strengthen the provisions relating to terrorism. It was unsuccessful in adding to the Preamble references to 'hostage taking, bombing, human smuggling and money laundering'. However, it was successful in adding financing to paragraphs 4 and 6 of Section II (national measures).

Given the new emphasis on terrorism after the events of 11 September 2001, the *Programme of Action* highlights the importance of addressing the tools of violence as well as terrorism itself.

CONFERENCE

Reporting. Various proposals called for reporting on the progress of countries in implementing the *Programme of Action*. Until the very last moment, the draft text included provision for biennial country reports to the Secretary-General and another produced by the Secretary-General. As with other specific follow-up mandates, these were dropped in the final text.

International legal instruments. Before and during the Conference, there were efforts to get states to agree to negotiate legally binding global instruments on marking and tracing, as well as brokering. In the end, due to concerns of states such as China and the US, the final text calls only for a UN study on the feasibility of developing an international tracing instrument (UNGA, 2001d, sec. IV, para. 1 (c)). As for brokering, the final document calls on states 'To consider further steps to enhance international co-operation in preventing, combating and eradicating illicit brokering in small arms and light weapons' (para. 1 (d)). This was weaker than the text of the earlier draft (UNGA, 2001a, sec. IV, para. 1(d)). Despite the absence of agreement on international legal instruments, Sections II and III of the final *Programme of Action* contain a range of operational measures at the national and global levels on marking and tracing, as well as brokering.

Action by international and non-governmental organizations in support of the Programme of Action. Paragraph 2 of the follow-up section provides a mandate for all actors—not only national governments—to contribute to the implementation of the *Programme of Action*. It encourages 'the United Nations and other appropriate international and regional organizations to undertake initiatives to promote the implementation of the Programme'. It further encourages 'non-governmental organizations and civil society to engage, as appropriate, in all aspects of international, regional, subregional and national efforts to implement the present Programme' (UNGA, 2001d, sec. IV, para. 2).

These paragraphs were essential to those states that wanted a mandate to proceed vigorously with supporting efforts to deal with small arms. Equally important for this purpose was paragraph 2(b), encouraging 'all initiatives to mobilize resources and expertise to promote the implementation of the Programme of Action and to provide assistance to States in their implementation of the Programme'. In principle, almost everything done to address the small arms problem can now be supported by the UN *Programme of Action*.

Assessing the UN Small Arms Conference

A successful outcome?

After nearly seven months of negotiations, culminating in the final two weeks in New York, the Conference was able to agree by consensus on a *Programme of Action*. This achievement by itself, given the state of the multilateral climate on the small arms issue even a few years ago, means that the Conference can be considered a success.

The Conference itself was also important for a number of reasons. First, it generated an international debate on the issue and forced states to go on record with their views on the causes and consequences of the problem, as well as on the action they supported.¹² Those governments and NGOs preparing to take the issue forward now have a much better idea of which countries might be part of any coalition of 'like-minded states' that could provide leadership in the next five years. The Conference also generated two weeks of high-level international media attention and as such raised awareness of the various dimensions of the small arms issue. This consciousness-raising aspect of the

SMALL ARMS SURVEY 2002

The various partnerships built by the Conference will be crucial for future efforts to address the different dimensions of the small arms issue.

Conference should not be underestimated, and may prove to be one of its important legacies. Finally, the Conference helped to build partnerships amongst civil society groups, and between NGOs and government delegations, partnerships that will be crucial for future efforts to address the different dimensions of the small arms issue (see Box 5.2).

The *Programme of Action* itself can also be regarded as a positive outcome in so far as it defines some of the norms and principles that will guide the work of the international community on the small arms issue in the coming years. In particular, it confirms that the problems caused by the proliferation and misuse of small arms are multifaceted, going beyond arms control and disarmament to include conflict prevention, development, crime control, public health, and humanitarian dimensions. It also establishes that durable solutions to armed conflicts must focus on the tools of violence as well as root causes. Furthermore, it assigns primary responsibility for solving the problems of small arms to national governments, which have committed themselves to wide-ranging improvements in the way they manage the production, acquisition, export, re-export, storage, collection, and destruction of surplus small arms and light weapons. Finally, the *Programme of Action* highlights both regional and global dimensions of the problem, dimensions that dictate co-operation at all levels.

Despite major efforts by some states to restrict the language of the document to just the illicit trade in small arms and light weapons, the document does agree to treat the problem 'in all its aspects'. Finally, the document commits states to a follow-up process that includes progress reports, biennial meetings, a review conference in 2006, and, most importantly, a mandate for the mobilization of resources and expertise by states, in co-operation with civil society and international organizations, to promote the implementation of the *Programme of Action*.

Falling short?

But while the Conference and its *Programme of Action* can be deemed successful from certain perspectives, a number of factors temper this positive assessment. The language of the *Programme of Action* is non-binding, and leaves wide margins for states to exercise discretion or interpretation through frequent use of such clauses as 'where applicable', 'as appropriate', 'where needed', or 'on a voluntary basis'. More importantly, several crucial issues identified by certain states and NGOs prior to and during the Conference have not been tackled or included in the final *Programme of Action*. These include concrete commitments to:

- negotiate an international instrument on marking and tracing;
- regulate the civilian possession of weapons;
- increase transparency in the legal production, stockpiling, and trade in small arms;
- control transfers to non-state actors;
- agree upon specific criteria governing arms exports; and
- negotiate an international legal instrument on arms brokering.

Finally, documents, no matter how consensual or well-crafted, do not in themselves destroy surplus weapons, secure stockpiles, punish illicit traffickers, or increase the security of vulnerable groups such as women and children. Ultimately, the success of the Conference and the *Programme of Action* will have to be judged by the effective implementation of its various measures at national, regional, and global levels.

Documents do not in themselves destroy surplus weapons, secure stockpiles, punish illicit traffickers, or increase the security of vulnerable groups.

Conclusion

Whether the 2001 UN Small Arms Conference can be considered a success ultimately depends on which of the points made in the preceding section one regards as most significant. While the *Programme of Action*, which was agreed by consensus by all participating states, is not legally binding, it does contain a concrete set of measures at national, regional, and global levels. As a result, it represents the first global framework to guide the work of national governments, regional and international organizations, and civil society in combating the illicit trade in small arms, and has served to raise the level of commitment of states to address the illicit trade in small arms. Finally, it provides the justification for all actors, including NGOs, to monitor, report on, encourage, and if necessary apply political pressure to those states that are not meeting their commitments.

The holding of such a large-scale Conference may also pave the way for more innovative and effective approaches to international disarmament issues in the future. The language of the *Programme of Action* could provide the basis for at least three ways forward. First, the process could remain under the auspices of the UN First Committee, and thus be dominated by an arms control and disarmament perspective. This would represent a minimalist approach, given the well-demonstrated need to broaden the scope beyond arms control perspectives. Second, continued disappointment with omissions in or the implementation of the *Programme of Action* by states may produce a version of the Ottawa Process outside UN auspices and focusing on the humanitarian and economic costs associated with the proliferation and use of small arms. Third, the UN could change the way it tackles the problem by recognizing that the small arms issue is multi-dimensional and by creating a mechanism that allows the consideration of the economic, social, and humanitarian effects of the accumulation, proliferation, and misuse of small arms, and the effective participation of a wide range of stakeholders.



© Reuters/Peter Morgan

The real cost of small arms is symbolized by shoes representing victims of gun violence.

5. List of Abbreviations

1997 Panel	United Nations Panel of Governmental Experts on Small Arms
1999 Group	Group of Governmental Experts on Small Arms
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
Conference	United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
ECOWAS	Economic Community of West African States
EU	European Union
IANSAN	International Action Network on Small Arms
ICBL	International Campaign to Ban Landmines
NAM	Non-Aligned Movement

SMALL ARMS SURVEY 2002

NRA	National Rifle Association
OAS	Organization of American States
OUA	Organization of African Unity
OSCE	Organization for Security and Co-operation in Europe
PrepCom	Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
SAARC	South Asian Association for Regional Cooperation
SADC	Southern African Development Community
WFSA	World Forum on the Future of Sport Shooting Activities

5. Endnotes

- The full text of the final *Programme of Action* is included in the *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (UNGA, 2001e).
- IANSA was officially launched at the Hague Appeal for Peace conference in The Hague, in May 1999. Its predecessor, the Preparatory Committee for a Global Campaign on Small Arms and Light Weapons, began as a web site, <<http://www.prepcom.org>>, in January 1998. See Batchelor (2002).
- In essence, the Swiss government was offering to fund travel and support for representatives from states not already represented in Geneva, most of which were affected by the small arms problem. This would have allowed for the participation of experts from capitals, not just permanent representatives in the New York missions. Nevertheless, a majority of states felt they would be better represented in New York. States not keen on widening the Conference beyond arms control and disarmament also pushed—successfully—to keep it in New York, within the framework of the First Committee process.
- See the events listed in the Annex to the final report of the Conference (UNGA, 2001e).
- As of January 2002, all OAU states except the Democratic Republic of Congo had signed the Constitutive Act of the OAU's successor organization, the African Union. In July 2002, South Africa is scheduled to host the inaugural Summit of the Assembly of the African Union.
- In 1994, Mali asked the UN to assist in the collection of light weapons circulating in the country. This led to the dispatch of a UN advisory mission to Mali in August 1994 and to the General Assembly's adoption of Resolution 49/75 in December 1994, *Assistance to States for Curbing the Illicit Traffic in Small Arms and Collecting Them* (UNGA, 1994). This was the first, formal recognition by the United Nations of the small arms problem, and there has been a similar resolution every year since.
- These countries were: Bulgaria, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, and Slovenia.
- See, for example: UNGA (2001d, sec. I, para. 16; sec. II, para. 40; sec. III, para. 2; sec. IV, para. 2(c)).
- On 4 June 2001 the Chairman issued his Informal Paper outlining his assessment of the discussions at the third PrepCom. It summarized the differences that remained, by *Programme* section and by issue.
- The text used in the final draft of the *Programme of Action* was taken from the *Declaration on the Occasion of the Fiftieth Anniversary of the United Nations* (UNGA, 1995a).
- Note that the UN General Assembly, in its Resolution 56/24V of 24 December 2001, set 2003 as the date of the first biennial meeting (UNGA, 2001f, para. 2).
- See the Small Arms Survey's UN Conference database for details of country statements and positions: <<http://www.smallarmssurvey.org>>

5. Bibliography

- Atwood, David. 2001. *NGOs and the 2001 UN Conference on Small Arms*. Background paper. Geneva: Small Arms Survey.
- Batchelor, Peter. 2001. 'The 2001 UN Conference on Small Arms: A First Step?' *Disarmament Diplomacy*. No. 60. September.
- . 2002. 'NGOs and the Small Arms Issue.' *Disarmament Forum*. No. 1, pp. 37–40.
- Bolton, John. 2001. Statement made at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. 9 July. Available on the Small Arms Survey's UN Conference database: <<http://www.smallarmssurvey.org>>
- Boutros-Ghali, Boutros. 1996. 'Global Leadership After the Cold War.' *Foreign Affairs*. Vol. 75, No. 2. March–April, pp. 86–98.
- Brasilia Declaration of the Regional Preparatory Meeting of the Latin American and Caribbean States for the 2001 United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects ('Brasilia Declaration')*. 2000. 24 November. Reproduced in UN document A/CONF.192/PC/19 of 19 December.
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction ('Ottawa Treaty')*. 1997. Ottawa, 3 December. In force 1 March 1999. <<http://domino.un.org/TreatyStatus.nsf>>
- dos Santos, Carlos. 2000. *Draft Structure and Elements for a Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*. Informal Paper. October.
- Economic Community of West African States (ECOWAS). 1998. *Declaration of a Moratorium on Importation, Exportation and Manufacture of Light Weapons in West Africa*. Abuja, 31 October. Reproduced in UN document A/53/763 – S/1998/1194 of 18 December.
- European Union (EU). 1997. *European Union Programme for Preventing and Combating Illicit Trafficking in Conventional Arms*. 26 June. Reproduced in UN document A/CONF.192/PC/3 of 13 March 2000.
- . 1998a. *European Union Code of Conduct on Arms Exports*. 8 June. Reproduced in UN document A/CONF.192/PC/3 of 13 March 2000.
- . 1998b. *Joint Action of 17 December 1998 Adopted by the Council on the Basis of Article J.3 of the Treaty on European Union on the European Union's Contribution to Combating the Destabilising Accumulation and Spread of Small Arms and Light Weapons (Joint Action on Small Arms)*. 1999/34/CFSP. 17 December. Reproduced in Official Journal L 9 of 15 January 1999.
- . 2000. *Plan of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*. Reproduced in UN document A/CONF.192/PC/21 of 28 December.
- France and Switzerland. 2000. *Food-for-Thought Paper: Contribution to the Realisation of an International Plan of Action in the Context of the 2001 Conference: Marking, Identification and Control of Small Arms and Light Weapons*. Reproduced in UN document A/CONF.192/PC/7, Annex. 17 March.
- . 2001a. *Working Paper by Switzerland and France on Establishing a Tracing Mechanism to Prevent and Reduce Excessive and Destabilizing Accumulation and Transfer of Small Arms and Light Weapons*. Reproduced in UN document A/CONF.192/PC/25. 10 January.

CONFERENCE

- ... 2001b. *Franco-Swiss Workshop on Traceability of Small Arms and Light Weapons: Tracing, Marking and Record-Keeping. Geneva, 12-13 March 2001. Chair's Summary.* Reproduced in UN document A/CONF.192/PC/38, Annex. 23 March.
- Greene, Owen. 2001. *The 2001 Conference and Other Initiatives.* Background paper. Geneva: Small Arms Survey.
- Human Rights Watch (HRW). 2001. 'U.N.: "Program of Inaction" on Small Arms.' *Human Rights News.* New York, 19 July. <<http://www.hrw.org/press/2001/07/smallarms0719.htm>>
- International Action Network on Small Arms (IANSA). 2001. 'Opportunity Squandered to Introduce Tougher Arms Controls.' Press Release. 21 July. <http://www.iansa.org/calendar/2001UN/confnews/pr_oppor.htm>
- Israel. 2001. *Note Verbale Dated 20 July 2001 from the Permanent Mission of Israel to the United Nations Addressed to the Secretariat of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.* UN document A/CONF.192/14 of 31 July.
- Krause, Keith. 2002. 'Multilateral Diplomacy, Norm-Building and UN Conferences: The Case of Small Arms and Light Weapons.' *Global Governance.* Vol. 8, No. 2. Spring.
- Mali. 1996. Statement introducing draft resolution A/C.1/51/L.35, 16th meeting of the UNGA First Committee, 51st session. 6 November. UN document A/C.1/51/PV.16.
- ... 1997. Statement introducing draft resolution A/C.1/52/L.8, 16th meeting of the UNGA First Committee, 52nd session. 6 November. UN document A/C.1/52/PV.16.
- Organization for Security and Co-operation in Europe (OSCE). Forum for Security Co-operation. 2000. *OSCE Document on Small Arms and Light Weapons.* 24 November. FSC.DOC/1/00. <<http://www.osce.org/docs/english/fsc/2000/decisions/fscw231.htm>>
- Organization of African Unity (OAU). 2000. *Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons ('Bamako Declaration').* Bamako, Mali. 1 December. SALW/Decl. (I).
- Organization of American States (OAS). 1997. *Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials ('Inter-American Convention').* Washington, DC. 13 November. AG/RES.1 (XXIV-E/97). Reproduced in UN document A/53/78 of 9 March 1998.
- ... 1998. *Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components, and Ammunition ('Model Regulations').* 2 June. AG/RES. 1543 (XXVIII-O/98).
- Reyes, Camilo. 2001. *Statement by the President of the Conference after the Adoption of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.* Reproduced in UN document A/CONF.192/15 (Annex).
- Small Arms Survey. 2001. *Small Arms Survey 2001: Profiling the Problem.* Oxford: Oxford University Press.
- South Africa. 1998. Statement introducing draft resolution A/C.1/53/L.41/Rev.1, 20th meeting of the UNGA First Committee, 53rd session. 30 October. UN document A/C.1/53/PV.20.
- Southern African Development Community (SADC). 1998. *Southern Africa Regional Action Programme on Light Arms and Illicit Arms Trafficking.* November. Reproduced in Andrew McLean and Elizabeth Clegg, eds. 1999. *Towards Implementation of the Southern Africa Regional Action Programme on Light Arms and Illicit Trafficking, 8-9 September 1999, Pretoria, South Africa: Seminar Report.* Pretoria: Institute for Security Studies, pp. 71-85.
- Stohl, Rachel. 2001. 'United States Weakens Outcome of UN Small Arms and Light Weapons Conference.' *Arms Control Today.* Vol. 31, No. 7. September, pp. 34-5.
- United Nations (UN). 2001a. *Small Arms Conference Concludes with Consensus Adoption of Action Programme.* Press release DC/2795 of 21 July.
- ... 2001b. *Secretary-General Congratulates Conference On 'Important First Steps' To Combat Small-Arms Scourge.* Press Release SG/SM/7896-DC/2796 of 21 July.
- United Nations Department for Disarmament Affairs (UNDDA). 2001. 'A Programme of Action.' *DDA 2001 Update.* June-July.
- United Nations General Assembly (UNGA). 1994. Resolution 49/75G, adopted 15 December. A/RES/49/75 of 15 December.
- ... 1995a. *Declaration on the Occasion of the Fiftieth Anniversary of the United Nations.* Resolution 50/6, adopted 24 October. A/RES/50/6 of 24 October.
- ... 1995b. Resolution 50/70B, adopted 12 December. A/RES/50/70 of 12 December.
- ... 1997a. *Report of the Panel of Governmental Experts on Small Arms.* A/52/298 of 27 August.
- ... 1997b. Resolution 52/38J, adopted 9 December. A/RES/52/38 of 8 January 1998.
- ... 1998. Resolution 53/77E, adopted 4 December 1998. A/RES/53/77 of 12 January 1999.
- ... 1999a. *Report of the Group of Governmental Experts on Small Arms.* A/54/258 of 19 August.
- ... 1999b. Resolution 54/54V, adopted 15 December. A/RES/54/54 of 10 January 2000.
- ... 2000a. *Report of the Preparatory Committee for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.* A/CONF.192/PC/9 of 21 March.
- ... 2000b. *Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.* UN document A/CONF.192/PC/L.4 of 11 December.
- ... 2001a. *Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.* UN document A/CONF.192/PC/L.4/Rev.1 of 12 February.
- ... 2001b. *Decision on the Modalities of Attendance of Non-governmental Organizations at the Sessions of the Preparatory Committee as well as the Conference.* A/CONF.192/PC/39 of 23 March.
- ... 2001c. *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, Supplementing the United Nations Convention against Transnational Organized Crime ('Firearms Protocol').* Reproduced in UN document A/RES/55/255 of 8 June.
- ... 2001d. *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects ('Programme of Action').* 20 July. Reproduced in UN document A/CONF.192/15.
- ... 2001e. *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.* July. A/CONF.192/15. <http://www.un.org/Depts/dda/CAB/smallarms/files/aconf192_15.pdf>
- ... 2001f. Resolution 56/24V, adopted 24 December. A/RES/56/24 of 10 January 2002.

Acknowledgements

Main contributors

David Atwood and Owen Greene.