



The Ploughshares Monitor

Summer 2007, volume 28, no. 2

Regional dimensions of small arms transfer standards

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Project Ploughshares hosted an international seminar in February 2007 to examine the “Regional Dimensions of Global Small Arms and Light Weapons (SALW) Transfer Principles.” The seminar brought together experts from civil society, government, and industry to review subregional studies commissioned by Project Ploughshares. Despite regional differences, common themes emerged from the papers and discussions. These themes will be central to upcoming negotiations of global arms transfer agreements, whether through the UN Programme of Action on small arms or in the crafting of an Arms Trade Treaty.

Each of the papers prepared for the international seminar reviewed regional and subregional arms transfer instruments and described how these emerged from the context and concerns of the region. The papers studied the experience and value of civil society as a means of assessing the transparency of transfer control processes as well as the level of public interest in the regulation of the weapons trade. The papers also compared existing regional instruments and standards with the “global principles for arms transfers” that are based on states’ existing international obligations regarding transfers of arms and ammunition. These global principles have been proposed by a diverse group of nongovernmental organizations, including the organizations responsible for the regional papers.¹

For logistical and resource reasons, the six subregions of Mercosur, Caricom, the Great Lakes and Horn of Africa, CIS, South Asia, and ASEAN² were studied, resulting in a selective rather than a comprehensive study.³ Indeed, a more complete discussion of transfer standards would require, at a minimum, the inclusion of the subregions represented by the members of the two subregional bodies SICA (Central America) and ECOWAS (West Africa), since both are sites of important recent agreements on small arms transfer standards.

Within the selected regions there are major arms exporters—Russia, Ukraine, China, and Brazil—and major importers—China, India, South Korea, and Pakistan. These large supplier and recipient nations will be important actors in the development of global arms transfer principles. But all states have a stake in the international movement of conventional weapons and the establishment of global norms.

Towards global standards

The regional studies and discussions during the international seminar indicate that most of the regions studied have become more active in collaborative processes and instruments that respond to the political, economic, and social destruction resulting from arms trafficking. Member states in all regions are concerned that illicit and irresponsible trafficking in weapons is contributing to armed violence. This concern is illustrated in the overwhelming support for the recent UN General Assembly Resolution, “Towards an Arms Trade Treaty” (2006) (Epps 2007).

Regional mechanisms are tailored to regional requirements and, understandably, display differences in emphasis and scope. For example, a common concern about violent crime among members of the Organization of American States (OAS) led to the CIFTA convention and the Inter-American Drug Abuse Control Commission (CICAD) model regulations, which apply to the trafficking of firearms but not to state-to-state transfers of military small arms and light weapons. The latter call on OAS states to refuse to grant export licences if the brokering activities seriously threaten to result in acts of genocide or crimes against humanity, violate human rights, or lead to war crimes, among other considerations. In contrast, the Nairobi Declaration and Protocol have both given primary attention to illicit transfers of military small arms because they are at the centre of the pervasive armed violence in the Horn of Africa and Great Lakes subregions of Eastern Africa. The *Best Practice Guidelines for the Implementation of the Nairobi Declaration and the Nairobi Protocol on Small Arms and Light Weapons* are the most comprehensive regional guidelines to date on small arms transfers (and other SALW issues) and most closely reflect states’ obligations under international law.

Regional activity also has aimed at improved standards for the control of arms trafficking, especially trafficking in small arms and light weapons. In addition to international agreements, recent regional and subregional initiatives are particularly relevant in building global transfer principles because they call for effective national regulation, transparency, and adherence to obligations related to human rights and international humanitarian law.

The regions studied have not progressed equally with regard to arms transfer instruments, guidelines, and principles. For example, there is no regional mechanism on small arms transfer controls in Greater East Asia. The *ASEAN Plan of Action to Combat Transnational Crime* has subsumed the small arms transfer issue under transnational crime. Similarly, in the Caribbean, the subregional approach to small arms has been under the umbrella of the Caricom Task Force on Crime and Security, which has emphasized linkages between drug trafficking and crime. Meanwhile, in South Asia national security and other state concerns have trumped prospects for regional agreements.

The variation in regional progress underlines the need for a global agreement on arms transfers. Although negotiation of such an agreement will necessarily involve regional concerns, common ground can be found in the obligations of states under international law. At the same time, the regional instruments can be viewed as building blocks in the formulation of global standards to regulate trade across the full range of conventional weapons.

Perhaps the most compelling common finding is that, despite regional differences, there is a growing global consensus on the *key principles* that should apply to all conventional arms transfers.⁴ Indeed, the principles of many regional agreements have been drawn from the UN

Charter, international humanitarian law, and human rights law. For example, the *Best Practice Guidelines* associated with the Nairobi Protocol include the need to

- establish national procedures for regulating international arms transfers;
- respect UN embargoes;
- prevent diversion to proscribed users, such as terrorists and criminals;
- prohibit transfers that contravene international obligations;
- prohibit transfers that are likely to be used in serious breaches of human rights or international humanitarian law or acts of genocide; and
- prohibit transfers that are likely to adversely affect internal or regional security or sustainable development.

Implementation and capacity-building

Common challenges to the development of arms transfer principles include the *implementation* of agreed instruments and the creation of *greater capacity* to regulate arms transfers. A recent UNIDIR global survey of the international assistance provided for implementing the UN Programme of Action on small arms has noted several problems with the estimated US\$660-million spent over five years. For example, “donors lack knowledge of the different technical and financial needs of individual states and regions to implement the PoA and affected states often lack the capacity to assess their own needs” (Maze & Parker 2006).

In the UNIDIR survey *capacity-building* is the top priority for three of the six regions surveyed. Within Mercosur, “access to technology in collecting and analyzing data, as well as training police and military personnel in implementing regional and global legislation, would certainly contribute to advancing transfer controls in the region.” “Better training of arms export licensing officials and law enforcement officers in practical and technical aspects of export control is an area that most CIS countries would find beneficial.” Efforts to implement the UN PoA in Caricom have been limited by inadequate resources and “there is need for increased bilateral cooperation in the areas of capacity building and aid.” Building state capacity to move policy agreements into practice—as well as advancing civil society capacity to monitor and support the work of states—will remain a challenge for future agreements.

Transparency and monitoring

Other common needs are for *transparency* as well as *monitoring* the implementation of agreed instruments. The concept of transparency is captured in the fifth principle of the proposed global principles for arms transfers, which calls for national annual reports on international arms transfers to an international registry. While important strides have been taken towards greater transparency in the trade in weapons in the past 15 years, many regional instruments provide for transparency only in the traditional confidence-building manner, that is, by encouraging information-exchange among states, but without providing information for public distribution.

Regular, reliable, and comprehensive public reporting of the details of arms transfers is essential. In democracies it is not unreasonable to expect that parliamentarians or elected legislators will exercise oversight in arms transfer decisions, for which access to arms trade data is fundamental. Yet most states are unwilling to release data on the transfer of weapons to the public or even to legislators.

The level of transparency is, of course, an important factor in any external *monitoring* of the implementation of, or compliance with, multilateral and national agreements and standards. In the context of arms transfers, the details about a weapon's type, transfer approval, and shipment are needed to effectively monitor a state's compliance with arms transfer obligations. With adequate levels of transparency *civil society* is ready and willing to play an independent monitoring role. Civil society groups in many regions in the North and the South have built an expertise on arms transfer issues to rival or even surpass that of state officials. In addition, civil society is well placed to link a monitoring role to public concerns about illicit and irresponsible transfers of arms and their impact on the daily lives of citizens.

Conclusion

The international community is pursuing improved global arms transfer controls through two UN processes: an elaboration of the politically binding UN Programme of Action on small arms and the negotiation of a legal convention arising from the UN General Assembly resolution, "Towards an Arms Trade Treaty." The emerging challenge is to ensure policy and program coherence among initiatives addressing small arms transfers and those addressing the transfer of all conventional weapons.

There seems to be growing consensus on a number of common underlying principles, arising from existing international legal commitments, which could and should form the basis for global agreements on standards for state approval of arms transfers. An important role for a global process would be to foster a deeper understanding of, and a stronger consensus around, the need for and the nature of these standards.

NGOs face capacity challenges if they are to continue to play an informed and independent role. Many civil society organizations require new and additional training in such areas as policy development or the monitoring and construction of relevant state legislation.

Moreover, it is important to sustain the cooperation between civil society and UN member states that has evolved from the UN PoA process. While governments must ultimately negotiate and agree to global principles and controls, civil society experts and activists can be knowledgeable and engaged partners in these processes.

Notes

1. For a description of the "Global Principles for Arms Transfers" see [http://web.amnesty.org/library/pdf/POL340032007ENGLISH/\\$File/POL3400307.pdf](http://web.amnesty.org/library/pdf/POL340032007ENGLISH/$File/POL3400307.pdf). The NGO members of the Arms Trade Treaty Steering Committee include the Africa Peace Forum, Amnesty International, Arias Foundation, Caritas International, the Friends Committee on National Legislation, Non-Violence International, the International Action Network on Small Arms (IANSA), Oxfam International, Project Ploughshares, Saferworld, the Schweitzer Institute, Sou da Paz, Viva Rio, and the Women's Institute for Alternative Development (WINAD).

2. The six subregions and their member states are:

- Mercado Común del Sur (Mercosur)—Argentina, Brazil, Paraguay, Uruguay, and Venezuela and associates Bolivia, Chile, Colombia, Ecuador, and Peru;

- Caribbean Community (Caricom)—Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Suriname, and Trinidad and Tobago;
- Great Lakes and the Horn of Africa—Burundi, Democratic Republic of Congo, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia, Sudan, Tanzania, and Uganda;
- Commonwealth of Independent States (CIS)—Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine;
- South Asia—Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka; and
- Association of Southeast Asian Nations (ASEAN)—Indonesia, Malaysia, Philippines, Singapore, and Thailand and associates China, Japan, and South Korea (ASEAN +3).

3. The six subregions represent 70 states, or more than one-third of the UN membership.

4. This point was made by Clare da Silva, an international legal expert, who spoke at the seminar.

References

Epps, Ken. 2007. Landmark step towards an international arms trade treaty. *The Ploughshares Monitor*. Spring. <http://www.ploughshares.ca/libraries/monitor/monm07h.pdf>.

Maze, Kerry and Sarah Parker. 2006. *International Assistance for Implementing the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects: Findings of a Global Survey*. Geneva, Switzerland: UNIDIR. <http://www.unidir.ch/pdf/activites/pdf2-act313.pdf>.