

United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects

New York, 9-20 July 2001

The first-ever *United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects* was convened in New York from 9-20 July 2001. This Conference gave representatives of the International Red Cross and Red Crescent Movement the opportunity to remind States of the consequences in human terms of uncontrolled arms availability, and to encourage governments to take urgent measures to strengthen the control on transfers of small arms and light weapons. In its statement, the ICRC encouraged conference delegates to support specific language on the humanitarian consequences of such transfers. The ICRC organized, together with the International Federation of Red Cross and Red Crescent Societies and the Norwegian Red Cross, a briefing for delegates on the human costs of widespread arms availability, including firsthand accounts by representatives from the National Societies of Yugoslavia and Mali.

Government delegations did not agree to develop legally binding instruments at the international level to prevent or control illicit transfers of small arms and light weapons. Rather, the *Programme of Action* that was finally adopted encourages governments to undertake a variety of actions to better control small arms and light weapons, primarily at the national level. These include measures related to marking of small arms and light weapons in order to facilitate their tracing, reinforcement of United Nations Security Council arms embargoes, destruction of confiscated, seized or collected small arms and light weapons, stockpile management to prevent theft or loss, and disarmament, demobilization and reintegration of ex-combatants. The document also encourages cooperation among governments in areas such as police and border controls and calls on regional organizations to support these efforts. The important role of civil society in complementing government activities was highlighted.

Notably, the *Programme of Action*, in its preamble, explicitly recognizes the human costs of the illicit trade in small arms and light weapons. States adopted wording proposed by the ICRC which

acknowledges that “the illicit trade in small arms and light weapons in all its aspects (...) undermines respect for international humanitarian law [and] impedes the provision of humanitarian assistance to victims of armed conflict (...)”.¹

The document does little, however, to acknowledge the close links between licit and illicit transfers, and the importance of taking international humanitarian law into account in arms export decisions. There is only implicit acknowledgement of the importance of addressing problems associated with legal exports in order to effectively tackle illicit trade. The document does, however, commit States “to assess applications for export authorizations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with States’ existing responsibilities under relevant international law taking into account in particular the risk of diversion of these weapons into the illegal trade”.² It could be argued that “relevant international law” includes international humanitarian law and States’ responsibility to “respect and ensure respect” for this body of law, in accordance with Article 1 common to the 1949 Geneva Conventions on the protection of war victims.

Implementation of the *Programme of Action* will be monitored at biannual UN meetings and at a second global conference to be convened no later than 2006. One of the major challenges for future work will now be to encourage States to implement its recommendations nationally, regionally and globally so that they have a real impact.

Owing to the urgent humanitarian nature of this issue the ICRC, together with a large number of governments and organizations, had hoped for a stronger UN *Programme of Action* which would show commitments by the international community to tackle the problems of unregulated arms transfers. Nevertheless, the various measures on which agreement was reached do constitute modest steps towards

¹ *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects*, Preamble para. 5. UN Doc. A/CONF.192/15, 20 July 2001.

² *Ibid.*, Section II, para. 11.

dealing with the grave humanitarian consequences of unregulated arms availability. The UN process represents progress in putting the issue of arms availability on the global agenda. Yet far more is needed to effectively address the serious humanitarian problems caused by both licit and illicit transfers of small arms. Both governments and civil society — including the Red Cross and Red Crescent Movement — will have to be prepared for years of sustained efforts, at the national, regional and global levels, to build the public awareness and political will needed to achieve this.

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The ICRC on arms availability and the situation of civilians in armed conflict

A study published by the ICRC in 1999 and entitled *Arms Availability and the Situation of Civilians in Armed Conflict*¹ indicated that the unregulated transfer of weapons and ammunition can raise tensions, facilitate violations of international humanitarian law, heighten the number of civilian casualties and prolong the duration of conflicts. It concluded that because the current pattern of transfers of small arms, light weapons and related ammunition falls largely outside international control, it should be a matter of urgent humanitarian concern.

While the primary responsibility for compliance with international humanitarian law rests with users of weapons, States engaged in production and export bear a degree of political, moral and, in some

¹ International Committee of the Red Cross, *Arms Availability and the Situation of Civilians in Armed Conflict*, ICRC, Geneva, 1999, 80 pages.

cases, legal responsibility to the international community for the use made of their weapons and ammunition.

Both licit and illicit transfers of arms and ammunition give cause for concern in humanitarian terms, in particular because a large proportion of all illicit transfers begin with weapons which were originally transferred legally. Based on the conclusions of the study, and in the light of States' responsibility to "respect and ensure respect" for international humanitarian law under Article 1 common to the 1949 Geneva Conventions, the ICRC has therefore urged States for several years past to establish standards for responsible exports based, *inter alia*, on the likelihood of violations of humanitarian law by the recipient.

The general conclusions of the study were endorsed by the International Red Cross and Red Crescent Movement in Resolution 12 of the 1999 Council of Delegates. Resolution 12 also encouraged the Movement to promote norms for responsible conduct by States and to raise public awareness of the human costs of the widespread availability of arms and ammunition.

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