

## **SMALL ARMS AND LIGHT WEAPONS: A GLOBAL HUMANITARIAN CHALLENGE**

**by Ernie Regehr\***

*\*Ernie Regehr of the Institute of Peace and Conflict Studies at the University of Waterloo co-founded Project Ploughshares. Ploughshares is a project of the Canadian Council of Churches, supported by church and civic organizations and about 10,000 individuals and 25 affiliated community groups across Canada. He is one of the co-ordinators of both the International Resource Group on Disarmament and Security in the Horn of Africa, and of the Sudan Track II Diplomacy project based in Nairobi. For more than a decade he has been a frequent adviser to the Canadian government on disarmament. He is the author of numerous books and articles on peace and security issues.*

### **INTRODUCTION**

The weekly toll of lives lost to small arms and light weapons<sup>(2)</sup> (SALW) currently stands at more than 10,000.<sup>(3)</sup> In our streets and homes and on the world's three dozen plus battlefields, weapons from small handguns to automatic assault rifles were the defacto weapons of mass destruction of the last century and promise the same for the one just dawning. From the widely reported and publicly traumatic school killings in the United States, to the seemingly routine and statistically noted homicides of the world's large and troubled mega-cities, to the unreported and, by most of the world, unlamented bush killings of southern Sudan, the true magnitude of this humanitarian disaster can still only be guessed at.

Though the numbers that try to document the magnitude of the SALW problem are still uncertain, the consequences of the world's 500 million or so small arms are not easily hidden. Most individual deaths by guns of varying shapes and sizes remain private tragedies unknown to the world at large, but their cumulative social effects are displayed in the ravages of war, in the millions of refugees and internally displaced who have fled their homes and communities to escape similar fates, in the emergency rooms of city hospitals and in the massive humanitarian relief operations worldwide that cannot keep up with the demand for their services, and in deferred and derailed economic development.

### **Demilitarizing war**

Small arms and light weapons also facilitate and underscore some notably disturbing trends in modern warfare. The easy availability of SALW in troubled regions of the world, combined with their ease of use, has contributed to the modern phenomenon of what can be called the demilitarization of war (Armed Conflicts Report). Much of contemporary warfare is

demilitarized in the sense that many current wars involve large numbers of armed forces that are neither trained nor managed by military institutions or discipline. It has long been pointed out that civilians are increasingly the main victims of modern war, some estimates claiming that the vast majority of the victims in contemporary wars are civilians,<sup>(4)</sup> but the unconscionably high rate of civilian casualties in war may not be primarily the result of professional soldiers attacking unarmed civilian targets and killing unarmed civilians (although that is a constant and frequent reality). Civilians are now the primary victims of war in part because they have also become the principle combatants in many wars, a development facilitated by both the availability and simplicity of operation of small arms and light weapons. War-fighting is thus available to the untrained as well as the trained, the amateur and the professional alike. Much of modern small arms technology, in addition to being widely available, is durable, reliable, simple to operate, and no less deadly for all that. Without any particular expertise or training required, small arms and light weapons have transformed armed combat from the "profession of war," carried out by professional military organizations and soldiers, or even volunteer soldiers trained and commanded by professionals, to the terror of civil chaos fanned by armed civilians, some supporting governments as civilian militias, some attacking governments, and some engaged in inter-communal strife with little reference to national governments. Most consider themselves to have run out of political alternatives or in the absence of credible state protection and the absence of any economic opportunities, feel compelled to take advantage of available weapons to pursue personal goals that in any other context would be more criminal than political. These days, in other words, in many wars it is non-military but armed civilians that do most of the fighting, and civilians that do most of the dying.

And to the everlasting shame of the adult world, many of these armed civilians are children. The diabolic genius of an automatic rifle is that it can be used with almost equal ease by highly trained individuals riding in highly priced combat vehicles and by 12 year old children running barefoot through a bush.

### **Regulation, not abolition**

Despite the growing hard evidence that increased use and abuse of small arms and light weapons correlate to availability (Cukier, p.3), and despite the tragic fact that the victims of SALW outnumber the victims of landmines by a factor of 20,<sup>(5)</sup> there are no plans for, nor is there any possibility of, a landmines-type ban. Armed forces and police the world over use them as a primary weapon, and there is no foreseeable possibility of claiming, as campaigners did successfully in the case of landmines, that small arms and light weapons are of no military or police utility. Civilians too use firearms the world over, for sport hunting and security (whether successfully or not), and not infrequently and however perversely, to define status and assert masculinity. The SALW agenda, therefore, is regulation rather than abolition, but at the moment there are no universal laws or standards by which to regulate their possession and use, and by which to protect individuals, families and communities from abuse at the point of a gun.

The latter failing is, however, increasingly subject to challenge. The central objective that animates international efforts to address the small arms problem is to establish, and in some cases recover, social, political and legal protections from small arms abuse. It is an objective that has equal relevance in the global south and north. It applies equally to situations of regional

political conflict and social and political disintegration, and to more localized, often urban, areas of social disintegration and high rates of crime. In both contexts, small arms abuse is exacerbated by the lack of effective control and enforcement capacity, by the presence of high levels of socially generated demand for small arms, and by their ready availability. And the absence of local control is in turn exacerbated by the absence of international norms and standards.

The SALW challenge is to transform the general objective of recovering social and legal protection from small arms abuse into specific, mutually reinforcing, concrete policies and programs of action at local and global levels. The need to effectively address the small arms problem is part of the broader obligation of governments and the international community to protect the vulnerable and to pursue human security - to protect the rights and safety of people.

There are really three avenues through which the international community, collectively and through individual state action, seeks to protect vulnerable populations from SALW abuse: by increasing control, reducing demand, and improving compliance (Canadian policy refers to a corresponding, three-fold approach to the small arms problem: arms control, peacebuilding, crime prevention). And the success of the July 2001 UN Conference small arms will depend on it making discernable advances in international norms and commitments on control, demand, and compliance.

## **THE UN CONFERENCE**

That the *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* will in fact introduce a new global resolve to seriously address the small arms problem is still far from certain. Some key objectives for the conference were suggested in the Report of the 1999 UN Group of Experts (A/54/258, para 126), including the development of global norms, agreeing to international measures to prevent illicit trafficking and excessive and destabilizing accumulations, and the development of public awareness and political will in support of these objectives, but these have not been embraced as relevant by all states. Having gone through the three sessions of the conference Preparatory Committee (PrepCom), states remain substantially divided on what the scope of the conference should be -- with some states insisting that it must be about illicit trafficking only, and thus focused on improved policing and crime control measures, while other states, and most NGOs following the process, insist that the control of illicit small arms is inextricably linked to effective control over legal arms. Large numbers of licit arms come into illicit possession and use due to the absence of restraint in the supply of arms and the lack of universal laws and standards for control, and due to the failure to address effectively the adverse social, political and economic conditions that lead to violence and generate demand for small arms and light weapons.

States in support of a broader scope for the conference therefore argue that the conference should also address control of the legal trade in those weapons, including increased transparency and accountability in arms transfers and commitments to the development of global standards to regulate arms transfers, as well as universal standards for, and commitments to, the domestic regulation of small arms and light weapons.

Canada encouraged a much more compelling and forthright recognition of the human dimension of the small arms problem and proposed changes to an early preambular paragraph to emphasize the point: "Recognizing that the illicit trade in small arms and light weapons in all its aspects sustains conflicts, exacerbates violence, develops cultures of violence, contributes to the displacement of innocent populations, contributes directly to violations of international humanitarian law, and fuels crime and terrorism, forges our determination to put an end to human suffering and the killing of innocent civilians caused by small arms and light weapons."

The PrepComs were not successful in assembling a Program of Action with broad support, leading some to doubt the overall outcome and value of the Conference. Discussions within the IANSA, the International Action Network on Small Arms and Light Weapons which serves as an umbrella for NGOs and civil society building toward cooperative, global action on small arms, have already drawn comparisons to the landmines process. Bugged down in the UN system, the campaign to ban anti-personnel landmines took flight only when a few states and NGOs agreed to take the issue outside the established forum and to create a new, independent track -- which turned out to be a fast track that led to early agreement. Similarly, some argue, if the 2001 conference fails to make effective progress in defining and building commitment to a global small arms action plan, then some states would again be advised to pursue the issue outside the current framework and try to develop a second a faster track.

For the moment, however, the issue is usefully focused by the UN conference process and the following examines the state of play in each of the three areas of small arms action - increased control, reduced demand, improved compliance.

## **INCREASING CONTROLS**

While there are few universal norms or standards by which to regulate possession and use of small arms and light weapons, a variety of measures do exist at national and international levels to define and restrict the kinds of small arms that may be legally owned, who may own such legal arms, and under what conditions they may be used. Indeed, there are many existing national and international restrictions on possession and use of small arms relevant to individuals and states both, and the point of reminding ourselves of existing restrictions is that despite the absence of universal standards, regulations are the norm and efforts to harmonize and increase the effectiveness of such regulations do not represent, the NRA (the US National Rifle Association) notwithstanding, new assaults on sovereignty or personal freedoms.

### **Restricting civilian possession**

Most states have put in place restrictions on individual possession, have defined categories of prohibited firearms, have restricted the purposes of lawful firearms ownership, and have defined limited conditions under which legal arms may be used.

In Canada, for example, all gun owners require licenses and all firearms must be registered (by 2003). The law generally prohibits the possession of handguns and other firearms not reasonably suited for hunting, pest control, target shooting and gun collection. There are specific limits or conditions pertaining to legal gun ownership and use, such as the successful completion of a

safety course, compliance with age requirements and determination of eligibility to hold a licence (*The Firearms Act, 1995*).

The UK also has similarly stringent regulations on the acquisition, possession and use, and even in the United States, where gun laws are much more permissive,<sup>(6)</sup>

the Violent Crime Control and Law Enforcement Act of 1994 includes provisions that ban the future manufacture and sale of certain assault weapon models and their copycats, as well as ammunition magazines with more than 10 rounds. The law strengthens Federal licensing standards for firearms dealers and prohibits the sale or transfer of a firearm to or possession of certain firearms by juveniles, and the *Brady Law* established a national five business day waiting period and requires local law enforcement to conduct background checks on handgun purchasers (although the waiting period applies only to handgun sales through licensed dealers). Purposes of lawful firearm ownership include sports, hunting and, notably, self-defence.

There are various other restrictions on ownership of otherwise legal arms, notably related to age<sup>(7)</sup> and training, as well as criminal records.<sup>(8)</sup> And while these kinds of restrictions are common, the UN Conference is unlikely to make any progress towards making such restrictions normative. The revised draft Program of Action (A/Conf.192/PC/L.4/Rev.1) debated in the Third PrepCom does call on all states "to put in place adequate laws, regulations and administrative procedures to exercise effective control over the legal manufacture, stockpiling, transfer and possession of small arms and light weapons within their jurisdiction" (II.4). In other words, the Conference may well affirm the principle that all states regulate SALW acquisition and possession, but without spelling out any details or common standards by which they should be regulated. In 1997 The UN Commission on Crime Prevention and Criminal Justice went slightly further and called for "minimum standards of domestic regulation.... **(Complete and provide reference)**).

### **Restricting civilian use**

The purposes for which civilians may use small arms are also widely restricted. The most obvious legitimate civilian use of small arms is for sporting activities and hunting. In some instances, personal gun ownership is linked to personal security concerns and is legal, but in Canada, for instance, firearms use for protection of person or property is only permitted in exceptional cases, where there is immediate evidence of risk and police are unable to provide the necessary level of protection. In many countries of the south there are communities well out of the reach of the central government and without formal police patrols, leading to the more or less routine arming of civilians for personnel and community security. In the good times, when the rains come and basic food and shelter needs are met, these can be stable arrangements and governments with such circumstances under their jurisdiction will be reluctant to support universal prohibitions on civilian ownership of military-style and police weapons, but when resources such as pasture lands and water are scarce, the weaponization of local conflict has had devastating results (where the presence of arms has further undermined rather than advanced security).

In the US as well, many states "are currently adopting laws permitting the carrying of concealed handguns for self-protection."<sup>(9)</sup> A surprising number of Americans, apparently by virtue of culture and mythology, seem particularly drawn to the idea that an armed citizenry deters crime. By 1995 over half of all American states had passed laws permitting the carrying of concealed weapons. By contrast, in 1995 there were fewer than 50 people in all of Canada who were issued permits to carry handguns for self-protection (Gabor).

In certain extreme instances the international community has come to view civilian use of SALW as legitimate in order to defend themselves against tyrannous states, even in violation of the laws of such a state.

Again, the international community is still far from any consensus regarding appropriate limits on private gun use, and the 2001 Conference is likely to affirm the need for regulation but is unlikely to comment on the minimum extent or nature of such controls. The 2001 Conference draft Program of Action, as it was debated, did propose one universal standard with the suggestion, strenuously objected to by the United States and others, that states "seriously consider the prohibition of unrestricted trade and private ownership of small arms and light weapons specifically designed for military purposes" (L4.Rev.1 -- II.20). The proposal enjoys widespread support among governments and NGOs, and it remains to be seen to what lengths the United States will go to block the idea.

### **Restricting State access**

States have the right under the UN charter to defend themselves; however, there are also restrictions on state possession of arms and their rights to acquire arms from external sources. Here too, it is a well-established principle that state sovereignty is not absolute and that states are subject to some legal constraints in weapons acquisition, even when their own security is at stake. Current international law allows individual states to define their own security needs, but that does not mean they can acquire any and every kind of weapon they think might serve their security interests.

Weapons of mass destruction, the most obvious example, are prohibited. No states may possess chemical or biological weapons.<sup>(10)</sup>

Non-nuclear weapons states party to the NPT are prohibited from acquiring nuclear weapons, while nuclear weapon states in the NPT are under legal obligation to eliminate their arsenals. There are also absolute prohibitions on some arms in the SALW category, notably anti-personnel landmines and certain excessively injurious weapons.<sup>(11)</sup>

The levels of weapons that states can legitimately possess are also not unlimited. While there are not limits in law, excessive and destabilizing accumulations of weapons<sup>(12)</sup>

are considered unacceptable by the international community, with the general proviso being that levels of armaments should not exceed those required for legitimate defence and security needs. Part of the utility of the term "illicit" should be that it is not a synonym for "illegal." In much the literature and much of the discourse in the UN process, the term illicit is taken to mean simply

against the law. At a minimum, illicit transfers refer to those transfers which are against the law of at least one of the affected countries (the supplier, the recipient, or a transit state). In other words, military transfers from a state to a non-state actor in another country may not be against the law of the supplier state, but if it violates the laws of the recipient state it is an illicit transfer. But the concern about "excessive and destabilizing accumulations" suggests that there can also be weapons transactions that are perfectly legal in all states concerned, but that should still be regarded as illicit. Weapons transfers that produce destabilizing accumulations are likely to be within the laws and regulations of the supplier and recipient state, but if the transfer destabilizes a region and undermines the security of other states, it must also be regarded as an illicit transfer.

### **Controlling international transfers**

And while, under international law and the UN Charter, all states are entitled to possess legal armaments consistent with legitimate national defence needs, international practice and has regularly said that under certain circumstances states can be denied the right to acquire legal weapons, even when they regard them as essential to their security. The arms transfer policies of exporting states generally include provisions, even if they are not consistently applied, to restrict weapons transfers to states that are in serious violations of human rights standards, and that pose a threat to regional peace and stability. For example, Canada's Export and Import Permits Act sets out provisions to limit the supply of military goods to states that "threaten Canada's security, are under UN sanctions, are threatened by internal or external conflict, and/or abuse the human rights of their citizens...."

In some instances the UN Security Council has decided to universalize restrictions on military transfers to certain states by establishing arms embargoes. Current examples (as of October 2000) include embargoes against "grossly abusive non-state groups" in Angola, Rwanda, and Sierra Leone, as well as a number of states such as Iraq, Liberia, Somalia, Federal Republic of Yugoslavia and Ethiopia and Eritrea (Human Rights Watch, 2001 World Report). In other instances, states within a region have agreed to self-imposed limits on acquisitions within that region (i.e. The ECOWAS Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons).

It can be said with considerable confidence, or resignation, that the UN Conference will not allow any reference to limiting state acquisition of small arms and light weapons. The current draft Program of Action also pays scant attention to promoting stricter controls on state-to-state transfers of SALW. The same paragraph calling for "adequate laws" to regulate small arms includes transfers in the list of activities that require regulation, and a later paragraph calls for laws regulations and administrative procedures to "ensure the effective control over the transfer of small arms and light weapons" (L4.Rev.1, II.4, and II.10), but there is no reference to the content of such regulations. A later paragraph refers to transfers being subject to "strict national or regional criteria" without reference to, and apparently rejecting the very idea of, international standards and global norms (L4.Rev.1, II.9).

China opposed any reference to regulating arms transfers on the grounds that the conference is to focus on

illicit trade" and that international restrictions would represent an unacceptable imposition on National sovereignty. The prevention of illicit trade, however, depends directly on controlling legal weapons, since the vast majority of illegal weapons start out as legal and fall into illegal possession and use due to inadequate controls over their sale.

### **Export control criteria**

The EU and Canada thus sought to strengthen the reference to transfer controls by offering lists of criteria to be included in export control policies of states. Canada suggested the following criteria, noting that while any criteria should reflect universal norms, their application is through national laws and prerogatives:

Authorization of the export of SALW to particular countries should take "into account such factors as:

- a) respect for human rights and fundamental freedoms in the recipient country;
- b) the internal situation in the recipient country and its regional situation, in the light of existing tensions or armed conflicts;
- c) the record of compliance of the recipient country with regard to international obligations and commitments, in particular on the non-use of force, on non-proliferation, arms control and disarmament, and on international law governing the conduct of armed conflict;
- d) the nature and the cost of the arms to be transferred in relation to the circumstances of the recipient country, including its legitimate security and defence needs, and to the objective of the least diversion of human and economic resources to armament;
- e) the requirements of the recipient country in exercising its right to individual or collective self-defence in accordance with Article 51 of the Charter of the United Nations;
- f) the question of whether the transfers would contribute to an appropriate and proportionate response by the recipient country to the military and security threats confronting it;
- g) the legitimate domestic security needs of the recipient country; and
- h) the requirements of the recipient country in enabling it to participate in peacekeeping or other measures in accordance with the decisions of the United Nations."

### **A global code**

At informal sessions on the margins of the Third PrepCom a group of NGOs promoting a "Framework Convention on International Arms Transfers," led by The Arias Foundation and including Project Ploughshares,<sup>(13)</sup> introduced the draft convention, the principle of which is to commit states not to authorize international transfers of arms in violation of UN Security Council decisions, international treaties, humanitarian law, or human rights and other obligations under

international customary law. In addition, the convention would commit states to refrain from transfers where there exists a reasonable risk that such arms would be used by the recipient in violation of the above commitments or would be used in the commission of violent crimes, would destabilize or undermine the security of the recipient region, or undermine development.

A positive, but unlikely, outcome of the UN conference would be for it to issue a mandate to the international community for it to initiate discussions and negotiation towards the establishment of such a Convention, on grounds that to effectively prevent the "illicit trade" in small arms and light weapons it will be necessary to be much more careful about the levels and destinations of legal arms.

The focus on regulating acquisition through international transfers without calling for similar limits on acquisition through domestic production is taken by importing states to reflect unequal treatment. The draft program of action includes reference to the need to "exercise effective control over the legal manufacture [and] stockpiling" of SALW (II,4), but that relates to measures to prevent legal arms from slipping into illegal use, and does not refer to the dangers of excessive accumulations by virtue of domestic production. Some states that depend on imports for all their weapons acquisition find it inappropriate that their acquisitions could become subject to external scrutiny while states with domestic sources escape similar scrutiny.

### **Transfers to non-state actors**

The draft Program of Action discussed at the final PrepCom proposed that governments commit to permitting the supply of small arms and light weapons "only to Governments, either directly or through entities authorized to procure arms on behalf of Governments" (II, para 13). In other words, if the objective is to prevent illicit trade, then there is an obligation not to supply weapons to groups beyond the reach of effective public control and accountability. Some objected on grounds that the Program of Action had not set out a clear definition of SALW, which meant that this broad provision could mean that non-military firearms, like hunting rifles, could be sold only to governments. Proposed amendments by Canada and Switzerland dealt with that problem by changing the limit to entities authorized by Governments to procure such arms (rather than procure on behalf of governments). But the proposal produced strong objection from the United States, which is anxious to reserve the right to supply arms to non-state actors when US strategic interests are deemed to warrant it. The US identified this as a "red-line" issue on which it would not compromise.

### **Restricting State use of weapons**

In addition to restrictions on state access to weapons, there are also existing restrictions on state use of weapons -- limits to the purposes for which states may use legal weapons. According to the UN Charter, states have a right to use legal weapons for the purpose of self-defence, but that specific right carries the implication that some uses, beyond legitimate self-defence, are illegitimate or illicit -- notably, aggression, repression, and violence against civilians.

In general, there are many existing regulations to limit possession and use of armaments. In some cases certain weapons themselves are illegal, and in other instances there are restrictions on who

may possess and use legal armaments. The purposes for which legal weapons may be legitimately used are also limited by law and custom. In other words, there are many precedents and already acknowledged principles on which to build an effective small arms control regime. The primary international agenda related to small arms is to refine and advance such restrictions and regulations, and to ensure that all states have adequate laws and enforcement capacity to make such restrictions and regulations effective and universal.

The obstacles are enormous. Before states can promulgate legislation on small arms according to international standards, those standards or norms must themselves be articulated and receive broad international political support. And before more restricted legislation can be effectively implemented, conditions conducive to effective law enforcement and to reduced demand for small arms must be created - hence, the second prominent focus of the international community on small arms is reduction of demand.

## **REDUCING DEMAND**

The effective control of small arms depends finally on social and political conditions that discourage their possession and use. Even in the context of emerging international norms, regulations and laws to control SALW, where conditions are such that individuals, communities and even states believe they can avoid disaster and advance their interests only through the acquisition and use of such weapons, regulations and intensified police enforcement will not succeed in preventing illicit possession and use. While some weapons are used simply and unambiguously for criminal purposes (which in turn calls for effective law enforcement), many individuals, communities and states do acquire and use them because they genuinely consider themselves (often wrongly) to have no other option - that their lives and well-being, or their fundamental interests, depend on access to SALW. The 1997 UN Panel of Experts Report (A/52/298, para. 42) acknowledged the same point: "When the State loses control over its security functions and fails to maintain the security of its citizens, the subsequent growth of armed violence, banditry and organized crime increases the demand for weapons by citizens seeking to protect themselves and their property."

Thus, despite their devastating, cumulative impact, small arms are under certain, and predictable, conditions widely understood as expanding the options of the user: "the transformation of a culture of weapons to a culture of violence, resulting in the increasing demand for weapons, most often occurs when a State cannot guarantee security to its citizens or control the illicit activities in which these weapons are utilized" (A/52/298, para. 44). Control will not be effective in the face of such demand -- a demand that must be reduced through social, political, and economic change that creates other options and reduces the "need" for SALW. The pursuit of such change engages a whole range of peacebuilding and development imperatives. The IANSA founding document refers to several kinds of initiatives that can be taken to reduce demand: reversing cultures of violence and promoting cultures of peace, creating norms of non-possession, reintegration of former combatants, addressing issues of impunity, embedding community-based small arms control programs in development and anti-poverty measures. The challenge is to convert these broad, general objectives into credible policy proposals and concrete actions. The draft program of action debated at the UUUN conference PrepCOM is essentially silent on demand issues, save a brief reference to the need to "promote a culture of peace" (II,39). Efforts

will be made to get the conference to at least acknowledge the OAU Bamako Statement of November 2000, which made the point that "it is vital to address the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons in a comprehensive, integrated, sustainable and efficient manner through: ...the promotion of structures and processes to strengthen democracy, the observance of human rights, the rule of law and good governance, as well as economic recovery and growth; the promotion of conflict prevention measures and the pursuit of negotiated solutions to conflicts; and the promotion of comprehensive solutions...that include...supply and demand aspects" (Para V.2.).

Demand reduction measures tend to get articulated in general, even grand, objectives like democratization and creating cultures of peace, with few concrete policy recommendations available. It remains a critical policy vacuum inasmuch as the transformation of conditions that generate demand is one of the more relevant, even central, elements of the effort to prevent illicit trade, defined as the core objective of the UN Conference. Adverse social, political and economic conditions foster violence and illicit gun use, and thus illicit trading in them, and it ought to be especially clear that efforts to control small arms proliferation and illicit use will be unsuccessful as long as demand-generating conditions remain deeply rooted in troubled and underdeveloped communities. General exhortations to promote democratic development are relevant, but attempts to formulate a more focused smallarms demand reduction agenda are just beginning. A workshop on small arms demand reduction in Toronto in March 2000 was hosted by Project Ploughshares and included participants from five continents from a variety of gun affected regions and communities. The workshop examined a range of measures, including democratic development, but also security sector reform, and practical programs for the collection of weapons in the context of sustainable community development projects. The principles and lessons learned from community development (e.g. local ownership, sustainability, capacity-building) all apply to programs addressing small arms problems at the community level.

### **Security sector reform**

The workshop linked demand reduction to security sector reform, or reconstruction, and to building community confidence in public security institutions. And the development of security forces that have the trust of vulnerable populations in turn depends on transparency and accountability to international standards of human rights and humanitarian law, and of strict standards of police conduct. Reform obviously has implications for recruitment of security personnel, training, appropriate equipment, and credible remuneration. Good governance, as a general requirement and within the security sector in particular, is essential to generating environments that are recognized by people and communities as being oriented to addressing their basic security needs. Even where those needs are not met with any degree of consistency or adequacy due to lack of resources, any political environment in which public institutions are transparently committed to the pursuit of human security, the protection and safety of people, is much less likely to generate unmanageable violence and demand for small arms and light weapons.

Weapons collection programs at the community level are a particularly important element of demand reduction. To mount a successful weapons collection program requires a reliable

understanding of why people and communities have acquired guns in the first place and of what kinds of conditions must obtain for them to feel comfortable and secure in giving up their guns. Part of the answer is in the objective conditions in which they live, but part of the answer is also in perceptions of safety and myths about security. The protection that weapons give may well turn out to be more imagined than real, and effective community awareness raising and education to develop new understandings of weapons as agents of insecurity in certain circumstances (the weapons can have the effect of making one more vulnerable) is also essential to demand reduction and hence to effective control (referred to usually as elements of developing a "culture of peace").

## **COMPLIANCE**

To the extent that states actually do establish adequate laws, regulations and procedures to regulate the possession, use and transfer of small arms and light weapons, the challenge becomes to ensure compliance -- that is, to prevent illicit acquisition, possession and use of SALW. There is broad agreement among states that ensuring compliance is indeed the core focus of the conference, hence a variety of measures to aid enforcement enjoy broad support and have been included in the draft program of action.

Stockpile management, marking and tracing of weapons, the regulation of arms brokers, and increased transparency and information sharing among law enforcement agencies all receive favourable mention in the program of action. The importance of stockpile management to prevent diversion of legal and surplus arms into illicit markets is widely recognized and involves not only appropriate inventory controls, but also the destruction of surplus and confiscated or collected SALW. Prevention of illicit trade in SALW depends on improved capacity to trace individual weapons and weapons flows, which in turn requires a capacity to individually mark and thus identify weapons. And while there are disagreements on the appropriate manner of marking weapons, the need for markings that are universally identifiable and applicable was broadly accepted at the PrepComs.

The PrepComs devoted significant attention to the need to regulate brokering and received the report of a UN Experts Group, chaired by Canadian Peggie Mason. The draft program of action offered a somewhat timid formulation that focused on "developing a common understanding" of the issues of brokering "with a view to regulating the activities of those engaged in arms brokering" (II, 37). The EU and several others proposed that the conference mandate states "to negotiate a legally binding international agreement on brokers," a proposal rejected by the United States which called instead for the development of model brokering regulations for use by states in the preparation of national legislation. Transparency, information collection and sharing, also received basic affirmation, although like much of the document and discussion, without clarity on the details.

Reform of the security sector, which, as noted, is key to demand reduction, is also a key element of successful implementation of national laws and international standards on small arms and light weapons. Effective law enforcement requires reform of the regulators, as well as the need to regulate the operations of private security firms. At the military level, security sector reform involves ensuring strict civilian regulation, through publicly accountable civilian governments,

of military forces to ensure that military acquisitions and military operations conform to existing standards related to self-defence, are not destabilizing, and conform to human rights laws and international humanitarian law.

## **ASSISTANCE AND COOPERATION**

The effectiveness of any Program of Action to emerge from this UN process, however ambitious or weak, cannot be separated from the level of resources that the international community is prepared to devote to its implementation. If new money is not found there will be no new action. The draft Program of Action commits the international community "to render assistance, to the extent possible," and several proposed amendments would strengthen language of assistance and identify directly a range of actions for which states and international financial institutions should provide funding.

## **ROLE OF CIVIL SOCIETY**

The draft Program of Action also acknowledges that the small arms problem cannot be dealt with by states alone, and Canada and other states have introduced elaborations to specifically note and emphasize the role of civil society and NGOs in particular in addressing the problem. There are two dimensions to NGO participation. The first is participation in the conference itself. NGOs and other civil society groups will participate -- not formal participation in debates, but with an opportunity to directly address the delegates. Of course, there has been in the PrepCom process and will be at the Conference itself extensive NGO activity. NGOs have been active in providing informal presentation and briefings to interested delegations. The second is role of civil society in dealing directly with the SALW problem in affected states and regions.

The importance of civil society in addressing small arms issues is now widely acknowledged. The Group of Experts Report recommends that the UN "facilitate appropriate cooperation with civil society...in activities related to small arms and light weapons, in view of the important role that civil society plays in efforts to raise awareness of and address the problems associated with such weapons" (A/54/258, para. 105). The same paragraph notes the establishment of IANSA in October 98. The report also recommended "that in deciding on the timetable for the conference, the preparatory committee provide opportunities for the presentations by representatives of civil society" (para. 135).

The UN Security Council action on small arms "welcome[d] and encourage[d] efforts to prevent and combat the excessive and destabilizing accumulation of and illicit trafficking in small arms and invite[d] Member States to involve civil society in these efforts" (S/PRST/1999/28, Sept 24/99). The Nairobi Declaration of the March 2000 meeting of the Foreign Ministers of the Great Lakes and Horn of Africa Regions pledged the signatories to "join efforts to address the problem, recognizing the need for transparency, information sharing and co-operation in all matters relating to small arms and light weapons including the promotion of research and data collection in the region and encouraging co-operation among governments and civil society," and recognized that "the effective implementation of the program of action agreed at this conference requires the co-operation of the United Nations, international organizations, regional

organizations, individual states and civil society in preventing and reducing the excessive and destabilizing accumulations of small arms and light weapons...."

## **FOLLOW-UP**

If the proposed follow-up mechanisms are adopted, the 2001 UN conference will not be an isolated event. Another Review conference is called for no later than 2006 (and with a series of prior PrepComs that would mean the process would start by 2004), as well as bi-annual meetings to assess progress made in the implementation of the plan of action and to update it as needed.

## **CONCLUSION**

The UN Conference will be a success if builds international political will in support of serious attention to the small arms problem, if it produces a Program of Action that includes specific commitments to act, if it is subsequently supported with a credible level of resources for small arms action, and if it puts in place a follow-up mechanism that effectively holds the international community to account for the extent to which its promises are implemented.

As for political momentum, there is little doubt that the UN conference process, and, significantly, the role of civil society in promoting the conference and a credible action program, has already produced new levels of attention to the problem. The Program of Action should, at a minimum, include general affirmations of the need to control small arms, both through domestic and international transfer regulations. If states are emboldened to feel a bit ambitious they could produce suggestions, even if not commitments, to consider the promotion of a global norm against civilian access to assault rifles and to explore elements of an international arms transfer control regime.

The Program of Action should produce a more concrete commitment to international cooperation and standards on marking a tracing of small arms and light weapons, and to regulating the activities of brokers. Transparency and information sharing are likely to be affirmed. Assistance will be promised, and a follow-up process will be agreed.

Would such an outcome qualify as success? It would at least not represent failure. The difference between avoiding failure and achieving success is the difference between affirmations and specific commitments.

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## ENDNOTES

2. The Group of Governmental Experts Reports (A/52/298 and A/54/258) focus on Small Arms and Light Weapons designed for military purposes and define them as follows (Note #5 of A/54/258): "Broadly speaking, small arms are those weapons designed for personal use, and light weapons are those designed for use by several persons serving as a crew. The category of small arms includes revolvers and self-loading pistols, rifles and carbines, sub-machine guns, assault rifles and light machine-guns. Light weapons include heavy machine-guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns, recoilless rifles, portable launchers of anti-tank missile and rocket systems, portable launchers of anti-aircraft missile systems, and mortars of calibres of less than 100 mm. Ammunition and explosives form an integral part of small arms and light weapons used in conflicts, and include cartridges (rounds) for small arms, shells and missiles for light weapons, anti-personnel and anti-tank hand grenades, landmines, explosives, and mobile containers with missiles or shells or single-action anti-aircraft and anti-tank systems."

The Firearms Protocol, focused on weapons outside of military use and illicitly traded (it does not apply to state-to-state transfers), defines "Firearm" as follows: "Any portable barreled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas" (with the definition of antique left up to individual states, except that it cannot include firearms manufactured after 1899).

3. Despite enormous obstacles to the accurate compilation of statistics on deaths by small arms and light weapons, conservative estimates attribute some 300,000 deaths per year to wars and armed conflicts, and about 200,000 more to crime and suicides (Project Ploughshares annual *Armed Conflicts Report* and Wendy Cukier, 2001), making 10,000 deaths per week a conservative estimate.

4. Ruth Leger Sivard reports that "today, more than 90 percent of all casualties [in war] are non-combatants" (*World Military and Social Expenditures*, 1996, p. 17). Other researchers insist that there is no clear evidence to confirm that 90 percent of war deaths are civilians, with some claiming that available documentation would lead to a much lower figure, perhaps 50 percent. An ICRC study (1999) cites figures of 35% and 64% based on monitoring of casualties in conflict settings, but the study also notes that there is evidence that the proportion of civilian

deaths increased over the course of the 20<sup>th</sup> century and notes that "all of the figures...suggest that civilian death and injury in recent armed conflicts is high given the protection to which civilians are entitled under international humanitarian law" (p. 17) As noted below, part of the confusion owes to difficulty in distinguishing between civilians and "soldiers" in popular wars which involve civilians in rebellion against governments and in which criminal and political activities are not always clearly distinguishable.

5. Most estimates of landmines deaths put the figure at around 25,000 per year, or about 500 per week, compared with an estimated 10,000 deaths per week due to small arms.

6. [http://www.usinfo.state.gov/usa/infousa/laws/majorlaw/h3355\\_en.htm](http://www.usinfo.state.gov/usa/infousa/laws/majorlaw/h3355_en.htm),

The Brady Law site: <http://www.handguncontrol.org/stateleg/brady.asp>.

Coalition for Gun Control: [www.guncontrol.ca](http://www.guncontrol.ca).

7. "An individual who is less than eighteen years old and who is otherwise eligible to hold a licence is not eligible to hold a licence except as provided in this section.

"An individual who is less than eighteen years old and who hunts or traps as a way of life is eligible to hold a licence if the individual needs to hunt or trap in order to sustain himself or herself or his or her family.

Hunting, etc.

"An individual who is twelve years old or older but less than eighteen years old is eligible to hold a licence authorizing the individual to possess, in accordance with the conditions attached to the licence, a firearm for the purpose of target practice, hunting or instruction in the use of firearms or for the purpose of taking part in an organized competition." (Section 8: 1,2,3)

8. In Canada..."A person is not eligible to hold a licence if it is desirable, in the interests of the safety of that or any other person, that the person not possess a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition or prohibited ammunition.

"In determining whether a person is eligible to hold a licence...", the issuing authority "... shall have regard to whether the person, within the previous five years, (a) has been convicted or discharged under Section 730 of the *Criminal Code* of, (i) an offence in the commission of which violence against another person was used, threatened or attempted, (ii) an offence under this Act or Part III of the *Criminal Code*, (iii) an offence under Section 264 of the *Criminal Code* (criminal harassment), or (iv) an offence relating to the contravention of subsection 5(3) or 5(4), 6(3) or 7(2) of the *Controlled Drugs & Substances Act*; (b) has been treated for a mental illness, whether in a hospital, mental institute, psychiatric clinic or otherwise and whether or not the person was confined to such a hospital, institute or clinic, that was associated with violence or threatened or attempted violence on the part of the person against any person; or (c) has a history of behaviour that includes violence or threatened or attempted violence on the part of the person against any person." (Section 5: 1, 2, Firearms Act)

9. (i) In the United States, most gun laws are enacted at the state or local levels, resulting in varying degrees of restriction on firearm ownership, use and handling. However, "One emerging trend has been the adoption of Carrying Concealed Weapons/Firearms Laws (CCWs) by an increasing number of states. These laws fall into two broad categories: 'May issue' and 'Shall issue'. 'May issue' laws are discretionary, leaving to local law enforcement the decision of whether to grant an individual a permit to carry a concealed gun...'Shall issue' laws are non-discretionary, requiring officials to authorize carriage of a gun unless the applicant fails to meet some basic conditions..." (p. 18) "American households are more likely to own at least one firearm and they are far more likely to do so for self-protection" (p. 28). [Thomas Gabor, *Firearms and Self-defence: A Comparison of Canada and the United States*, 1997, p.12, [http://www.cfc-ccaf.gc.ca/includes/cfc\\_imp\\_info.htm](http://www.cfc-ccaf.gc.ca/includes/cfc_imp_info.htm)].

10. a. **Chemical Weapons Convention** (Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction): The text of the Convention was adopted on 3 September 1992 at the Conference on Disarmament in Geneva, it was opened for signature on 13 January 1993 and entered into force on 29 April 1997, 180 days after the date of deposit of the 65th instrument of ratification.

b. **The Biological and Toxic Weapons Convention** (Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction): Signed at Washington, London, and Moscow April 10, 1972 and entered into force March 26, 1975.

11. *The Convention on Certain Conventional Weapons* (CCCW) formally known as the Convention on Prohibition or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, was entered into force in December 1983 (51 Signatory States in 1982, 79 State Parties). The CCCW consists of four protocols that restrict or prohibit the use of certain conventional weapons (three original protocols, an amended protocol, and one additional protocol):

Protocol I prohibits the use of non-detectable fragments;

Protocol II restricts the use of mines, booby traps, and other devices;

Amended Protocol II significantly expands and strengthens the restrictions governing the use of mines, booby traps, and other devices;

Protocol III prohibits the use of incendiary weapons; and

Protocol IV prohibits the use and transfer of blinding laser weapons.

12. According to the 1997 UN Panel of Experts Report, A/52/298, p. 14, section IV. Nature and Causes of Excessive and Destabilizing Accumulations of Small Arms and Light Weapons, par. 37:

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

13. Sponsors of the Arias Foundation, Amnesty International, BASIC, the Federation of American Scientists, OXFAM, Project Ploughshares, Saferworld, ...