

UN Small Arms Conference: Evaluation and Prospects

By Tamar Gabelnick and Pamina Firchow

Small arms and light weapons, often ignored in traditional arms control agreements, contribute to the vast majority of death and destruction in conflicts worldwide. Large amounts of small arms not only intensify the lethal effects and duration of fighting, but their ready availability can also lead hostile groups to take up arms in the first place. In post-conflict settings, the continued circulation of small arms among former combatants and new criminals generates an intense atmosphere of insecurity, making it difficult for communities to put a stop to the cycle of bloodshed. In conflicts like those in Angola and Sierra Leone, small arms are illicitly trafficked in exchange for diamonds and other contraband. Closer to home, they are used by drug traffickers and criminals to cut short the lives of urban youth.

Despite the horrific destruction wrought by these weapons, there are few international norms and standards regulating their sale or use. The United Nations—saddled with the burden of small arms proliferation in its peacekeeping and development work—has, since the mid-1990s, played a leading role in placing the issue on the international political agenda. A group of governmental experts recommended in 1999 that the UN hold an international conference to “attempt to develop and strengthen international efforts to prevent, combat, and eradicate the illicit trade in small arms.” Endorsed by a UN General Assembly resolution, the “UN Conference on the Illicit Trade of Small Arms and Light Weapons in All Its Aspects” will take place in New York from July 9-20, 2001.

The UN Conference will provide a rare opportunity to raise public awareness about the need to control the spread and misuse of small arms. Serious action by governments, however, is not

likely at this venue. Unlike the two legally binding agreements dealing with small arms—the Inter-American Convention on the Illicit Trafficking and Manufacturing of Firearms and the Firearms Protocol to the Convention on Transnational Organized Crime, which created rules on marking and information-sharing for commercially traded small arms—the probable result of this meeting will be a nonbinding political declaration with no enforcement mechanisms. A nonbinding document would allow states to adopt arms-control measures that go beyond the two legally binding agreements. Unfortunately, however, the political will needed to take additional steps forward does not yet exist.

Little Guts, No Teeth

The lead-up to the July 2001 Conference has produced many meetings and much talk, but few results. After three preparatory committee meetings in February 2000, January 2001, and March 2001, governments have failed to reach consensus on the final conference document defining a program of action for governments to take at the national, regional, and international levels. Nor has there been agreement on a number of logistical issues.

At the heart of the differences in the preconference discussion is debate over how to interpret the term, “All Its Aspects.” Nongovernmental organizations (NGOs) and some concerned states argue that the illicit trade in small arms is closely connected with legal, government-authorized sales. An effective plan of action, therefore, must treat both issues. They want the document to include effective controls on legal exports, imports, and retransfers of small arms, including strict export criteria, controls on arms

brokers, encouragement of national and regional transparency mechanisms, and better enforcement of arms embargoes.

The original draft of the program of action did call for development of global export criteria, and negotiation of a legally binding agreement on arms brokering. But several states attacked the draft as too ambitious and inclusive, saying that it surpassed the General Assembly's mandate by treating matters related to the legal arms trade and by promoting binding treaties. The current draft is a much watered-down version of the original, eliminating the references to international norms on arms transfers as well as the call for a binding brokering agreement. All in all, the emphasis shifted from alleviating the tragic humanitarian impact of small arms to treating a staid arms control problem. The new document contains weak language on transparency, marking and tracing of small arms, stockpile security, and post-conflict collection and destruction. A long list of follow-up and implementation mechanisms from the original text was substantially shortened, and a proposed Review Conference was postponed from 2004 to 2006.

Who is to blame for the emasculation of the program of action? Countries like China, Russia, Israel, Indonesia, Pakistan, and the Arab League nations are leading the hardliner front. China was able to stymie early discussions by taking an uncompromising position on logistical questions such as the participation of NGOs and conference chairmanship. Other conservative states prolonged debate by decrying alleged infringement on their sovereign right to self-defense and noninterference in their internal matters. On the far opposite side of the debate were progressive

states like Canada, Sweden (on behalf of the EU), New Zealand, and Norway, which emphasized the links between the legal and illicit trade and argued for a comprehensive final document.

Somewhere in the middle, the U.S. delegation has privately expressed support for an effective and inclusive program of action, including regulations on legal arms transfers. Publicly, however, the U.S. has harped on its "redline" items: the proposed ban on arms transfers to nonstate actors, rules on civilian possession of small arms (an NRA no-no), and the inclusion of nonmilitary small arms. The U.S. government's obsession with these relatively minor provisions belies the commitment to an effective Conference that it has articulated to NGOs over the past few years. By focusing on its own objectives to various elements of the proposed program, the U.S. delegation is missing a valuable opportunity to promote America's own "best practices" on such matters as transparency, brokering, and retransfers of exported weapons.

In the end, the UN's consensus process will probably lead to a program of action with little guts and no teeth. Though the program of action is only a political declaration of general guidelines for state behavior, hard-line governments will probably be unwilling to accept the symbolism of an ambitious set of recommendations. Potential leaders—from the United States to the nonaligned movement—have been unable to put aside small problems with the text in the name of a good document. Even the most progressive states appear unwilling to use political capital to push for a stronger text.

Weak U.S. Leadership

Missing from the long debates has been a frank discussion on how the UN Conference will progress upon regional and global efforts to stem the small arms scourge and make a meaningful contribution to solving this multifaceted problem. The Inter-American Convention and the Firearms Protocol already provide legally binding mechanisms for states to address the illicit trade in small arms. As only a politically binding document, the UN program of action cannot hope to add to these agreements unless it extends beyond the strictly illicit trade. Moreover, illegal sales cannot be treated in a vacuum. States must begin to recognize that authorized sales can quickly enter the black market through diversion, theft, or corruption. Government-authorized sales can also be considered illegal if they contribute to violations of the laws of war or human rights laws.

The draft program of action repeats another major limitation of the two small arms treaties: It lacks a clear timetable for implementation. Coupled with an alarming dearth of government enthusiasm, the lack of clear follow-on mechanisms—including dedicated resources for capacity-building in developing states—could be the death toll of an already sick document. Governments should take a lesson from the 1997 Inter-American Convention, where the absence of scheduled follow-up activities combined with weak leadership from the United States has led to an unremarkable record of results.

NGOs Take the Lead

Disappointed by the decimated program of action and faltering governmental commitment to the issue,

NGOs have decided to treat the Conference as the beginning, rather than the end, of a process. NGOs will be promoting a progressive post-Conference agenda for governments, including a set of draft conventions for which they hope to create support among “like-minded” governments. The first convention would echo a Franco-Swiss governmental proposal for a marking and tracing agreement. The next proposal builds on the Nobel Peace Laureate Commission’s proposed International Code of Conduct on Arms Transfers. This draft “Framework Convention on International Arms Transfers” would make it explicitly illegal for governments to authorize arms sales where there is a clear risk that they would violate international humanitarian and human rights law, or where they would violate the principles of nonintervention or use of force found in the UN Charter. An agreement regulating the activities of arms brokers is being drafted as the first suggested protocol to the Framework Convention, which may also eventu-

ally include protocols on transparency and export licensing.

But NGOs are increasingly cognizant that governments will not take serious steps to curb small arms violence until the advocacy community becomes much broader than the current assortment of arms control and other mostly non-grassroots policy groups. If nothing else, the Conference will therefore serve as an organizing tool for participants of the International Action Network on Small Arms (IANSA), an umbrella group for NGOs seeking to limit small arms proliferation and misuse. They aim to energize a broad range of groups affected by small arms proliferation—from development to women’s and children’s rights organizations—to become more active in the movement to “Stop global gun violence.” An international “Days of Action” during the Conference will help different caucuses within IANSA to draw attention to their issues and build support for possible campaigns in the future.

And what will governments be doing after July? Many will hope the issue will quietly fade away. But for those governments that want the UN Conference to make an impact and that hope the 2006 review conference will improve on the original, they must show more energy and commitment than they have so far. Concerned governments can start by signing and implementing regional and international agreements on norms and controls on small arms exports, such as the Firearms Protocol. In the end, however, the best hopes for tangible progress lie in creating real partnerships between civil society affected by gun violence and governments that contribute so much to the problem.

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