Part 1

The policy context

Contents

1 Definitions and statistics 5

2 The effects of small arms and light weapons 9

3 Recommended measures to address the proliferation and misuse of small arms and light weapons 21

4 Existing initiatives to address the proliferation and misuse of small arms and light weapons 40

5 Summary 61
Introduction

Part 1 of the handbook analyses the effects of the proliferation and misuse of small arms and light weapons (SALW). It introduces the range of measures that are needed to address the problems relating to their supply and demand, and reviews the key regional, multilateral, and international initiatives currently in place to address these problems.

Section 1: Definitions and statistics

This section introduces some of the key elements of the problem, illustrating them with relevant statistics. It outlines the United Nations’ definition of SALW and lists the major categories covered by the definition. It defines the nature of small-arms transfers and suggests a definition to describe ‘illicit’ and ‘licit’ transfers.

Section 2: The effects of small arms and light weapons

This section analyses the effects of the proliferation and misuse of SALW in terms of the following:

- abuses of human rights and breaches of international humanitarian law
- the ‘War on Terrorism’
- cultures of violence
- violent crime
- gender
- development.

Section 3: Recommended measures to address the proliferation and misuse of small arms and light weapons

This section analyses the range of measures that are needed to address the problem. It first identifies measures to reduce the demand for SALW and concludes by reviewing the measures needed to control their production and transfer.
Measures to address demand

- weapons collection and disarmament, demobilisation, and reintegration (DDR) programmes
- regulating civilian ownership of SALW
- SALW and reform of the security sector
- private military and security companies and the proliferation and misuse of SALW
- management of stockpiles and surplus weapons.

Measures to control supply and transfer

- express prohibitions
- restrictions based on use
- areas of emerging international consensus
- establishing a normative framework
- establishing effective operative procedures
- licensing controls and procedures
- end-use certification and monitoring
- marking and tracing
- controlling the activities of brokering and shipping agents
- controlling licensed production overseas.

Section 4: Existing initiatives to address the proliferation and misuse of SALW

This section introduces and analyses some of the major international and regional agreements and initiatives that exist to control the proliferation and misuse of SALW. Each example has been selected for three reasons. Firstly that it has made a contribution to the development of other initiatives and action: for instance the Bamako Declaration was important in the development of sub-regional initiatives such as the Nairobi Declaration and as a stepping stone to international action such as the UN Programme of Action on SALW. Secondly that it represents a specific type of initiative – in terms of geographical coverage or scope of content. And finally because it represents good opportunities for the engagement of civil society.

This section begins with an analysis of the 2001 UN Small Arms Conference, the resultant Programme of Action, and the UN small-arms process. It then introduces the UN Firearms Protocol and the Wassenaar Arrangement. Finally, this section covers some of the key regional and inter-regional initiatives and agreements. However, it does not present a complete overview of all regional
initiatives; there have been moves towards action in regions not covered in this section. The following initiatives are included:

- The Bamako Declaration on the African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons
- The Nairobi Declaration
- The SADC Protocol on the Control of Firearms, Ammunition, and Other Related Materials
- The ECOWAS Moratorium on the Import, Export and Manufacture of Small Arms and Light Weapons in Africa
- The Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials
- OSCE Document on Small Arms
- The EU Code of Conduct on Arms Exports
- The EU Joint Action on Small Arms
1 Definitions and statistics

What are small arms and light weapons?

Although there is no universally accepted classification of these weapons, a report by a UN panel of experts in 1997 contained the most commonly used definition.\(^1\) Light weapons is a generic term which is used to cover a range of weapons portable by man, animal, or machine – from revolvers and machine guns to anti-tank and anti-aircraft missile systems. Small arms are a sub-set of the category of light weapons which includes only those weapons that can be fired, maintained, and transported by one person. In this handbook, small arms, light weapons, firearms, and weapons are generally referred to as SALW. Furthermore, unless the context dictates otherwise, no distinction is made between commercial firearms (such as hunting rifles) and small arms and light weapons designed for military use (such as assault rifles).

Table 1: Definitions

<table>
<thead>
<tr>
<th>Small arms include:</th>
<th>Light weapons include the above, as well as:</th>
</tr>
</thead>
<tbody>
<tr>
<td>revolvers</td>
<td>heavy machine-guns</td>
</tr>
<tr>
<td>self-loading pistols</td>
<td>grenade launchers</td>
</tr>
<tr>
<td>rifles and carbines</td>
<td>portable anti-aircraft guns</td>
</tr>
<tr>
<td>sub-machine guns</td>
<td>portable anti-tank guns</td>
</tr>
<tr>
<td>assault rifles</td>
<td>recoilless rifles</td>
</tr>
<tr>
<td>light machine-guns</td>
<td>portable launchers of anti-tank missile and rocket systems</td>
</tr>
<tr>
<td></td>
<td>portable launchers of anti-aircraft missile systems</td>
</tr>
<tr>
<td></td>
<td>mortars of calibres of less than 100 mm</td>
</tr>
</tbody>
</table>

Ammunition and explosives for small arms and light weapons include:

<table>
<thead>
<tr>
<th>Cartridges (rounds) for small arms</th>
<th>Shells and missiles for light weapons</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Anti-personnel and anti-tank hand grenades</td>
</tr>
<tr>
<td></td>
<td>Landmines, explosives, munitions for single-action anti-aircraft and anti-tank systems</td>
</tr>
</tbody>
</table>
How many small arms are there?

According to the Small Arms Survey (Counting the Human Cost, 2002), there are estimated to be 639 million small arms and light weapons (SALW) currently in circulation around the world. Perhaps surprisingly, civilian possession accounts for almost two thirds of the global total, with at least 378 million firearms in private hands.

Table 2: Distribution of known global small arms

<table>
<thead>
<tr>
<th>Ownership group</th>
<th>Numbers held</th>
<th>Percentage of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>State-owned: combined tota</td>
<td>259,600,000</td>
<td>40.6</td>
</tr>
<tr>
<td>Armed forces</td>
<td>(241,600,000)</td>
<td>(37.8)</td>
</tr>
<tr>
<td>Police forces</td>
<td>(18,000,00)</td>
<td>(2.8)</td>
</tr>
<tr>
<td>Civilian possession</td>
<td>370,300,000</td>
<td>59.2</td>
</tr>
<tr>
<td>Rebel groups</td>
<td>1,000,000</td>
<td>0.2</td>
</tr>
<tr>
<td>TOTAL</td>
<td>638,900,000</td>
<td>100</td>
</tr>
</tbody>
</table>

In addition to existing small arms and light weapons, new small arms are being manufactured, sold, transferred, and transported every day.

Box 1: Where do small arms come from, and who owns them?

More than 1,000 companies worldwide are involved in some aspect of small-arms production.

At least 98 countries produce, or have the capacity to produce, small arms and/or ammunition.

Thirteen countries dominate the global market for small arms. They are Austria, Belgium, Brazil, China, France, Germany, Israel, Italy, Russian Federation, Spain, Switzerland, the United Kingdom, and the United States of America.

The total value of global small-arms production, including ammunition, in 2000 was at least $7.4 billion.
What are SALW transfers? 5

The definition of an arms transfer is relatively simple. A transfer is the reallocating of small arms from the possession of one actor to another. There are always at least two principal actors involved in any transfer, namely the originator and the recipient. These actors can be individuals, groups such as companies or armed opposition groups, criminal organisations, or States. However, other actors, such as arms brokering and transportation agents, are also often involved in facilitating transfers.

In general there are three main types of small arms transfers:

- 'Legal' transfers: These occur with either the active or passive involvement of governments or their authorised agents, and in accordance with both national and international law. However, where the end use of the weapons transfers is in contravention of national and/or international law, then the transfer becomes illicit.

- 'Illegal' transfers: These are in clear violation of national and/or international laws such as United Nations arms embargoes. Without official government consent or control, these transfers may involve false or forged paperwork, or corrupt government officials acting on their own for personal gain.

- 'Grey-market' transfers: These are often the most problematic to define, because they are neither unarguably legal nor clearly illegal but may contain elements of both definitions. For example, a transfer of weapons that eventually reaches a destination covered by a UN arms embargo may have started its journey as part of a legal State-sanctioned deal, but it has been diverted from its stated destination during the export stage. Grey-market transfers often involve governments, their agents, or individuals exploiting loopholes or unintentionally circumventing national controls.

Some have sought to define such transactions as 'illicit', although there is no international legal definition of the term. However, international consensus is starting to emerge on this issue. For example, the UN Conference on Disarmament has itself put forward a wider definition of the illicit trade in conventional arms, which includes 'that international trade in conventional arms, which is contrary to the laws of states and/or international law'. 6 Many non-government organisations (NGOs) have argued that those weapons that are transferred and used in violation of international legal norms should also be considered illicit.

Although certain governments believe that international action on the proliferation and misuse of small arms should be restricted solely to combating the illicit trade, without consideration of the State-sanctioned trade, many in the
international community believe that this narrow approach is insufficient for tackling the problem, for two reasons. Firstly, numerous studies have shown that arms from State-sanctioned transfers (or the ‘legal’ trade) have been diverted into illicit markets, fuelling crime, terrorism, and the trafficking of illegal drugs. In order to effectively combat the illicit trade in small arms and light weapons, it is also important to implement strategies to control the State-sanctioned trade.

Secondly, although some governments have defined the illicit trade as covering only those transfers that were not sanctioned by the exporting or recipient State, many governments and civil-society actors believe that this definition is too narrow, since it does not take into account the legality of the ultimate use of the weapons.

Indeed, years of research by NGOs and the UN have shown that some small arms and light weapons legally exported by States have ultimately been used to violate international law, through their use in violations of human rights, and breaches of international humanitarian law, by fuelling conflict and violent crime, and undermining democratic governments.

The differing interpretations of the definition of the illicit small-arms trade came to a head as the international community began to make preparations to deal with small arms at the global level for the first time, at the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in 2001. In an attempt to reconcile these differing interpretations, the international community agreed that the conference would seek to ‘prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects’.
2 The effects of small arms and light weapons

Small arms are used to kill and injure civilians and combatants alike. They are used in the commission of rape and other forms of sexual violence, to harass and intimidate, and to perpetrate other violent crimes; and they undermine the effects of post-conflict reconstruction and development. The problem of small-arms proliferation and misuse manifests itself in different ways in different places, and the causes and effects of this problem sometimes differ, depending on the context in which they are used.

Small arms facilitating conflict, human-rights abuses, and breaches of international humanitarian law

The growing availability of small arms has been associated with the increased incidence of internal conflicts. While accumulations of small arms may not alone create the conflicts in which they are used, their availability intensifies conflicts by increasing the lethality and duration of violence, and by increasing the sense of insecurity which leads to a greater demand for weapons. Some commentators consider the easy availability of small arms to be a 'proximate cause' of armed conflict, transforming a potentially violent situation into a full-scale conflict. While small arms are frequently associated with armed conflict, arms-related violations occur in many other contexts. These violations are especially prevalent as a result of post-conflict insecurity, crime and banditry, and the militarisation of refugee camps and camps for internally displaced persons (IDPs).

The presence of small arms aggravates patterns of forced displacement. With AK-47s in hand, for instance, bandits and criminals who in the past may have carried out livestock raids and looting in pastoral communities have resorted to increased levels of violence, including the use of systematic rape and killing, to drive people from their homes and communities. Not only are communities displaced by such violence directly threatened with death and injury, but the ongoing threat of violence from the availability of weapons obstructs their access to food, shelter, health care, education, and other basic services.
Indeed, the militarisation of refugee and IDP camps has become a serious problem for the international community. ‘Safe havens’ created to aid victims of war have instead become breeding grounds for armed groups. The insecurity in the camps may pose a threat to regional stability, as camps become marketplaces for arms that fuel civil wars, crime, and terrorism.

Civilians have become the deliberate targets of violence involving small arms during armed conflict. Such violence against civilians and non-combatants in situations of armed conflict is completely at odds with internationally recognised legal protections granted to non-combatants under international human-rights conventions and humanitarian law. Despite these legal protections, a disproportionately high percentage of small-arms casualties in war-time are civilians. A study in Croatia, for instance, determined that civilian deaths may have accounted for up to 64 per cent of the 4,339 fatalities surveyed during the war in 1991-92. Another study reported that at least 34 per cent of patients in field hospitals established by the International Committee of the Red Cross (ICRC) in Afghanistan, Rwanda, Chechnya, and the border regions of Kenya and Cambodia were civilians wounded by bullets. Surveys carried out in Sierra Leone showed that almost 60 per cent of all war injuries were gunshot-related, that 11 per cent of all victims were under the age of 15, and that 43 per cent were women.

Due to their increasing availability, small arms play a critical role in many abuses against personal dignity. Small arms are used to perpetrate an entire range of human-rights abuses, including rape, enforced disappearance, torture, forced displacement, and forced recruitment of children soldiers. Even in genocidal conflicts, where people have been hacked to death with machetes or other non-ballistic instruments, the victims are often initially rounded up with firearms. Heavily armed individuals create an environment in which atrocities can be committed at will by various other means. An increase in expenditure on SALW by governments in response to deteriorating security conditions may divert scarce resources away from expenditure on health care, education, and other support for economic, social, and cultural rights.

Children, especially, are victims of human-rights violations that result from the availability and misuse of small arms. UNICEF estimates that two million children were killed in armed conflict in the 1990s, many by small arms and light weapons. An estimated 300,000 children under the age of 18 are exploited as soldiers in armed conflicts. The simplicity of use of small arms turns even young children into deadly killers. A 19-year-old soldier in northern Uganda testified: ‘I especially know how to use an AK-47 twelve-inch, which I could dismantle in less than one minute. When I turned 12 they gave me an RPG (Rocket Propelled Grenade), because I had proved myself in battle.’

Besides being killed and injured by firearms, children are often affected by the secondary costs of armed violence, including malnutrition, disease, and preventable illness.
Violence involving small arms has also had a devastating impact on the humanitarian aid community. Humanitarian workers, including UN civilian staff members, are increasingly at risk as targets of firearms-related violence including killings, hostage-taking, sexual assault, armed robbery, and arbitrary arrest and detention. The UN reported that 185 civilian staff members died between 1992 and 2000, most from firearms-related violence. Under threat of violence from armed militias, humanitarian agencies are often forced to surrender goods and materials that were intended for aid operations. Increasing threats to staff members have resulted in an increased focus on human security in UN field operations.

The UN Conference to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects was the first occasion when the international community came together to discuss the global crisis caused by the proliferation and misuse of these weapons. However, one major failing of the conference was the inadequate consideration given to the impact of SALW on human rights and international humanitarian law. Despite this, these two important topics are now being given increasing attention by governments, NGOs, intergovernment organisations, and UN agencies and structures. The devastating role of SALW in perpetrating human-rights abuses and breaches of international humanitarian law is highlighted in the following testimony from Afghanistan.

‘First they [Taliban fighters] rounded up the people in the streets. They then went from house to house and arrested the men of the families, except for the very old men. Nothing could stop them, and they did not spare any of the houses. In one house, the mother of a young man whom the Taliban were taking away held on to him, saying she would not allow him to go away without her. The Taliban began to hit the woman brutally with their rifle butts. She died. They took away the son and shot him dead. They were our neighbours. When they arrested the people, they tied their hands behind their back and took them away. They took them to areas behind Bazar Kona and fired at them. They executed a lot of people.’

**Small-arms controls and the ‘War on Terrorism’**

Extensive evidence gathered by law-enforcement agencies, journalists, NGOs, and the UN has shown how weaknesses in national, regional, and international arms controls have been exploited by arms brokers and irresponsible governments to facilitate the transfer of arms, including SALW, to criminals, human-rights violators, and terrorists.

Since the attacks on the World Trade Center and the Pentagon in the USA on 11 September 2001, many arms-control experts have called for stricter controls on small-arms transfers as a crucial element in the international community’s strategy to combat al-Qa’eda and other terrorist organisations. States should now
be strengthening SALW controls and providing greater resources for their enforcement. Although certain initiatives in this regard have been taken, a number of leading arms-exporting States are actually relaxing controls on sales of arms to other State and non-State actors. This can be seen with regard to US policy.

According to NGO analysts, since 11 September 2001 the US government has requested nearly $3.8 billion in security assistance and related aid for 67 countries allegedly involved in some way in the ‘War on Terrorism’. Of the countries currently selected to receive US military aid, 32 were named in the US State Department’s 2000 human-rights report as having human-rights records that were ‘poor’ or worse.

Box 2: A cause for concern: arming the Philippines Army?

Since the terrorist attacks of September 11th 2001, the US government has increased its military support to the government of the Philippines. According to US government documents, this support has included excess military equipment, including 30,000 M16 rifles. The US government is also providing increased military training to counter terrorist threats, and to fight various armed militant and kidnap-for-ransom groups that are believed by the US government to have links with terrorist organisations such as al-Qa’eda. The military assistance continues, despite US government reports of human-rights violations by members of the Philippine government armed forces. Many NGOs are concerned that the arms and training are given without incorporating rigorous human-rights safeguards or proper vetting of units receiving weapons and training under existing US law. The Philippines receives substantial small-arms supplies from the USA, Canada, and South Africa, and is reportedly saturated with small arms. An escalation of armed conflict in Mindanao in 2000 led to the displacement of more than 500,000 civilians, amid reports of indiscriminate bombings and human-rights violations. In February 2003, a further peak of conflict resulted in the displacement of more than 150,000 people. It is clear that increased US military assistance to the Philippines at this time risks intensifying patterns of human-rights violations and so aggravating local tensions and prolonging the conflict, unless accompanied by strong measures to ensure that the basic rights of civilians are protected.
Part 1: The policy context

Box 3: Arms to Afghanistan

The small-arms trade has fuelled on-going, devastating war in Afghanistan for 23 years. The US government, via its Central Intelligence Agency (CIA), gave large quantities of light weapons to Mujahideen groups in Afghanistan resisting the Soviet invasion and occupation between 1979 and 1989, despite the fact that thousands of Afghan civilians were deliberately and arbitrarily killed by warring Mujahideen fighters, who were also responsible for widespread beatings, abductions, and rapes. In 2001, US forces in Afghanistan were attacked with Stinger missile systems, supplied by the USA in the 1980s. Other foreign powers, including Pakistan, Iran, and China, also supplied munitions to the Mujahideen groups, who also captured arms from troops of the former Soviet Union.

The Taleban were also armed originally by the USA and Pakistan. By late 2001, the weapons markets in Taleban-held towns and villages on the Afghan borders with Pakistan and Iran were some of the most deadly arms bazaars in the world and were still reportedly doing a heavy trade in arms, including missiles originating in the USA and elsewhere, and Kalashnikovs made under licence in China and Egypt.

Osama bin Laden reportedly spent several years in the early 1980s fighting alongside Mujahideen against Soviet forces in Afghanistan, and setting up military training camps there for foreign, including Arab, recruits. In a 2001 criminal trial of al-Qa'eda members convicted of bombing two US embassies in Africa, Essam al Ridi testified that he had bought 25 US sniper rifles from a US company and shipped them to Afghanistan in the late 1980s. The rifles are capable of shooting down helicopters, piercing armour, or destroying fuel tanks from long distances. (The US State Department no longer allows the commercial export of these weapons to individuals.) In June 2001, there were reports that bin Laden's followers had bought missiles and small arms from dealers in Peshawar, and had flown in extra recruits and supplies to a camp south-west of Kandahar. US and Afghan troops in 2003 continue to engage with well-armed Taleban and al-Qa'eda fighters in the south, who threaten to destabilise the current political process and have halted effective delivery of humanitarian aid in the area.

The examples in the boxes illustrate clearly the dangers of supplying arms to government and non-government actors who have little regard for human rights and international humanitarian law. While the potential for such arms to be used to commit serious violations is clear, supplier governments are often powerless to prevent the resale of arms by unscrupulous regimes and insurgent groups to terrorists and others who pose a serious risk to international peace and security.
Small arms and cultures of violence

The proliferation and increasing availability of small arms and light weapons in many regions of the world encourage and perpetuate so-called 'cultures of violence', whereby traditional mechanisms of conflict resolution are eroded and the use of guns emerges as a norm within society. This is particularly the case in post-conflict States, where weapons remain in circulation and State security is weak or absent, leading to a reliance on weapons as a means of self-defence, with resultant increases in violence at the community level and a further erosion of human security.

Cultures of violence may also emerge in polarised societies where certain groups use violence as a consequence of, or reaction to, their oppression and marginalisation. The gang culture that exists in areas of the United States and Brazil, for example, represents a social context within which the use of violence is endemic, and where guns may come to be seen as a symbol of power and masculinity, a perception strengthened by the glamorous portrayal of guns in the media. This further polarises power relations among races, classes, and sexes and creates a demand for weapons that is met both legally and illicitly.27

Box 4: Cultures of violence in South Africa

Apartheid in South Africa, the violent struggle against it, and the political transition that followed left a legacy of poverty and inequality. Widespread unemployment, appalling living conditions in shanty towns, and gender-based violence contribute to high levels of crime. Children are among those who become both victims and perpetrators of a cycle of violence and fear. South Africa has the highest murder rate in the world and also faces an increasing threat from HIV. According to the Institute of Security Studies, 'in 12 years' time you'll have at least a quarter of a million orphans, with no role models to guide them. They won't care less, because they are infected with HIV. They will have access to guns ... the escalation of violence could be so great that it becomes the only determinant of whether life is worth living or not.'28

Small arms and violent crime

The easy availability of small arms and light weapons fuels the activities of criminal groups and terrorist organisations around the world. The possession of such weapons allows them to carry out their operations through threats and violence and to protect their interests against both rivals and State law enforcers. The illicit sale, use, and trafficking of SALW thus constitutes a major social problem for many countries and regions. In Central America, for example, estimates of the number of illegal weapons in the hands of civilians range from two million for the entire region to two million in Guatemala alone. The
Part 1: The policy context

homicide rate in the region is approaching 60 per 100,000 population – almost
double the average for the rest of the Americas. Nor is the increasing use of
SALW in violent crime limited to the South. Trends in much of the developed
world also show an increase in the level of SALW being used in crime. In London,
for example, gun-related crime rose by 11 per cent in 2002. In many societies,
law-enforcement agencies are struggling to deal with such crimes, with
increasing numbers of victims and by-standers being shot and seriously injured
or fatally wounded. A World Health Organisation report of 2001 stated that due
to a lack of reliable global data it was not yet known how many of the 2.3 million
violent deaths each year involve small arms, but that best estimates indicated that
several hundred thousand people die each year as a result of gun-related
homicides, suicides, and armed conflict.

The SALW that are used in violent crime come from a wide variety of sources. In
terms of the global illicit trade in SALW as a whole, few weapons begin their lives
as illicit commodities, in the sense of having been manufactured and sold
illicitly. However, in particular regions – such as South Asia and Central America
– illicit production does make a significant contribution to the problem of illicit
SALW. In societies which permit significant levels of civilian ownership of SALW
– such as the United States and South Africa – most weapons used in crime are,
in the first instance, manufactured and sold legally to civilians. Some such SALW
are subsequently lost, stolen, illegally resold, or loaned before being used in
violent crime. The illegal sale of SALW by law-enforcement officials can also
contribute to the problem. In societies where there are low levels of civilian
firearm-ownership, criminals rely on specialised networks to bring weapons into
the country and distribute them. For example, in the UK, 90 per cent of illegally
owned firearms are manufactured outside the country. In other societies where
law and order mechanisms have broken down, looting from State arsenals has led
to large quantities of SALW entering the illicit market and being used in crime.
In Albania, for example, 350,000 weapons are still unaccounted for following the
collapse of State authority in 1997.

In many societies, former combatants and others who lack the skills or the
opportunity to earn a livelihood through lawful means have retained or acquired
SALW in order to pursue banditry and other forms of violent crime. Indeed, the
ready availability of SALW in some post-conflict societies has led to the
emergence of so-called ‘war economies’ – a phenomenon typical of weak, war-
torn societies, including for instance Georgia, which is plagued with illegal
activities. In such war economies, smuggling of arms, illegal drugs, contraband
petrol, cigarettes, cars, and even people is a feature. Armed struggle has become
an end in itself, since certain groups benefit from the volatile situation and the
rampant proliferation of arms that goes with it. The State is powerless to resist
those wanting to maintain conflict for the sake of profit, and as a result armed
gangs control all aspects of social life.
Box 5: Armed violence in Brazil

A report on armed factions in Rio de Janeiro produced by Viva Rio and the Institute for Religious Studies found that almost four thousand people under 18 died from gun-related injuries between 1987 and 2001, and that more firearm deaths were reported in Rio than battle deaths in Colombia, Sierra Leone, Yugoslavia, Afghanistan, Uganda, and Israel. An average of 80 per cent of murders in the city are gun-related, and the number of murders has been rising since the 1970s, in parallel with an increase in the use of high-powered firearms, such as Kalashnikov AK-47s and Heckler and Koch G3s, by drug traffickers in the city.

Small arms and gender

Men and women, boys and girls have different experiences of small arms in terms of their use and impact, as well as different capacities to deal with their negative effects. Unless these differences are understood, the ability to plan and implement effective and meaningful programmes to counteract the abuse of small arms will be limited.

Whereas sex denotes the fixed, biological differences between men and women, gender represents the socialised differences. Gender impacts on men’s and women’s roles, relationships, experiences, and expectations in society, as well as their access to power and resources. Of course, not all men, nor all women, are the same. Men’s and women’s gender roles and relations will vary according to their age, ethnicity, class, culture, religion, and socio-economic status.

Although there are few statistics available that are differentiated by sex, it is a common perception that men are the predominant users of small arms, in times of both conflict and peace. In war time, young men are the primary targets for voluntary and forced conscription into State and non-State armies. In relatively stable societies, men also tend to be the primary users, or owners, of small arms in the household, at work, in crime, in gangs, and even for use against themselves in acts of suicide (mainly in Northern countries). According to the World Health Organisation, males are three to six times more likely than females to commit murder, with most victims and assailants drawn from the ranks of men aged 18–49. However, women’s roles as users and supporters of the proliferation and misuse of arms should not be overlooked.
Box 6: Women in the Maoist insurgency in Nepal

Women are visible at all levels of the People’s War in Nepal. Every third Maoist guerrilla and every tenth combatant is a woman. Women have become area commanders, and some of the most violent actions are associated with all-women guerrilla squads armed with *Khrukris* and sawn-off muskets, although 303 rifles, AK-47s, and farm implements are also used by the guerrillas. The female combatants are trained in the use of these small arms, while others work in transportation, communications, and intelligence as spies, couriers, and messengers, thus promoting their proliferation and misuse.\(^{38}\)

Despite the limited availability of statistics differentiated by age and gender, one can perceive some generalised gender-based patterns in a study of the impact of small arms. In many cultures, guns symbolise male power. Guns therefore have come to represent both power and security for many men. Men are at greatest risk of small-arms injury or death as combatants in conflict. Sixty-five per cent of all patients wounded in war and admitted to Red Cross hospitals in Afghanistan, Rwanda, Chechnya, and the border regions of Kenya and Cambodia between 1991 and 1998 were male, aged between 16 and 50 years.\(^{39}\)

For some women, the possession of arms may be an expression of empowerment or liberation in a male-orientated culture. For others, small arms may be viewed as a threat to themselves and their families, either as victims of weapons in the household, or as mothers and carers. In conflict, women and girls are at greatest risk of small-arms injury or death as civilians. They are targets of rape and sexual violence, including sexual torture, forced prostitution (in the role of combatants’ ‘wives’), and forced impregnation and HIV transmission, often at the point of a gun. Women are strategic targets in conflict because of their role as biological, cultural, and social reproducers of society. Women and girls are targets of trafficking for prostitution via physical or economic coercion. In more stable times, women and girls are at greatest risk from harm in their own homes as victims of domestic violence, often at gun-point.

Box 7: Rape as a weapon of war in the Democratic Republic of Congo

‘Sexual violence has been used as a weapon of war by most of the forces involved in the conflict ... Some rapists aggravated their crimes by other acts of extraordinary brutality, shooting victims in the vagina or mutilating them with knives or razor blades. Some attacked girls as young as five years of age or elderly women as old as eighty.’\(^{40}\)
Women and girls may experience a great sense of social and economic alienation as a result of a small-arms injury. A woman or girl rejected by her husband or family because she has been raped or maimed by a weapon will, for example, suffer from the social stigma of her attack and find it more difficult to support herself or her children economically. Women and girls represent the majority of health providers and ‘carers’ dealing with victims of armed conflict and gun crime.

In the absence of men who are fighting or killed, women carry the economic burden of sustaining families through daily household survival. For example, after the Rwandan genocide, it was estimated that 70 per cent of the population was female and that 50 per cent of all households were headed by women.

Understanding what motivates men and women to misuse small arms can help to establish an understanding of what creates the demand for them in the first place, and thus how to respond to the problem at local, national, regional, and international levels. For example, understanding why men or women take up arms will influence what incentives are provided – for men and for women – in any disarmament programme.

Understanding the differing gender-based impacts of small arms will also help to develop responses that reflect the needs of the whole community (men, women, boys, and girls). For example, there is a need to design services to respond to the physical injury, the social alienation, the economic poverty, and the psychological trauma of victims and perpetrators of small-arms violence, reflecting the differences in how men and women are affected by small arms and how they can be reintegrated into society.

**The impact of small arms on development**

The widespread availability of SALW can have serious negative consequences for development in a variety of contexts. Whether societies are suffering conflict, emerging from conflict, or enjoying relative peace and stability, the availability and use of SALW can block, undermine, and erode efforts to achieve sustainable development.

Although it is widely recognised that SALW do not, in themselves, cause conflicts, they can make recourse to violence more likely, while at the same time
Part 1: The policy context

Prolonging and increasing the lethality of that violence. Possibilities for development are generally extremely limited in an environment characterised by extreme instability or SALW-related violence. This is particularly the case in rural communities, often among the poorest and most insecure. Vulnerable to armed groups from outside or within their midst, they often feel that they have no choice but to take up arms in self-defence. One inevitable result is reduced agricultural production and increased poverty. In East Africa, for example, an increased level of armed violence among pastoralist communities has had a serious negative impact on development: traditional and State governance systems have been undermined, and efforts to reduce the marginalisation of these communities have been frustrated. Development in urban communities too can be imperilled by violence and conflict. For example, armed sectarian conflict in Karachi has resulted in reduced capital investment and the relocation of employment opportunities, thereby contributing to a cycle of poverty and further violence.

In post-conflict situations, if SALW are not speedily removed from former combatants and from society as a whole, people may continue to rely on them for economic gain and personal security. This may perpetuate high levels of SALW-related casualties and an associated climate of fear and instability within which it is extremely difficult for sustainable development to take place. In Cambodia and Afghanistan, casualty and injury rates among civilians remained high, despite the conclusion of peace agreements, with the annual incidence of weapons injuries in parts of Afghanistan declining by only 30 to 40 per cent in the 1995-97 period, compared with the incidence at the height of the conflict between 1991 and 1995.

Even in countries where there is no recent experience of armed conflict, widespread availability and use of SALW can take their toll on society, with the economic costs of injury and death from violent gun crime threatening to compromise development goals. In countries such as South Africa, Colombia, Brazil, and Jamaica, where there are very high homicide rates, up to 98 per cent of murders have involved the use of firearms.

In all of the above situations, high levels of deaths and injuries from SALW impose great economic and social burdens, undermining social infrastructure, including the provision of health care. In developing countries these resources are often, at the same time, limited in extent and vastly over-burdened; hence, where there are large numbers of SALW casualties, scarce resources may be stretched to breaking point.

Besides the immediate consequences of high SALW-related casualty rates, sustainable development in societies suffering from high levels of SALW violence may be undermined at a more fundamental level. Reduced economic activity on the part of the victims of SALW-related violence, and on the part of those family members who may be charged with caring for the injured and
maimed, can have serious repercussions. For example, detailed studies in the USA estimate costs from premature death and injury due to firearms at some $100 billion per year, while the Inter-American Development Bank has calculated the regional economic costs of armed violence to be some $144–170 billion per year during the late 1990s.

It is clear that the proliferation and misuse of SALW can frustrate efforts at sustainable development in urban and rural communities of North and South. Accordingly, tackling the SALW problem is a prerequisite if concerted progress is to be made towards fulfilling the Millennium Development Goals outlined in the United Nations Millennium Declaration in September 2000.
Part 1: The policy context

3 Recommended measures to address the proliferation and misuse of small arms and light weapons

In view of the many harmful effects of the proliferation and misuse of SALW, the following section introduces a range of measures to address the demand for weapons and to better regulate their supply.

It may be the case that your decision to take action on small-arms issues is based either on the impact of SALW on your community or on the role of the country in which you are based in the supply of SALW. The ‘demand’ element of this section may be of greatest relevance to you if you are motivated to tackle the incidence of violent gun crime in your community. In this regard, tackling the demand for small arms covers a broad range of issues, including structural and deep-rooted problems such as poverty, inequality, bad governance, and underdevelopment, in addition to more specific initiatives to tackle the weapons themselves, such as regulating the activities of private military and security companies, reforming the security sector, managing stockpiles of weapons, destroying stocks of surplus weapons, and transforming cultures of violence.

On the other hand, if you are seeking to take action to encourage tougher regulation of the SALW trade, then the ‘supply’ element of this section will be most relevant. It covers action to regulate the production and transfer of SALW, including the establishment of effective controls on weapons transfers; monitoring the end-use of small arms once exported or transferred; the establishment of systems for marking and tracing individual weapons; the regulation of arms brokering and shipping agents; establishment of controls on the production of SALW overseas; and instituting stringent controls on the possession and use of SALW by civilians.

For a fully effective response to the problem of SALW proliferation, action in both areas is crucial. Where possible and appropriate, it will be important to link your action with that of others working on different aspects of the problem, so that a comprehensive approach is maintained. To find out more about the wide variety of actions being undertaken by civil society on the various aspects of the small-arms problem, contact the International Action Network on Small Arms (IANSA) – details in Part 4 of this handbook.
Measures to address the demand for SALW

Reducing the demand for arms in affected communities requires an understanding of why communities or individuals resort to arms in the first place. A complex web of social, cultural, political, and economic conditions determines the demand, and thus it is necessary to take a holistic view of the situation, which will probably involve addressing fundamental issues of poverty and impunity. Reform of the policing and criminal-justice systems may be necessary, but alternatives to using guns to create livelihoods must also be considered.

There must also be genuine, active engagement of the local community to ensure that any initiatives are relevant to their needs. Men, women, girls, boys, older people, disabled people, and members of all ethnic and religious groups should be consulted and should feel a sense of ownership of any resulting plan. Ex-combatants and ex-gang members from different sides may have much in common with each other and can act powerfully for change in challenging machismo and gun culture. Elders' voices are often critical; for youth, alternatives must be found to provide the sense of identity, purpose, group support, and security that membership of gangs can offer.

Weapons collection

It is widely recognised that the removal of weapons from society is an important means of reducing the proliferation and misuse of SALW. In recent years, weapons-collection initiatives have been undertaken around the world when a country or a community wishes to put an end to a violent or traumatic period in its history. In this regard, as well as helping to reduce numbers of SALW circulating in society, weapons-collection initiatives may also serve as potent symbols of hope for a more peaceful future.

Weapons-collection initiatives may be divided into two broad categories. Some relate to crime-prevention programmes: for example, the amnesty organised by the UK government in March 1996 following the massacre of 16 primary-school children and their teacher in Dunblane, Scotland: in this instance, 185,000 SALW were surrendered. A similar initiative was undertaken by the Australian government following the killing of 35 people at Port Arthur, Tasmania in April 1996; this initiative resulted in the surrender of 644,000 weapons. Some NGOs such as the Brazil-based Viva Rio are becoming a driving force behind such initiatives within a crime-prevention context.

Weapons-collection initiatives have also been undertaken within the context of post-conflict reconstruction and peace-building programmes. Where violent conflict has recently abated, efforts to remove weapons from society must be coupled with initiatives to address the root causes of conflict, as in the cases of
Sierra Leone and Northern Ireland. Failure to take a comprehensive approach to post-conflict reconstruction and peace-building can mean that demand for SALW remains, thereby undermining efforts to remove these weapons from society as a whole.

An essential feature of any effort to resolve conflict and build a stable peace must be the speedy and effective demobilisation and reintegration of former combatants when hostilities have ceased. Experience with demobilisation and reintegration programmes (DRPs) conducted after peace agreements in the late 1980s and early 1990s (as in Nicaragua, El Salvador, Mozambique, and Liberia) demonstrated the problems that arise from inadequate provisions for SALW collection and control from former combatants. For example, groups of ex-combatants who retain easy access to arms may resort to banditry in the absence of alternative sources of income, or continued insurrection in the absence of a viable peace agreement. Accordingly, the instigation of DRPs which incorporate provisions for swift collection of SALW, accurate record-keeping, safe storage of collected SALW, and their speedy destruction can help to ensure that peace, once established, is maintained.

Where excess weapons in society are linked to conflicts which have long since ended, as in El Salvador and Cambodia, weapons-collection initiatives take on a different character. Under these circumstances, holders of weapons may be reluctant to relinquish them, if they have grown to rely on them as part of their daily life. Accordingly it will be necessary to employ a range of measures, possibly including the use of incentives or rewards for individuals who surrender SALW, and efforts to assure the safety of the civil population.

In recent years, weapons-collection initiatives have been undertaken in Albania, Australia, Brazil, Cambodia, El Salvador, Georgia, Liberia, Macedonia, Mali, Mozambique, Sierra Leone, South Africa, and the UK, to name but a few countries. One of the most high-profile initiatives, due to its pioneering use of the concept of 'disarmament for development', has been the Gramsch Project in Albania. This project linked the provision of assistance for building social infrastructure such as roads and schools to the surrender of weapons by the local community. The pilot phase of the Gramsch project, from early 1999 until 2000, led to the surrender of 6000 weapons and 137 tons of ammunition in exchange for assistance worth US $1.2 million. Although relatively costly, the Gramsch project is widely seen as a success because of the awareness-raising value of the project, and the permanent benefits arising from the rewards.

Recommendations for best practice in weapons-collection programmes

Governments, together with civil-society organisations, should seek to set up weapons-collection programmes whenever there is an opportunity to do so.
Information-exchange and capacity-building programmes, including technical and financial assistance, should also be undertaken, in order to promote an international understanding of best practice. Generally speaking, sustainable weapons-collection initiatives are characterised as follows:

- They are coupled with efforts to tackle the root causes of conflicts and to promote respect for human rights and fundamental freedoms.
- They benefit from the active support of all protagonists, thus ensuring that all parties concerned have the confidence to relinquish arms.
- There is wider public support for the initiative.
- They are accompanied by measures to control access to SALW on the part of civilians.
- An appropriate balance is struck between the imposition of sanctions and the provision of incentives.
- All weapons seized and surrendered are quickly destroyed, to prevent their re-circulation into society.

Reform of the security sector

The police and the military are usually responsible for maintaining law and order in times of peace. However, security forces may themselves be responsible for the proliferation and misuse of small arms, especially if they are repressive, corrupt, and unaccountable, and if the judicial system is unable to take effective action to prosecute the perpetrators and enforce legislation.

The absence of a viable security sector results in the privatisation of security, which can ultimately fuel demand and lead to an increase in civilian possession of SALW. In a situation where the security sector is an active agent of insecurity, weapons may be sought by citizens to defend themselves against the State, and an inefficient or corrupt security sector will not be able to properly monitor or regulate the private possession or use of firearms.

Under such circumstances, Security Sector Reform (SSR) Programmes may be useful in preventing the proliferation of SALW at the national level. The overall aim of Security Sector Reform is the transformation of the security sector (police, military, judicial bodies, etc.) so that they play an effective, legitimate, and democratically accountable role in providing external and internal security for citizens. The ultimate aim should be the provision of a reasonable and acceptable level of security to the whole of society, regardless of social or financial status.

Recommendations for best practice in Security Sector Reform Programmes

- Strengthening civilian control and oversight of the security sector, which may include the ‘civilianisation’ of ministries of defence and the interior; promoting independent, non-government expertise on security-sector
issues; and the development of greater transparency and trust between civilian and military institutions.

- Increasing professionalism within the security forces and enhancing the capacity of the armed forces to monitor and regulate firearms use, by means of technical skills training; the upgrading of military or police equipment; better remuneration for personnel; and strengthening police capacity to guarantee a basic level of human security.

- Establishing Disarmament, Demobilisation, and Reintegration (DDR) programmes, under which regular and irregular forces have their arms taken into public control, and any weapons that are surplus to the needs of any new security forces are destroyed.

- Strengthening the rule of law and establishing strong independent legal frameworks, by means of law reform and capacity building for both judiciaries and parliamentarians, to make the system more responsive to the needs of the general public; and establishing an independent judiciary to counter the need for people to seek justice through informal mechanisms.

Box 9: The case for security-sector reform: Brazil

‘The systematic use of torture and ill-treatment continued in police stations, prisons and juvenile detention centres. Killings by police and “death squads” linked to the security forces increased, especially in urban centres. Land reform activists and indigenous people involved in land disputes were harassed, assaulted and killed both by military police and by gunmen hired by local landowners, with the apparent acquiescence of the police and the authorities. Elizabeth Cristina de Oliveira Maia was shot dead outside her home on 26 September [2000], just before giving evidence at the appeal hearing of one of the military police accused of involvement in the Candelária massacre. Her murder suggested the involvement of a “death squad”, and increased the fears of other witnesses in “death squad” trials.

João Elizio Lima Pessoa was driving to his home in Aguas Lindas, Goiás state, on 7 February. The road was blocked by rocks and when he tried to clear them he was shot dead. His wife was also shot, but survived. João Elizio Lima Pessoa had been working with the Public Security Community Council, investigating “death squad” killings in the region.”
Private military and security companies and the proliferation and misuse of small arms

During the 1990s a change occurred in the nature of conflicts, as the volume of available weaponry increased, and the types of actor engaged in violence multiplied. A feature of this change has been the continuing, if not growing, presence of mercenaries (individuals who fight for financial gain in foreign conflicts) and the emergence of private companies contracted to provide military and security services. These services range from logistical support and training to procurement of arms and on-the-ground involvement in fighting. There are a number of specific ways in which mercenaries and private military and security companies can fuel the proliferation and misuse of small arms. They include the following:

- acting as arms brokers and transportation agents;
- violating UN arms embargoes;
- carrying out human-rights abuses and breaches of international humanitarian law, or facilitating such violations through training or equipping abusive forces;
- driving the demand for small arms in communities by contributing to the militarisation of societies and the exacerbation of tensions in the regions in which they operate.

To date, action to control mercenaries and private military and security companies has been sporadic and ad hoc – with serious consequences for peace, security, and human rights. In order to reduce the proliferation and misuse of SALW that have resulted from a growth in the privatisation of security, all States should consider taking the following measures.

Recommendations for the control of private military and security companies

- Introduce national legislation to control the activities of private military and security companies. The latter should be required to register and apply for authorisation for each contract which they sign. Such applications must be assessed in accordance with publicly available criteria, based on international human-rights standards and international humanitarian law.
- Ban mercenary activity, by ratifying the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, to ensure that the convention enters into force. It is necessary to negotiate a protocol to this treaty, to ensure that the activities of private military and security companies are regulated internationally.
Management of stockpiles and surplus SALW

Vast quantities of SALW – including semi-automatic and military-style equipment – are held by armed forces, police, and other State bodies. These stocks are a prime target for criminals, bandits, and armed groups. Losses from State stocks through theft, corruption, or neglect represent a major source of illicit weapons. These losses may take place with the knowledge or collusion of those in possession of, or responsible for managing, State-owned firearms; they may also occur without the detailed knowledge of the State and its agencies – particularly where accounting systems and procedures for stockpile management are inadequate.

The security of arms stockpiles is a particular problem in regions suffering conflict or serious political and social upheaval. For example, rebel army groups and bandits in Liberia, Sierra Leone, Ethiopia, Congo Republic, and the Transcaucasus have obtained arms and ammunition by seizing stocks from police and army units or stores.56 The example of Albania has also been well documented: well over 650,000 SALW were looted from State arsenals there during the turmoil of 1997. At the same time, many developing countries and those in political or economic transition, such as many of the former Soviet Republics, maintain large holdings of SALW but lack the resources or systems to prevent losses through theft, corruption, or neglect.57

Compounding the problems associated with stockpile management in many countries is the issue of surplus weapons, i.e. those held by armed forces, police, and other State agencies that are surplus to their requirements. The surplus may have been caused by a restructuring or re-equipment process or the implementation of a post-conflict peace accord.58 Until recently, countries have typically taken less care when transferring surplus weapons than when exporting newly manufactured weapons, rendering it more likely that such weapons will enter the ‘grey’ or illicit market.

Ensuring proper management of and accountability for State-owned stocks of SALW in all countries is a major challenge, requiring significant organisational and financial resources. If it could be achieved, however, it would make a significant contribution towards reducing the level of the illicit trade in and use of SALW globally.

Recommendations for the management of stockpiles and surplus weaponry

- All authorities should take full responsibility for all weapons held or issued by them and ensure that they are protected against theft, corruption, or neglect. States should begin by reviewing and assessing the adequacy of current procedures and practices and should repeat this process on a regular basis.
• States should ensure that they have adequate systems and procedures in place relating to appropriate locations for SALW stockpiles; physical security measures; control of access to stocks; inventory management and accounting control; staff training; security of transport for SALW; security and accounting procedures for SALW held by operational units; methods for detecting losses and levying sanctions against those responsible.59

• States should ensure that all surplus weapons, parts, components, and ammunition are destroyed and not re-exported.

• The UN and other international and regional organisations should promote and ensure stockpile security, particularly where involved in peace-keeping operations. International awareness-raising and capacity-building programmes should be established in order to develop common understandings of best practice and to assist countries that lack resources and expertise in the implementation of the same.

Measures to control the supply and transfer of SALW

A prerequisite for effective international action to combat the proliferation and misuse of small arms and light weapons is that States should develop a common understanding of what constitutes the 'legal' trade and therefore of what is 'illicit' (see the 'Definitions' section earlier in this handbook). Failure to exert effective control over the legal trade in SALW opens up possibilities for diversion to illicit markets and end-users, and blurs the lines between the legal and illicit trades. In some circumstances inadequate controls on the ‘State-authorised’ trade in SALW also result in weapons flowing directly to abusive end-users.

All governments are potential suppliers of SALW, since even those with no manufacturing capacity have the potential to export surplus or confiscated weapons from the stocks maintained by the police and/or armed forces. The nature of the export, import, in-transit licensing, and end-use certification requirements imposed by governments, and the rigour (or lack of rigour) with which they are monitored and enforced, are therefore of great international importance. Governments have a significant role to play in ensuring that transfers of SALW are not authorised to abusive end-users or diverted to illicit markets.

A few basic questions immediately present themselves. What are the circumstances under which States ought (or ought not) to authorise a transfer of small arms and light weapons? How are these decisions to be made? What sorts of factor ought States to take into account when making these decisions?

The first and most obvious answer to these questions is that, at the very least, States ought not to authorise transfers of SALW that would violate their commitments under national and international law. This basic obligation, widely
accepted by the international community, is reflected by the UN Disarmament Commission, which defines the illicit trade in SALW as

\textit{that international trade in conventional arms, which is contrary to the laws of States and/or international law.}\textsuperscript{60}

It is also reflected in the UN Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (PoA), which recognised the importance of exercising effective control over SALW according to the established standards of international law. Section II, Article 11 of the PoA reads partly as follows:

\textit{Member States undertake to... assess applications for export authorisations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of States under relevant international law.}\textsuperscript{61}

Therefore it is clear that the existing responsibilities of States under relevant international law represent a critical set of norms for decision making in this area. They are the fundamentals of any effective SALW transfer-control system.

What, then, are these international responsibilities? And how can States develop transfer-control regimes that are consistent with them?

Some of the prohibitions that are established by international law in this area are relatively clear and uncontroversial; these are called \textit{express prohibitions}.

\section*{Express prohibitions}

The most basic form of prohibition is a multilateral (between several States) or bilateral (between two States) agreement to ban transfers. With the exception of anti-personnel mines, the only specific agreement completely prohibiting transfers of small arms and light weapons currently in force is the regional and non-binding three-year moratorium concluded by ECOWAS in 1998 and subsequently extended for a further three-year period in 2001.

Other prohibitions on transfers to specific countries or recipients include arms embargoes and other sanctions imposed by the United Nations Security Council. Such decisions to impose arms embargoes are taken under Chapter VII of the UN Charter and thus are binding on all members of the UN. Obligations exist on two levels: first, States themselves are prohibited from transferring the weapons to the embargoed State; and secondly, they must also take the necessary measures to implement, apply, and enforce the embargo internally, to make it effective against private actors within their jurisdiction. In March 2003, there were UN embargoes in place against Iraq, Liberia, Libya, Rwanda, and Sierra Leone. In addition to these UN-mandated embargoes, which are legally binding, some regional organisations also impose arms embargoes on a particular State or armed group, and
these should be equally respected by Member States when taking decisions about the control of SALW exports. For instance, during the conflict in East Timor in 1999, the European Union imposed an embargo on weapons transfers to Indonesia.

**Restrictions based on use**

Another relevant type of prohibition derived from international law is based on the use to which the weapons will be put. This type of prohibition has not gained the same level of acceptance among States as the preceding categories of restriction. It would apply to circumstances where a State transferring weapons had knowledge, or ought to have had knowledge, that the arms in question were likely to be used for serious violations of international law by the recipients. This prohibition is based on the well-established international legal principle that States must refrain from providing aid or assistance to other States in the commission of internationally classified wrongful acts.

The principle is stated in Article 16 of the International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts, adopted in 2001, in the following terms:

*A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:*

- *that State does so with knowledge of the circumstances of the internationally wrongful act; and*
- *the act would be internationally wrongful if committed by that State.*

The kinds of internationally wrongful act that would be covered by such a prohibition include the following:

- breaches of the United Nations Charter or corresponding rules of customary international law, in particular those prohibiting the threat or use of force in international relations
- serious violations of human rights
- serious violations of international humanitarian law relating to international or non-international armed conflict
- genocide or crimes against humanity
- acts of terrorism.

**Areas of emerging international consensus and best practice**

Beyond the restrictions that reflect States' commitments under international law, there are a number of other factors that governments, to a greater or lesser extent, take into account when deciding whether to grant or refuse an export licence for SALW. These include:
Part 1: The policy context

- the threat of use of SALW in conflict
- the potential effect on international/regional stability
- the undermining of sustainable development
- the risk of diversion or trans-shipment to an illicit end-user.

There have been attempts over recent years in some countries (for instance, South Africa) and groups of countries (for instance, the EU and OSCE) to codify some of their commitments under international law. These efforts are not comprehensive; however, they are important in that they provide useful benchmarks for the future.

**Box 10: The Arms Trade Treaty**

A group of non-government organisations (NGOs) partnered by international lawyers are advocating the establishment of an ‘Arms Trade Treaty’ or ‘ATT’. Drawing on existing international law, the ATT is a model for a legally binding international agreement establishing a set of minimum standards and procedures for the transfer of conventional weapons, including SALW. It is based on the simple principle that arms exporters have a responsibility to ensure that they do not provide weapons that would be used in serious violations of international law. To date, this effort has been endorsed by 18 individuals and organisations honoured with the Nobel Peace Prize.

The ATT establishes core, common minimum standards for international arms transfers, and a workable mechanism for the application of these standards. Under this instrument, a transfer would not be authorised if there was a risk that the arms might be used to violate human rights and international humanitarian law or to commit war crimes, genocide, or crimes against humanity. Furthermore, there would be a presumption of denial on arms transfers which were likely to undermine sustainable development, political stability, or regional security, or to facilitate the commission of violent crimes. Under this treaty, States would submit an annual report to an international registry on all the international arms transfers from or through its territory or subject to its authorisation. The registry would subsequently publish an annual report of these State-sanctioned transfers.

**Establishing effective operative procedures**

Truly effective controls on the transfer and end-use of SALW must begin with comprehensive and stringently enforced national controls and procedures. However, national procedures are not sufficient in themselves. Because of the transnational nature of the production and export of SALW, regional and international controls are also required.
In recent years States have recognised the necessity for transnational controls. For example, in 1997 the Inter-American Convention and subsequent development of Model Regulations for the Control of the International Movement of Firearms developed a control framework for export, import, and transit licensing and authorisation in the Americas region. Some elements of this Convention have been subsequently internationalised by the UN Firearms Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition (see Section 4 of Part 1 of this book).

If an international small-arms control system is to prove effective, it is vital that common standards for licensing transfers are established. In order to ensure that shipments of SALW are not diverted to unauthorised end-users or used for other illegal or undesirable purposes, States should consider implementing the following initiatives.

**Recommendations for establishing effective licensing controls and procedures**

- All transfers of SALW should be explicitly authorised by the exporting, importing, and transit States involved in any transfer.
- All States involved in any transfer should exchange information, such as detailed descriptions of the goods being shipped, including quantities, the final destination of the arms, and the identity of the end-user. Information should also be exchanged about the dispatch and/or receipt of the shipments of SALW.
- No exports should be made without receipt by the exporting authority of the necessary certification from the importing and transit States. Similarly, authorities in transit States should require receipt of official export and import authorisations before allowing onward shipment.
- Provision should be made for exporting States to verify the delivery of SALW, including physical inspection within the importing State (see below).

**End-use certification and monitoring**

End-use certification and monitoring procedures are vital for the credibility of export-control systems. Without them governments, parliaments, and the public cannot be sure that the SALW transfers that governments have authorised in accordance with national export criteria are not being misused by the end-user or have not been diverted to illegitimate recipients. Current procedures for establishing and monitoring the end-use of SALW transferred from many major exporting States are inadequate.

False end-use documentation is often used to divert arms – particularly small arms – to the illicit market. For example, UN bodies set up to assess compliance with sanctions against UNITA forces in Angola found that large quantities of weapons had been exported from Bulgaria to the Angolan rebel movement on the
Part 1: The policy context

basis of forged end-use certificates and assurances. Since formats and procedures vary greatly from country to country, end-use assurances and certification are especially liable to abuse and fraud. Forged statements are used to gain export licences for weapons that were never intended for their stated destination or purpose. As few countries physically verify delivery, forgery is a low-risk strategy. There have been numerous cases brought to light, primarily by civil-society researchers and journalists, of the consequences of poor end-use controls and the lack of follow up monitoring.

Box 11: Finnish bullets

During a May 1999 research mission to Indonesia and East Timor, Amnesty International collected the casings of SALW bullets, found after a paramilitary militia attack in the Dili area of East Timor. These bullet casings were later analysed and found to have been manufactured by the Finnish company Patria Lapua Oy. The Finnish government has in the past admitted granting export licences for ammunition to the Indonesian security forces. But how did such ammunition fall into the hands of paramilitary groups?

Recommendations for developing effective end-use and monitoring procedures

- The most effective system for end-use control would include provisions whereby an end-use certificate takes the form of a legally binding contract, which contains a list of proscribed uses (such as human-rights abuses) and a prohibition on unauthorised re-export or transfer.
- Failure to honour the terms of an end-use contract should result in the revocation of the licence and a halt in further supplies, provision of spares, maintenance, and training.
- A comprehensive system of follow-up checks is also required and should be provided for within the contract to ensure that exported goods are not misused by their stated end-user, or are not being diverted, or re-exported. The requisite checks could be carried out by consular or embassy officials based in the country of destination.

Regulating civilian ownership of SALW

Civilian-owned SALW have contributed to violence, death, and injuries throughout the world. It is estimated that around the world there are as many small arms in civilian possession as there are under State control. Accordingly, the strict regulation of domestic SALW ownership is a crucial aspect of efforts to tackle the illicit trade in, and use of, these weapons.

Most SALW are legally manufactured and acquired by governments or civilians. Some SALW are manufactured illegally and enter civilian hands without proper
authorisation of the State. However, this problem is largely confined to particular regions of the world – such as Central America or South Asia. Other SALW are illegally imported into a country under cover of false documentation, such as customs declarations. Some SALW are legally acquired and then modified to the point where they are no longer legal under the laws of a particular country: for example, the conversion of a semi-automatic weapon to a fully automatic one. Other SALW in civilian possession are illegally sold on by the original legal owner, while hundreds of thousands of civilian-owned SALW are stolen every year. Finally, weapons surrendered by the public in gun amnesties can also find their way into illegal civil possession if they are not properly safeguarded and destroyed.

Many regional and international agreements have referred to the need for strict domestic regulation of SALW possession and use – including adequate control, marking, record-keeping, transparency in relation to the level and purposes of civilian SALW ownership, and proper enforcement of legislation. For example, co-operative arrangements have been established through a Protocol to the UN Convention on Transnational Organised Crime (the so-called Firearms Protocol), requiring countries to provide authorisation to one another before allowing commercial shipments of firearms to enter or move across their territory. The UN Firearms Protocol also establishes minimum standards for marking of small arms, and it is hoped that together these measures will help to prevent the diversion of SALW from legal civilian ownership into illicit markets.

Despite the increasing international attention given to the issue, the stringency of regulations governing civilian ownership of SALW varies significantly from country to country. Some States, such as the UK, allow only very limited categories of SALW to be owned by civilians; others, such as the USA, allow civilian ownership of even military-style assault rifles.

Recommendations for best practice in the control of civilian possession of SALW

In order to reduce opportunities for the diversion of civilian-owned weapons to illicit end-users, all countries need to adopt comparable stringent regulations governing the domestic ownership and use of SALW. These measures should include:

- Prohibiting the civilian ownership of certain categories of SALW, particularly military-style weapons and hand-guns.
- Regulating SALW dealers and ensuring that they are required to meet adequate standards of record-keeping.
- Maintaining strict licensing requirements so that individuals may not own and use SALW unless they have obtained express authorisation from the appropriate State body. Securing this authorisation should require demonstration of legitimate ‘need’ as well as rigorous checks on the authenticity of the application and the character of the applicant.
• Ensuring high standards of marking and record-keeping for civilian-owned SALW.

• Imposing strict requirements for safe storage of civilian-owned SALW.

**Reporting, transparency, and accountability (including parliamentary reporting)**

Efforts to combat and prevent illicit trafficking in, and proliferation and misuse of, small arms and light weapons are hampered by lack of publicly available information. Official information concerning the production, stockpiling, and transfer of SALW is either non-existent or generally shrouded in excessive secrecy. Such secrecy undermines systems of accountability within each country. It also obstructs inter-agency co-ordination and appropriate international cooperation. Many governments do not collect, maintain, or exchange sufficient information even for their national control purposes.

Currently at least 60 States are regularly involved in the legal export of SALW, while almost all countries in the world are involved in the legal import of SALW and occasional export of surplus second-hand weapons. About 30 countries provide public information on their annual arms transfers, normally in the form of a report to parliament. However, only three States (USA, Italy, and UK) provide systematic public information on both the value and volume of their transfers of SALW by country destination.

In addition to national export reports, at least 33 countries currently provide information on both imports and exports of SALW to the COMTRADE database – an international customs database administered by the UN Statistical Division. However, a number of the world’s major exporters of SALW, including Bulgaria, Israel, and the Russian Federation, do not submit data to COMTRADE.

**Recommendations for enhancing transparency and accountability**

• Governments should review current present arrangements for disclosing information relating to SALW and to the implementation of the UN PoA and other regional agreements.

• Governments should undertake to implement existing voluntary commitments on transparency and accountability at the national, regional, and global levels.

• All producing and exporting governments should publish annual reports on arms production, export licences, and transfers; the reports should include information relating to quantities, values, and end-users.

• There should be opportunities for parliaments in exporting States to examine applications and advise government prior to their being granted or refused.
**Marking and tracing**

The marking and tracing of small arms has attracted considerable attention and interest in recent years. Firearms and ammunition can be marked with simple inscriptions to show the type of item, serial number, manufacturer, and initial purchaser. These elements allow the firearm to be registered and subsequently identified. The process of reconstituting the transfer route that is followed by a specific weapon over the course of its lifetime is known as ‘tracing’. Successful tracing, dependent on adequate marking and record keeping, allows concerned governments and organisations to identify the producer of a particular weapon and the various intermediaries involved in its transfer to, for example, human-rights abusers, criminal groups, or to conflict zones. Tracing will also enable illicit trafficking networks to be uncovered and destroyed, and for actors involved in the deliberate violation of international arms embargoes to be punished – in theory. In practice, existing marking, record keeping and tracing arrangements are on the whole inadequate to the task.

**Recommendations for enhancing marking and tracing**

- The current UN process on marking and tracing needs to move towards the negotiation of an international, legally binding instrument on marking and tracing of SALW.
- To promote implementation and development of the commitments contained in the UN PoA, a system of information exchange on national marking systems (including country-identification marks) needs to be established.
- An international programme is needed to identify and disseminate good practices relating to marking, record-keeping and tracing; to establish guidelines and minimum standards for marking each type of SALW (including ammunition); and to assess and promote reliable marking techniques.
- As well as controlling direct transfers from one State to another, States must also close other loopholes which facilitate illicit trafficking. Two important ones are Brokering and Licensed Production Overseas (LPO).

**Brokering and shipping agents**

Arms brokers may be defined as middlemen who organise arms transfers between two or more parties, often bringing together buyers, sellers, transporters, financiers, and insurers to make a deal. They generally do so for financial gain, although political or religious motivation may also play a part in some deals. Often such brokers do not reside in the country from which the weapons originate, nor do they live in the country through which the weapons
pass, or the one for which they are destined. As a result, such 'third party' arms brokering is notoriously difficult to trace, monitor, or control. Arms brokers work very closely with transport or shipping agents. These agents contract transport facilities, carriers, and crews in order to move arms cargoes by sea, air, rail, or road.

Evidence suggests that many of the arms transfers to the worst-affected conflict regions and human-rights crisis zones are organised and trafficked by arms brokering and transport agents. Targeting those States with weak national export controls and enforcement, unscrupulous brokers and transportation agents organise the transfer of arms and security equipment to a range of illegitimate end-users such as criminals, terrorists, and human-rights abusers.

Box 12: Brokers breach embargoes

European arms brokers and transport agents have been implicated in the breaching of a number of UN arms embargoes. One example is the role they played in circumventing the embargo in place against the Revolutionary United Front in Sierra Leone. The RUF had been responsible for widespread and gross abuses of human rights, including mass killings, rape, torture, and amputation.

On 13 March 1999 a shipment of 68 tons of Ukrainian arms was flown to Ouagadougou, Burkina Faso. The shipment, organised by a Gibraltar company, contained more than 700 boxes of weapons and cartridges. It was flown in an Antonov aircraft run by a UK company, Air Foyle. The weapons were subsequently trans-shipped to Liberia. From there such arms could then be easily shipped across the border to the RUF forces, waiting eagerly.69

Recommendations for controlling arms brokers

- Governments need to introduce national measures to control brokering. These should apply to the buying, selling, and promotion of SALW. All such brokering transactions should require the licensed approval of government and be judged on the same strict export criteria as direct SALW transfers (see above).

- To be effective, such controls must apply to all nationals, wherever they live, and to any company or individual resident or registered in the country. Such measures would help to ensure that brokers are unable to escape regulation simply by stepping outside the country.

- In addition, governments should require nationals who are arms brokers to register as such and to publish their audited accounts relating to arms trading. Agents who break laws regulating SALW exports or deliberately
supply misleading information about their SALW transactions should be prosecuted and banned from any further arms brokering.

- Governments should also work towards internationalising controls on arms brokering, to ensure that arms brokers and trafficking agents do not simply relocate from States where regulations are in place to States where control is lacking.

**Licensed production overseas**

Licensed production overseas (LPO) is the practice by which one company allows and enables a second company in another country to manufacture its products under licence. Under such agreements, the licensee may receive a range of support from the licensing company in the form of component parts, machine tools, blue prints, and technical drawings; technical personnel such as engineers may be seconded to work on the project. LPO and the associated transfer of SALW production technology mean that new companies and countries can now initiate SALW production where none had previously taken place. The proliferation of such LPO has not been matched by the parallel development of effective controls. The effects of such poor control can be deadly.

**Box 13: Heckler and Koch**

The Anglo-German company Heckler and Koch has engaged in a number of LPO arrangements with the State-owned Turkish arms manufacturer MKEK. In 1998, for example, Heckler and Koch won a ten-year contract worth US$ 18 million for the licensed production of 200,000 HK 5.56mm assault rifles in Turkey. While several States had previously refused direct arms supplies to Turkey in response to serious concerns about the abuse of human rights, this local production of H&K small arms allows the provisioning of the Turkish military and security forces.

Not only has licensed production allowed Turkey to equip its own police and military, but MKEK has also boosted its own export market and counts countries like Kuwait, Burundi, Libya, Pakistan, Tunisia, and Indonesia among its clients.

In a UK TV documentary programme broadcast on 9 December 1999, MKEK revealed that it had shipped a consignment of 500 MP5 submachine guns to the Indonesian police in August/September 1999. This was at a time when widespread violations of human rights were being committed in East Timor by anti-independence paramilitaries, allegedly with the complicity of the Indonesian security forces. On 16 September 1999, as the human-rights situation was deteriorating, the EU instituted a comprehensive arms embargo.
This embargo meant that neither Heckler and Koch in Germany nor the UK would have been allowed to export MP5s to Indonesia. However, since Turkey was not a member of the EU and was not covered by the embargo, little could be done to stop MKEK from producing H&K small arms under licence and from continuing to supply these weapons to the Indonesian security forces.

Recommendations for controlling Licensed Production Overseas

- States should not allow the transfer of licensed-production capability where there is a risk that the SALW subsequently produced will be transferred to an abusive end-user, or where the recipient State cannot demonstrate sufficient accountability in terms of end-use control.

- In those licensed production deals which are allowed, there must be strict control of production levels and the duration of the contract, and a prohibition on export without the originating government’s consent.

- If there is evidence that the licensee has breached the contract and transferred products to those likely to use them for human-rights abuses or other proscribed purposes, then the licensed production agreement should be revoked. All provision of related machine tools, parts, training, and technology should then be halted.
4 Existing initiatives to address proliferation and misuse of SALW

This section considers the key initiatives and processes currently in place to tackle the proliferation and misuse of SALW. It looks first at relevant international agreements, then at regional initiatives, and finally at examples of inter-regional action.

The complex nature of the small-arms problem has been recognised as requiring action at the international as well as regional and national levels. Regional agreements and initiatives are important in the development of standards and practices that lay the foundations of international consensus. For example, current discussions at the international level about developing a common set of criteria to be taken into account when licensing aspects of SALW draw heavily on existing criteria identified in existing regional initiatives such as the EU Code of Conduct on Arms Sales and the Wassenaar Arrangement.

International initiatives

The United Nations Conference on the Illicit Trade in Small Arms in All its Aspects

The UN Conference was the first of its kind. The first time that all UN Member States had the opportunity to meet to discuss the illicit trade in SALW in all its aspects, it represented the first real attempt to agree a comprehensive set of measures to address the problem. There is no doubt that the conference has contributed to a better understanding of both the nature of the illicit trade in SALW and of the particular concerns and priorities of different countries and sub-regions.

The UN Conference was important for civil society in developing action to address SALW problems. The event put SALW firmly on the political agenda and provided a forum for civil society to demand change from governments. The Conference was also an important opportunity for government to hear the voices of those working to alleviate the suffering and pain caused by the illicit trade in SALW.

The conference was organised through the United Nations and took place at the UN headquarters in New York from 9 to 20 July 2001. It aimed to develop a framework for comprehensive action at the national, regional, and global levels to
Part v: The policy context

address the illicit trade in SALW in all its aspects: a framework commonly referred to as the UN Programme of Action (PoA).

Prior to the Conference, there were three Preparatory Committee meetings (Prep Coms), two of which considered drafts of the Programme of Action, which was eventually agreed at the end of the conference by consensus. Civil-society organisations from around the world were involved in all three preparatory meetings and during the conference itself. They undertook various roles, including advocacy, media work, and providing policy advice, and represented those working on a community level as well as those involved in policy development and research. The International Action Network on Small Arms (IANSA) performed a co-ordinating role for NGOs and civil-society groups and facilitated the participation of representatives from all regions of the world.

Many believed that the conference and the resulting Programme of Action were a missed opportunity for the international community to take lasting action to address the illicit trade in SALW in all its aspects. Certainly, although the Programme of Action that was agreed at the Conference provides an important set of standards and commitments, it does not tackle some of the key elements of the problem. There is no clear reference in the document to the issues of human rights, domestic gun control, and SALW transfers to non-State actors. There are also areas in which the PoA is very weak; they include criteria governing export controls, measures to ensure transparency, and international commitments on controlling the activities of arms brokers and on tracing lines of supply. However, following the conference there have been a range of positive initiatives undertaken by governments, particularly at the regional and sub-regional level, often involving civil-society organisations as key partners and drawing on the discussions at the conference and on the Programme of Action.

Box 14: Biting the bullet

Saferworld, International Alert, BASIC, and Bradford University developed the Biting the Bullet project in the period leading up to the UN Conference. The project worked with civil-society experts from around the world, producing 15 briefing papers on a range of issues relating to control of the illicit SALW trade.

Since the conference, Biting the Bullet has developed the project in three distinct areas. Firstly, in co-operation with IANSA, it aims to monitor implementation of the Programme of Action through the production of reports for the UN's Biennial Meetings and for a Review Conference in 2006. Secondly, it seeks to promote international understanding of issues that were not included in the Programme of Action, by hosting an Informal Consultative Group Process. Thirdly, it aims to contribute to the understanding of key policy subjects such as civilian possession and the implementation of embargoes.
The UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects

The Programme of Action is important because it provides a set of minimum standards and commitments which all States should adopt. It encourages further action from all States willing to develop more stringent commitments and comprehensive programmes. The Programme contains positive reference to the reduction of surplus stocks of small arms and the disposal of surplus weapons. It establishes clear international norms and encourages programmes to promote stockpile management. It contains provisions relating to the disarmament, demobilisation, and reintegration of ex-combatants. It explicitly calls on all States to co-operate with the enforcement of UN Security Council embargoes. And finally, importantly, the Programme of Action contains a commitment requiring States to authorise exports of SALW on the basis of strict national export criteria that are ‘consistent with States’ existing obligations under international law’.

Many of the commitments in the Programme of Action are much less comprehensive, however, and some issues were not addressed adequately at all in the final version. In addition to those mentioned above, the failure to address the proliferation of SALW associated with Licensed Production Overseas was disappointing, as was the omission of specific commitments on measures to enhance transparency. While the Programme of Action does make explicit reference in several places to the role of civil society in the process of implementation, it is still very much a State-oriented document.

The final UN Programme of Action was divided into four parts:

- **Part I: Preamble.** This outlined the context in which the document was agreed and included reference to the ‘devastating consequences of SALW proliferation on women, children and the elderly’. It also made explicit reference to the importance of the role of civil society in ‘... assisting Governments to prevent, combat and eradicate the illicit trade in SALW’.

- **Part II – Preventing, combating, and eradicating the illicit trade in small arms and light weapons in all its aspects** – contained commitments to act at the national, regional, and global levels. This structure was to some degree based on that of previous initiatives, including the Bamako Declaration (see below).

- **Part III** contained commitments relating to implementation, international co-operation, and assistance, including specific commitments by States to ‘ensure coordination, complementarity and synergy in efforts to deal with the illicit trade in SALW’, and to provide technical and financial support to enable implementation.
Part IV: Follow-up to the UN Conference on the illicit trade in SALW in all its aspects. This part contained the important commitment to convene a review conference not later than 2006 to review progress on implementation and to convene meetings on a biennial basis, 'to consider the national, regional and global implementation of the Programme of Action'. It also made commitments to consider developing an international instrument to trace SALW and to enhance co-operation in preventing, combating, and eradicating illicit brokering.

Box 15: Understanding the Programme of Action

To access the UN Programme of Action online in Arabic, Chinese, English, French, Russian, or Spanish, go to http://disarmament.un.org/cab/ProgrammeofAction.html

For a detailed critical analysis of the Programme of Action, see Biting the Bullet Briefing 15 – Implementing the UN action programme for combating the illicit trafficking in small arms and light weapons in all its aspects (available online at www.international-alert.org/publications.htm#security or by telephone or post from Saferworld – see contact details in Part 4 of this Handbook).

Follow-up to the UN Small Arms Conference and Implementation of the Programme of Action – The 2003 Biennial Meeting of States

Proposals to establish a mechanism for implementing the Programme were rejected at the Conference. As a result, in the final Programme of Action, most of the responsibility for implementation is left to States, which may voluntarily report to the UN Department for Disarmament Affairs on progress.

Agreement on organising biennial meetings and a review conference is therefore extremely important, because they provide opportunities for civil society to monitor implementation and argue for more sustainable and more effective action. To find out more about international civil-society action on implementation of the Programme of Action, contact the International Action Network on Small Arms (see contact details in Part 4 of this Handbook).
Box 16: Implementing the UN Programme of Action – civil society in action

The role of civil society in the implementation of the Programme of Action is explicit within its contents. Since July 2001, many civil-society organisations have been involved in various aspects of implementation, from involvement in the drafting of new legislation to performing vital roles in practical projects such as weapons collection and public-awareness programmes.

Civil-society organisations from all regions of the world have come together to work on a major project to monitor the implementation of the Programme of Action by all States. The International Action Network on Small Arms (IANSA) plans to publish an implementation report in advance of each Biennial Meeting of States (in 2003 and 2005) and in advance of the 2006 Review Conference. The first of these reports, produced by the Biting the Bullet project (Saferworld, Bradford University, and International Alert) and featuring contributions from more than 100 NGOs, academics, and others worldwide, has been produced to put pressure on governments to ensure that the Programme of Action is implemented fully and effectively.

This report, launched in June 2003, carries a strong message to governments that civil society is united in its desire to see lasting change to reduce the human cost of small-arms proliferation and misuse.

Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the Convention against Trans-national Organized Crime

The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the Convention against Trans-national Organized Crime, was passed by the UN General Assembly on 31 May 2001. More commonly known as the UN Firearms Protocol or Vienna Protocol, the document was developed over a three-year period under the auspices of the Vienna-based UN Economic and Social Council (ECOSOC) Commission on Crime Prevention and Criminal Justice.

The prime focus of the Protocol is crime prevention and law enforcement. As such, its scope is narrower than that of (for instance) the UN Programme of Action. In addition, the Protocol exempts State-to-State transactions and State transfers made in the interest of national security; it focuses on crimes that are transnational in nature and involve organised criminal groups. Its provisions, if fully implemented, would put in place a number of very important measures to regulate the illicit manufacturing and trafficking of firearms. In so doing, it would also enhance co-operation, information exchange, and transparency.
The Protocol has yet to enter into force, because the requisite forty States have not ratified the document. Consequently, the key priority is to ensure that the State-signatories to the Protocol ratify the agreement as soon as possible. As a Treaty, the UN Firearms Protocol will legally bind its parties to implement all of its provisions. This is in contrast to the UN Small Arms Programme of Action, which is only politically binding. The entry into force of the Firearms Protocol will thus carry considerable weight and, if fully implemented, it should play a significant part in establishing an effective international system for the control of the illicit manufacturing and trafficking of firearms, their parts, components, and ammunition.

Some of the key elements of the UN Firearms Protocol include the following commitments:

- To adopt legislation to criminalise the illicit manufacturing and trafficking of firearms and the alteration or removal of markings from firearms.
- To introduce measures to confiscate, seize, and destroy or dispose of illicitly manufactured or trafficked firearms.
- To maintain records for 10 years of firearms markings and details of international firearms transactions.
- To ensure the detailed marking of firearms at the time of manufacture, on import, and when government firearms pass into civilian hands, so as to permit the identification by all States of the country of manufacture.
- To introduce a detailed system of export and import licensing and authorisation, and provisions relating to the international transit of firearms.
- To introduce provisions controlling the illicit reactivation of deactivated firearms.
- To introduce measures to detect, prevent, and eliminate the theft, loss, diversion, and illicit manufacture and trafficking of firearms.
- To consider establishing controls regulating brokering and brokers, including the registration of brokers and licensing of brokering transactions.
- To actively co-operate and exchange information.
The Wassenaar Arrangement

The Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies was established in July 1996 to 'promote transparency and greater responsibility in transfers of conventional arms and dual-use technologies'.

The 33 current signatories to the Wassenaar Arrangement make up the majority of global arms manufacturers and exporters, including the USA, EU Member States, and a number of former Soviet Bloc Eastern European States, along with Argentina, Japan, New Zealand, South Korea, and Turkey. A key component of the Arrangement is the agreement by States to exchange information, on a voluntary basis, regarding the authorisation or refusal of transfers of certain types of controlled goods.

Although Wassenaar was originally concerned only with major conventional weapons and dual-use technologies, in December 2000 a meeting of Participating States in the Wassenaar Arrangement noted that States 'reaffirmed the importance of responsible export policies towards, and effective export controls over, small arms and light weapons to prevent destabilising accumulations'. In 2002, Wassenaar States agreed a set of best-practice guidelines and criteria for exports of SALW, under which, when considering proposed exports of SALW, participating States will take into account the following considerations, among others:

- the need to avoid destabilising accumulations of arms;
- the record of compliance of the recipient country with regard to international obligations and commitments;
- the goal of least diversion of human and economic resources to armaments;
- the right of nation States to exercise individual or collective self-defence;
- the respect for human rights and fundamental freedoms in the recipient country;
- the risk that the weapons might be used to support or encourage terrorism;
- the risk that the weapons might be used to prolong or aggravate an existing armed conflict; and
- the risk of diversion or inappropriate re-export.

Despite the efforts of some participants, there has as yet been no agreement on establishing a system of information exchange on SALW such as exists for major conventional weapons. It is to be hoped that SALW will be brought within the information-sharing mechanisms of the Arrangement.
Wassenaar States have, however, adopted a non-binding ‘indicative list’ of information to be incorporated in end-use assurances, which participating States may use at their discretion, including, among other matters:

- the identity of all parties involved in the transaction;
- a detailed description of the goods and their end-use; and
- an undertaking not to re-export or trans-ship the goods covered without approval from the originating government.

Wassenaar States have also identified ‘best practice’ on effective enforcement, including the examination of goods and documentation at point of export; the detention of suspect shipments and the seizure of unauthorised or illegal exports; and the monitoring of arrival at destination.

In 2002, a statement was agreed on an ‘understanding of arms brokers’, in which it was acknowledged that it was important for States to regulate arms-brokering activities, and that participating States should consider adopting measures such as requiring registration of arms brokers, or requiring licensing or authorisation of brokering.

For the full text of the Wassenaar Arrangement, visit www.wassenaar.org/ or http://projects.sipri.se/expcon/Wassenaar_documents.html

Regional initiatives

The Bamako Declaration on the African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons

In July 1999 the 35th summit of the Organisation of African Unity (OAU), held in Algiers, called for an ‘African common approach’ to address problems related to the use, transfer, and illegal manufacturing of small arms and to develop a common African approach for the UN Conference on Small Arms in 2001.

In May 2000, the OAU convened the First Continental Meeting of African Experts on Small Arms and Light Weapons in Addis Ababa, Ethiopia. The meeting decided on the adoption of an African common position and agreed a set of recommendations (see below) for the adoption of policies, institutional arrangements, and operational measures for addressing the proliferation, circulation, and trafficking of small arms.

The ensuing Bamako Declaration, issued in Mali during the OAU ministerial meeting held in December 2000, called for co-ordinated action to control small-arms proliferation in Africa at the national, regional, and international levels. The Declaration – to which all members of the OAU (now African Union) are party – explicitly stated the wide-ranging and devastating impact that the uncontrolled proliferation of small arms and light weapons is having on the African continent.
In setting out commitments at the international, regional, and national levels, the Bamako Declaration established a blueprint which proved to be very influential in guiding discussions at the United Nations 2001 Small Arms Conference.

Civil-society actors contributed to the development of the Declaration, which makes reference to the involvement of civil-society organisations in the fight against small arms. Key elements of the declaration are as follows:

**At the national level, States are committed to:**

- strengthen or introduce legislation or regulations to curb the illicit manufacturing, trafficking, and illegal possession and use of small arms, light weapons, and ammunition and to prevent the breaching of international arms embargoes;
- introduce appropriate measures to control arms transfers by manufacturers, suppliers, traders, and brokers, as well as shipping and transit agents;
- work closely with civil society to help to develop national action plans to tackle the problem and to promote public awareness programmes on the problem of the proliferation and illicit trafficking of small arms and light weapons;
- encourage the voluntary surrender of illicit small arms and light weapons and the destruction of surplus, obsolete or confiscated weapons.

**At the regional level, States are committed to:**

- co-ordinate and harmonise legislation and controls over marking and record-keeping and controls governing imports, exports, and the licit trade;
- strengthen regional and continental co-operation and information exchange among police, customs, and border-control officials.

**At the international level, States are committed to:**

- encourage arms-supplying countries to recognise that trade in small arms should be limited to governments and duly authorised traders;
- introduce all necessary measures to regulate and control arms transfers by manufacturers, suppliers, traders, brokers, and shipping and transit agents, including exports of surplus weapons stocks to African countries.

The Bamako Declaration aims to ensure that action on small arms is co-ordinated across Africa. It is also an important guide and reference point for African States as they proceed with the complementary process of implementing the other key African agreements that have been concluded at the sub-regional level, including the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Light Weapons; the Nairobi Declaration on the Problem of the Proliferation of
Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa; and the SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials. Many of the commitments of the Bamako Declaration are similar to those contained in these sub-regional agreements. Indeed, in some cases these sub-regional agreements have built upon and go beyond the commitments of the Bamako Declaration.

Implementation of aspects of these sub-regional agreements (and consequently, therefore, of the Bamako Declaration's provisions) has begun, but the process has in many cases been slow. Addressing the small-arms problem is, however, a complex and long-term endeavour, and it will take time to reap the rewards of greater peace and stability that effective reduction of small-arms proliferation will bring. Concerted efforts are needed to ensure that the Bamako Declaration and these other sub-regional agreements are implemented quickly and effectively; there is a clear and important role for civil society in this process.

For the full text of the Bamako Declaration, visit www.small-arms.co.za/Bamakodeco1.html

**SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials**

During the 1990s, the true impact of the uncontrolled proliferation of small arms and light weapons became increasingly apparent. International attention began to focus on its effect on security, stability, and sustainable development. The States of Southern Africa, which were and continue to be chronically affected by the scourge of small arms, decided that a concerted effort was needed to address its effects.

*A Southern African Regional Action Programme on Light Arms and Illicit Trafficking* was agreed in May 1998 and officially endorsed by Southern African Development Community (SADC) and European Union (EU) foreign ministers in November the same year. The Regional Action Programme takes a broad and integrated approach to the problem; it covers four key areas:

- combating illicit trafficking;
- strengthening regulation and controls on accumulation and transfers;
- promoting the removal of arms from society and the destruction of surplus arms; and
- enhancing transparency, information exchange, and consultation.

The Regional Action Programme laid the foundations for the agreement of the *Declaration concerning Firearms, Ammunition and other Related Materials in the SADC* (March 2001) and the *SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials* (agreed in August 2001 and also known as the SADC Firearms Protocol). The SADC Firearms Protocol outlines key
measures that the 14 States signatories are legally bound to fulfil. Key elements of the Protocol include the following:

- review and harmonisation of legislation governing the control of firearms;
- improvement of the operational capacity of law-enforcement agencies;
- collection, destruction, and disposal of firearms;
- awareness raising and public education on the impact of firearms on society;
- review of controls over State-owned firearms;
- review and improvement of firearms marking and tracing mechanisms; and
- provision of mutual legal assistance.

Within the SADC region, a co-ordinating body, the SADC Committee on Small Arms, has been established, and the Southern African Regional Police Chiefs Co-operation Organisation (SARPCCO) has been delegated as the implementing agency for work on the problems of small arms in the region. In addition, a SADC–EU Working Group on Small Arms meets regularly to work on co-operation between the two regions on small-arms issues.

Significant progress has been made by some of the countries of Southern Africa in implementing the SADC Protocol. Some of the priorities for implementation of the SADC Firearms Protocol include the following:

- establishment of National Focal Points – NFPs have been established in South Africa, Mozambique, Botswana and Tanzania;
- establishment of national electronic databases – Mauritius and South Africa are the only SADC States to have these at present;
- review and harmonisation of national firearms legislation – South Africa has agreed a new Firearms Act, and Tanzania and Botswana are currently reviewing their legislation;
- public awareness raising – the NGO ‘Gun Free South Africa’ has undertaken a lot of work in this area in South Africa, and the Christian Council of Mozambique has conducted education work through its weapons-collection project; and
- conduct of joint operations – the Operations Rachel conducted by South Africa and Mozambique to collect and destroy arms provide a good example for future joint operations.

For the text of the SADC Firearms Protocol, visit www.sadc.int/ or www.smallarmssurvey.org/RegionalDocs.html
The Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa

On 15 March 2000, government delegates from Burundi, the Democratic Republic of Congo (DRC), Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Sudan, Tanzania, and Uganda signed the Nairobi Declaration.

As in Southern Africa, the Declaration seeks to provide a broad approach to the challenges of small-arms proliferation in the region, focusing on measures to

- strengthen and harmonise legislation governing the control of firearms;
- strengthen the operational capacity of law-enforcement agencies;
- increase cross-border co-operation between law-enforcement agencies;
- collect and destroy weapons;
- enhance the demobilisation and re-integration of ex-combatants;
- improve police–community relations; and
- enhance public education and awareness raising.

A sub-regional body to co-ordinate and share information on the implementation of the Nairobi Declaration has been established. This body, the Nairobi Secretariat, based in the Kenyan capital, has a small staff responsible for ensuring the dissemination of information, co-ordination of activities, and enhanced co-operation between States in the sub-region.

A Co-ordinated Agenda for Action and accompanying Implementation Plan were concluded in November 2000, detailing the specific requirements for the Declaration’s implementation. In August 2002 the First Ministerial Review Conference of the Nairobi Declaration took place, and an updated implementation plan was elaborated, creating a timetable for action. In addition, a number of donor agencies have formed a group known as the Friends of Nairobi to support the Declaration’s implementation.

The Ministerial Review Conference sought to re-invigorate the implementation of the Nairobi Declaration, a process which until then had been moving slowly. Some of the key priorities for implementation reflect those areas where progress still needs to made. They include:

- establishment of National Focal Points (NFPs);
- operationalisation of the Nairobi Secretariat and ensuring that it will play the active role envisaged in the Nairobi Declaration;
- conduct of research on the small-arms problem in the region;
- exchange of information between NFPs and other actors;
- establishment of national firearms databases; and
• creation of national action plans. To date, national action plans have been
developed by Tanzania and are under development in Uganda and Kenya.

Civil society has been engaged throughout the development of the Nairobi
Declaration and is now supporting the implementation of the Declaration’s
provisions. For example, a large number of local civil-society organisations are
members of their respective National Focal Points. For instance, People With
Disabilities, Centre for Conflict Resolution, Oxfam GB, and Uganda Joint
Christian Council are members of Uganda’s NFP.

For the text of the Nairobi Declaration, visit
www.globalpolicy.org/security/smallarms/regional/nairobi.htm
or www.smallarmssurvey.org/RegionalDocs.html

The ECOWAS Moratorium on the Import, Export and
Manufacture of Small Arms and Light Weapons in West
Africa

In October 1998, the heads of the 16 Member States of the Economic Community
of West African States signed the ECOWAS Moratorium on Import, Export and
Manufacture of Small Arms and Light Weapons in West Africa. The three-year
renewable moratorium, which was extended in 2001 for a further three years,
was the first of its kind. West Africa was consequently the first region in the world
to declare a moratorium on small arms and light weapons. The ECOWAS
moratorium is seen by many to be one of the first agreements to define small-
arms proliferation in terms of a ‘security first’ approach, in which integrated
measures to control small arms were seen as a vital pre-requisite for long-term,
peaceful, sustainable development.

This political declaration was an important first step for regional action to combat
the proliferation of small arms. It has received international approval from (for
example) the members of the Wassenaar Arrangement, who offered unqualified
support for the agreement and stated that they would respect the provisions of the
Moratorium within national export controls and would provide advisory and/or
technical assistance to help its implementation.

In 1998, a Plan of Action was developed by ECOWAS members to implement the
Moratorium. Following this, the UNDP Programme for Coordination and
Assistance for Security and Development (PCASED) was established to provide
technical assistance for an initial period of five years. It identified the following
key priorities requiring assistance:
• improved controls at harbours, airports, and border crossings;
• reforming military, security, and police forces through regional training
  programmes;
• collection and destruction of weapons;
• co-operation with civil-society organisations;
• establishing dialogue with arms manufacturers;
• establishing a data-bank and a small-arms register in West Africa.

At the 1999 ECOWAS Summit, the heads of government endorsed the principle of a regional arms register, thus preparing the way for implementation, and also adopted a Code of Conduct which sets out steps that governments and the ECOWAS Secretariat should take in order to make the Moratorium more effective. These include establishing national commissions and regional focal points, and offering more support within ECOWAS to manage implementation of the moratorium. The Code of Conduct sets out a plan to support governments in implementing the national requirements of the Moratorium and building the capacity of ECOWAS to manage and extend the agreement. As a binding agreement, the Code of Conduct sets out concrete actions to be taken by the Member States to implement the moratorium and provides a framework for the ECOWAS States to adhere to their commitments to the goal of the Moratorium.

For the text of the ECOWAS Moratorium, visit www.nisat.org/ or www.smallarmssurvey.org/RegionalDocs.html

Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials and the Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components, and Ammunition

The Inter-American Convention is the only legally binding regional agreement that deals with firearms proliferation in the context of law enforcement and crime control. All Member States of the Organisation of American States (OAS), with the exception of Dominica, have signed the agreement; at the time of writing, 19 had reached the point of ratification.  

The Convention broadly defines firearms as ‘any barrelled weapon which will or is designed to or may be readily converted to expel a bullet or projectile by the action of an explosive – any other weapons or destructive device such as an explosive, incendiary or gas bomb, grenade, rocket launcher, missile, missile system or mine’. The breadth of this definition is a principal strength of the Inter-American Convention. While in some other forums the range of weapons covered under such definitions is much more limited, the Inter-American Convention can be applied to the range of small arms and light weapons responsible for death, injury, and trauma in the western hemisphere. The aims of the Convention are to

• criminalise illicit manufacturing and trafficking;
• mark weapons at manufacture and import;
• establish an effective licensing system to govern exports, imports, and transits;
• strengthen controls at export points;
• exchange information on producers, dealers, importers and exporters, routes and techniques used in illicit trafficking; and
• exchange experience and training in areas such as identification, detection, tracing, and intelligence gathering.

Prior to the UN Conference, in May 2001, the Consultative Committee of the Inter-American Convention met in Washington DC to approve the work programme for 2001–2002, and to review the ratifications of the Convention, discuss the case study presented by the government of Mexico, and identify points of contact within each national government, as well as central authorities responsible for the legal and legislative aspects of ratification, adoption, and implementation. The 2001–2002 work programme includes the following key activities, among others:

• Encourage participation, by all convention signatories, in the questionnaire approved at the First Meeting of Parties to the Convention. As of 15 June 2001, only 16 of the 33 signatories to the Convention had responded to the questionnaire, which allows for bureaucratic, technical, and political monitoring and follow up.
• Update the inventory of measures adopted by States, as indicated in the above-mentioned questionnaire.
• Create private e-mail lists for sharing information among national entities and central authorities.
• Develop a register of arms suppliers within the OAS region.
• Formalise contacts and relationships with the UN, European Union (EU), and other international organisations interested in multilateral co-operation.
• Publish a Convention website with various levels of private and public access.
• Invite States to develop and present case studies, such as the one presented by Mexico in May 2001, regarding the illegal arms trafficking environment and the status of Convention ratification and implementation.
• Advance the development of model legislation needed to implement the Convention, but not contemplated in CICAD Model Regulations (see discussion below).

CICAD Model Regulations

Concurrent with the Inter-American Convention negotiations, the OAS Member States also formulated a set of practical guidelines to complement the effective implementation of the Convention. Developed under the auspices of CICAD, the
Part 1: The policy context

Inter-American Drug Abuse Control Commission, the Model Regulations were also adopted in November 1997. These Model Regulations consist of a series of harmonised measures and procedures for monitoring and controlling the international movement of commercially traded firearms, their parts and components among OAS States that have adopted the regulations, together with guidelines for minimum standards required for harmonised licensing. They also outline proposals for record keeping and information sharing on imports and exports, including the quantity, type, and serial numbers of firearms.

These regulations contain three key weaknesses which make it difficult to fully prevent small arms from entering the illicit market. First, the Model Regulations are not directly connected to the Inter-American Convention and apply only to OAS Member States who adopt them. When a manufacturer or broker from an OAS Member State sells firearms to brokers and buyers from non-compliant OAS States, or non-members with lax controls and regulations, there is a danger that these arms will enter the illicit market.

Second, the Convention and Model Regulations are limited to commercially traded firearms, leaving State-to-State transfers of small arms to a variety of military, security, and police end-users inadequately regulated. A further gap in controls exists with regard to State transfers of arms to non-State actors. The end-product of the UN Conference indicates that there is still a lack of political will, both inside and outside the OAS, to take aggressive action on these two aspects of government-sanctioned transfers.

Third, the adoption and the implementation of the Model Regulations are not well co-ordinated with other inter-American agreements and implementing organs, such as those aimed at fighting corruption. For this reason the Model Regulations do not take advantage of potential synergies with other relevant regional initiatives.

For the full text of the OAS Convention, visit www.oas.org/juridico/english/treaties/a-63.html

**OSCE Document on Small Arms and Light Weapons**

On 24 November 2000, the Organisation for Security and Co-operation in Europe (OSCE) adopted a Document on Small Arms and Light Weapons which sets out norms, principles, and measures to address the proliferation of SALWs. It recognises the ‘excessive and destabilising accumulation of the uncontrolled spread of small arms’ and aims to improve regional security across the 55 participating States from Europe, Central Asia, and North America (see endnote for full list of OSCE Member States). The document includes statements relating to national controls on the manufacture of small arms; marking, tracing, and accurate record-keeping of small arms; increased transparency measures
relating to national marking systems; and controls on the export and import of SALWs. It also reflects a recognition of the impact of small arms on the OSCE’s role in conflict prevention and democracy building.72

The scope of the measures contained in the document is variable, revealing both its strengths and weaknesses. For example, throughout the document there is a clear acknowledgement that export controls on legal transfers are crucial in combating the illicit SALW trade. The adoption of commonly agreed standards (based on the Principles Governing Conventional Arms Transfers adopted by the Forum for Security Co-operation on 25 November 1993)73 for licensing transfers of SALW requires States Parties to consider several criteria prior to deciding whether to grant or revoke an export-licence application. These include respect for human rights, the internal and regional situation of the country, and compliance with international obligations. Accordingly, States Parties ‘will avoid’ licensing exports where, for instance, SALW might be used for ‘the violation or suppression of human rights and fundamental freedoms’ or ‘threaten the national security of other states’.74 However, although the criteria represent a comprehensive set of principles (drawing on the criteria of the EU Code of Conduct on Arms Exports), the wording is ambiguous and open to interpretation, which contributes to considerable variance in implementation.

In February 2003, an international seminar was held in Bucharest, Romania, to examine implementation of the OSCE Document and the UN Programme of Action on SALW. States agreed to identify and develop guides to best practice on various aspects of small-arms policy and practice at the national level, to advance common standards among all States. These aspects include controls on arms-brokering activities, procedures for stockpile management and security, and export and import policy. While establishing best practices and standards common to all States is an important norm-building activity, implementation and enforcement are undertaken at the national level, where they are subject to the political will, commitment, and capacity of individual States.

The OSCE Document is limited in several respects:

- Adoption and application is voluntary, so commitments are politically binding rather than legally binding.
- Commitments are confined to participating States and are thus not applicable to transfers between OSCE States and non-OSCE States.
- With the risk of diversion of SALW to unauthorised end-users, ‘the development of common measures on import, export and transit procedures should be seen as an area for urgent government action’.75
- Standards are open to interpretation, and consequently implementation may vary considerably.
• There are no provisions relating to regulating domestic/civilian possession of SALW.

Despite its limitations, and problems associated with implementation, the Document is a useful contribution to regional and international efforts to combat the proliferation of small arms. It was also a particularly important contribution to the development of the UN Programme of Action.

For the full text of the OSCE Document, visit www.osce.org/docs/english/fsc/2000/decisions/fscew231.htm

**European Union Code of Conduct on Arms Exports**

The EU Code of Conduct, agreed in June 1998, stemmed from an initiative proposed by France and the United Kingdom. It was developed in part as a response to calls for a more responsible approach to exports of arms, including SALW, and, in part, as an effort to adopt a harmonised approach to weapons transfers within the 15-nation European Union.

The Code aims to set 'high common standards which should be regarded as the minimum for the management of, and restraint in conventional arms transfers by all EU Member States'. It outlines the common principles, such as transparency and accountability, which underpin future EU arms transfers. Civil-society organisations from across the EU were instrumental in the development of the concept of the Code of Conduct and in creating the favourable political environment in which it was agreed.

**Criteria and operative provisions**

The Code includes guidelines previously detailed under the eight criteria on conventional arms transfers agreed in Lisbon and Luxembourg in 1991 and 1992, which address the following considerations:

• respect for international commitments of EU Member States in areas such as embargoes, treaties, and control regimes;
• respect for human rights in the country of final destination;
• the internal situation in the country of final destination;
• preservation of regional peace, security, and stability;
• the national security interests of the Member States and of allied countries;
• the behaviour and attitudes of the buyer country with regard to terrorism and respect for international law;
• the risk of diversion or re-export of equipment within the buyer country; and
• the compatibility of arms exports with the technical and economic capacity of the recipient country.

The EU Code also includes 'operative provisions', a basic system for all Member States to exchange information on those applications for arms-export licences which are denied, and limited consultations to discourage undercutting (i.e. where one Member State approves an application which has already been refused by another). It also provides for an Annual Review of the implementation of the Code.

The EU Code was important for many reasons, not least that it created the opportunity to develop lines of communication between EU governments. Now, five years after the Code was agreed, the information provided through denial notifications is apparently proving a revelation to many EU Member States, fostering reciprocal understanding of the implementation of the Code criteria. The regime has also been successful in attracting the support of a number of countries outside the EU, and has been endorsed by a number of other States, including Canada and the EU associate nations. The Code will assume even greater significance in 2004, when 10 new States will join the EU, raising membership to 25 (see endnote for a full list of current members and the 10 States due to join in 2004). The USA has endorsed the Code with specific regard to transfers of SALW.

The experience of negotiating the Code has also prompted review, by EU governments, of some other aspects of their arms-control regimes, and the EU Code Annual Review process has led to Member States addressing within the context of the Code a number of issues untouched by the Code itself. It is expected that this process will continue to provide for the evolution of the role and implementation of the EU Code. For example, EU Member States have:

• proposed a mechanism for controlling exports of non-military equipment that may be used for internal repression (2001);
• agreed a set of guidelines for controlling arms brokers, and commenced negotiations on a Common Position on arms brokering (2002);
• begun to address the issue of the overseas production of military goods under licence (2002);
• agreed a common core of elements that should be found in a certificate of final destination (2002);
• decided to extend the denial notification mechanism to provide for some sharing of information with EU Associate Countries (2002).

Civil-society organisations have been central in monitoring implementation of the Code, and in putting pressure on governments to widen its scope. These activities have included the development of an EU Campaign in 2003, which calls
for adoption of the Code's provisions into national law by Member States and for
the development of effective controls on the activities of arms brokers.

For the full text text of the EU Code of Conduct, visit
http://projects.sipri.se/expcon/eucode.htm

**European Union Joint Action on Small Arms**

In an effort to contribute to global efforts to tackle small-arms proliferation, the
EU Council of Ministers adopted in December 1998 a Joint Action on the EU’s
contribution to combating the destabilising accumulation and spread of small arms
and light weapons. This agreement, which builds on the EU Programme for
Preventing and Combating Illicit Trafficking in Conventional Arms adopted by
the Council in June 1997, and the EU Code of Conduct on Arms Exports adopted
in June 1998, takes a regional and incremental approach to the problem. The
Joint Action, which listed 10 categories of small arms and light weapons, was
amended in 2002 to include SALW ammunition within its provisions.

The Joint Action aims to further the international effort to combat the excessive
and uncontrolled spread of small arms through support for existing regional and
international initiatives. EU Member States agreed to develop a co-operative
policy, concentrating on the following measures:

- combating and contributing to measures aimed at ending the
destabilising accumulation and spread of small arms;
- contributing to the reduction of existing accumulations to levels
consistent with countries’ legitimate security needs;
- helping to solve the problems associated with accumulations of weapons;
  and
- making a multifaceted contribution to a range of control and reduction
  measures.

The EU Council publishes an annual report on the implementation of the Joint
Action, incorporating activities undertaken as part of the EU Programme on
Combating Illicit Trafficking in Conventional Arms. The most recent report,
published in December 2002, detailed a wide range of activities carried out by
Member States with regard to SALW. These included the following:

- Support for arms collection and/or destruction programmes in Albania,
  Bosnia and Herzegovina, Cambodia, East Timor, Kosovo, Macedonia,
  Niger, and Sierra Leone.
- Projects to build law-enforcement capacity in Guatemala, Honduras,
  Kenya, Mozambique, Nicaragua, and Romania.
- Support for soldier demobilisation and reintegration projects in Angola,
  Democratic Republic of Congo, Guinea-Bissau, Liberia, Sierra Leone, and
  Uganda.
• Financial support for civil society and NGOs working to address the problems caused by destabilising accumulations and the proliferation of small arms and light weapons.

The website of the European Union Joint Action on Small Arms is at http://projects.sipri.se/expcon/eu_documents.html
5 Summary

Part 1 of the handbook has introduced the major elements of the small-arms policy context. It aimed to provide the user with an introduction to tackling the following questions:

- What are SALW?
- What is a small-arms transfer?
- What are the effects of SALW proliferation and misuse?
- What are the measures required to address factors driving demand for SALW, and what is needed to control the supply?
- What initiatives are already in place at the international and national levels to address the problems of small-arms proliferation and misuse?

There are many opportunities for civil-society organisations and others to take real and lasting action to resolve SALW problems. Existing initiatives such as the UN Programme of Action provide a framework within which to work. But an important role of civil society is also to act outside the parameters set by governments and others, to challenge decision makers to do more – and do it more effectively. Parts 2 and 3 of this book aim to help users to identify the aspects of the SALW on which they could take action, and to organise their action to ensure that it is as effective as possible.