

INTERNATIONAL WORKSHOP ON GLOBAL PRINCIPLES FOR ARMS TRANSFERS

**Golden Tulip Hotel, Dar Es Salaam, Tanzania
20-22 February 2005**

CONFERENCE REPORT

Introduction

1. On 20-22 February 2005 representatives from thirty one countries, four international governmental organizations, and ten non governmental and international humanitarian organizations met at the Golden Tulip Hotel, Dar Es Salaam, United Republic of Tanzania, to participate in the *International Workshop on Global Principles for Arms Transfers*. The Workshop was organized by the Government of Tanzania, with the support of the Governments of Finland and the United Kingdom. Discussions were conducted in a warm, friendly and constructive spirit during the workshop and the presence of civil society reaffirmed the partnership spirit upon which NGOs and governments can work together in the pursuit of global solutions to common problems.
2. The Workshop's goal was to contribute to a broader international process that elaborates on global principles for the control of international transfers, based on the existing obligations of states under relevant international law and regional commitments.
3. The Workshop's objectives were to discuss issues concerning arms transfers and their effects; recognize and debate existing initiatives to improve controls; and discuss general guidelines, principles and norms that might be of use in the creation of minimum standards for implementation of action nationally, regionally and globally.
4. The Workshop was divided into five general sessions. The opening and closing sessions were chaired by Commissioner of Police Laurian Tibasana of Tanzania and focused on the aspirations and preoccupations of Tanzania on this subject, and for the consolidation of a way forward; the second session, chaired by Emmanuel Mallya of the Center for Peace and Economic Development was dedicated to the analysis of the problem of arms transfers, its effects on people, and potential national, regional and global solutions; the third session, chaired by Mr. Francis Sang, Coordinator of the Nairobi Secretariat, was entirely devoted to a discussion of minimum principles that might be utilized in the resolution of the problem identified; and the fourth session, chaired by the Deputy Minister for Foreign Affairs of Colombia, Ambassador Camilo Reyes, sought and obtained consensus on the Workshop's Final

Report. At this session, furthermore, the ICRC representative read a statement reaffirming their support to the objectives of the Workshop.

Summary of Proceedings

5. Participants deliberated mostly on two broad themes: the human and security costs of unregulated and unprincipled arms transactions; and the evolution of standards to prevent these types of transactions from occurring in the future.
6. Participants received guidance and encouragement from the Government of Tanzania through the keynote speech of the Prime Minister, Honorable Frederick Sumaye. The presentation indicated that Tanzania had decided on the hosting of this Workshop in support of its efforts and commitments as a member state of two sub-regional groupings engaged in the implementation of obligations set out by the United Nations Programme of Action on small arms (UNPOA), the Nairobi Declaration and Protocol and, the SADC Declaration and Protocol on Firearms. Attention was directed to the fact that Tanzania had established a national focal point committee on arms, and a national action plan on arms management and disarmament in 2002.
7. The Tanzanian government also indicated that it was now engaged with the two subregions in the process of harmonization of legislation and the provision of common standards on principles for arms transfers, imports and exports. The exchange of information on applicable standards and principles, it was pointed out, would benefit the discussion of global guidelines, principles and norms such as those being discussed in different processes and meetings worldwide. Efforts of the United Nations in holding these meetings, initiatives to that effect in general, and those initiatives by Finland, in particular, in support of a global arms trade treaty were referred to.
8. In the substantive session related to the effects of unregulated and unprincipled arms transfers, presentations were made by the Government of Tanzania, Amnesty International, SaferAfrica, and the Center for Humanitarian Dialogue of Geneva. These related to the human costs of uncontrolled transfers, existing international norms and principles, existing regional norms and principles, and states' existing obligations under international law.
9. The issue of uncontrolled transfers referred to legal and illegal transfers; the sources of illicit arms; and the human costs of this proliferation in Africa and beyond. It was pointed out that US\$22 billion a year is spent on arms by countries in the developing world instead of in education,

health or development projects. The extreme ease in which arms can circulate from legal to illicit use was pointed out as well as the negative role of arms falling in the wrong hands thereby impacting on personal safety, economic prosperity and the full enjoyment of all human rights.

10. When reviewing potential solutions to this problem, presenters explained the African principles that govern action in Africa; and how these principles had been turned into legally binding obligations that they were now implementing. The basic principles determined in the AU African Peace and Security Agenda, the OAU Bamako Declaration, the Nairobi Declaration and the SADC Declaration defined peace, security and safety as a pre-requisite for African Development; identified the control of arms proliferation and the trafficking in arms as a condition *sine-qua-non* for peace and security in the continent; urged the need to improve the capacity of African institutions to coordinate and implement national and regional action; and recommended that any solution to the arms problem must be comprehensive, sustainable and efficient. Obligations emerging from these general guidelines in support of African action had given birth to Conventions in two regions of Africa which included special dispositions on the regulation of arms exports, imports and transfers as well as the procedures thereof. On the whole, the African minimum standard on arms transfers was similar to the international commitments in Article 10 of the Vienna Protocol on Firearms.
11. The presentations shifted to the global arena and focused on previous discussions in conferences such as those of the global initiative on the achievement of consensus for an international instrument to regulate arms transfers. The rationale was made for the need of such a global instrument. Several standards that could be applied were presented to the meeting ranging from existing obligations under international humanitarian law and customary law to other universally accepted principles. The case was made that states generally recognized the reason why they should entertain such a global instrument.
12. Many questions surrounding minimum standards and levels of obligation emerged in the discussion of a set of five minimal principles that could be considered when reviewing procedures and documentation, permits and express and conditioned limitations for the export, import and transfer of arms (see para 18 below). It was further pointed out that the Arms Trade Treaty project hoped to obtain a recognized international benchmark for national legislators to use in the implementation of their obligations.

13. The third session of the Workshop was entirely dedicated to discussing the point of view of states and non-governmental organizations on this issue; and comparing the priorities and urgencies for action in pursuit of legally and politically binding initiatives for the fight against arms proliferation and the trafficking in arms.
14. Some participants indicated that there is a real need to evaluate the existing implementation progress on the UNPOA and in regional legally binding commitments. Some participants urged that existing commitments should be respected and implemented as a whole, and that national controls and capacity for controls be a priority, rather than enlarge the agenda of international instruments with yet another one, particularly at a time when the UN system was undergoing reform. Other participants pointed out that although some regions have the benefit of regional legally binding instruments that already have minimum standards for transfer controls, some states do not have that benefit and it is difficult for them to change national legislation on this issue without a global, as opposed to regional, benchmark.
15. In the discussion issues of equal concern to participants emerged, such as those of use, users, sales to non-state actors, terrorism, national implementation of UNPOA obligations, and the need to engage in further debate concerning the responsibility of suppliers and manufacturers. Concern as to resources for implementation was also expressed.
16. Given time constraints, the chair of the session suggested an itemized review of those global principles already being discussed in the Helsinki Workshop on Enhancing the International Export Control of Small Arms and Light Weapons: the Case for an International Arms Trade Treaty of 2004. In the ensuing point by point debate, some of the principles already proposed were deemed acceptable, whereas others were deemed deficient and needing refinement. Other issues were brought forward and presented as additions that might be of use and that merit further discussion such as express obligation on states to destroy surplus or confiscated weapons.
17. On the whole, participants were in agreement that the implementation of their obligations presented in Article 11 of the UNPOA section II referring to *“national assessment of applications for export authorizations 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, taking into account in particular the risk of diversion of these weapons*

into the illegal trade; and the need to establish or maintain an effective national system of export and import licensing or authorization, as well as measures on international transit, of the transfer of all small arms and light weapons, with a view to combatting the illicit trade in small arms and light weapons” would be assisted by a universally recognized benchmark to guide national legislation to that effect.

18. In this regard, the following principles were then presented and considered:

- a. All international transfers of arms should be carried out in accordance with national laws and procedures, and subject to written state authorisation, on a case-by-case basis.
- b. When authorising transfers, the following minimum criteria should be applied:
 - i. *Express limitations*: States shall not authorise international transfers of arms which would violate their obligations under international law. This includes the Charter of the United Nations, the decisions of the Security Council on embargoes; binding treaties and decisions; weapons, the use of which is prohibited under international law, and transfers that are likely to be diverted for use in violation of the above mentioned obligations.
 - ii. *Limitations based on likely use*: States shall not authorize international transfers of arms where they are likely to be used to commit genocide or crimes against humanity; commit serious violations of human rights including arbitrary killings, torture and enforced disappearances; perpetrate war crimes and other serious violations of international humanitarian law; international acts of aggression; support terrorist acts; and support other illegal activities, in particular those of organized crime; and that can be diverted for any of the above.
 - iii. *Factors to be taken into account*: When considering authorization, states should also take into account potential adverse effects of the sale on the control and prevention of violent and other serious crime; regional security; sustainable development; internal stability; and the likelihood of diversion.

19. Finally, participants recommended potential next steps to this Workshop, including, among others, the possibility that: a) governments commit themselves to holding more meetings on this issue to move the

process forward; b) meetings need to be informed by outcomes of processes such as those in the Nairobi and SADC Protocols implementation on minimum standards for transfers and other regions; c) interested states in partnership with civil society should be encouraged to take active steps to facilitate wider discussion in the process and to address outstanding issues; d) there should be wide dissemination of the outcomes of this meeting including sharing of the Workshop report in the Biennial Meeting of States on the UNPOA and the Review Conference; e) dialogue be commenced with a variety of stakeholders, including manufacturers, UN agencies, and other relevant international organisations; f) the implementation of the UN Programme of Action continue to be supported; and g) the development of global principles for arms transfers could be taken forward by interested states at the UNPOA review conference in 2006; and/or become a parallel and complementary process within the UN system leading to the creation of an international instrument.

20. It was also suggested that States commit themselves to ratify existing instruments that assist on arms transfers such as the Vienna Protocol on Firearms; as well as engage in improved and increased efforts to facilitate the implementation of the UNPOA, including the possibility of extending the commitment beyond 2006 and ensuring implementation resources.

General Conclusions

21. Regarding regional principles: There was general recognition and appreciation of the important work which has been conducted in the Great Lakes Region and Horn of Africa and the Southern African Region in terms of the signature and ratification of the Nairobi and SADC Protocols. Both regions were encouraged to continue with their implementation.

22. Regarding Global Principles on Arms Transfers: There was overall consensus that, as a minimum, states must ensure that:

- a. all transfers be authorized through a physical permit or licence
- b. existing obligations under relevant international law should be respected
- c. arms embargoes imposed by the United Nations Security Council should be respected and enforced
- d. issuance of permits or licenses should consider the risk that exported arms might be used in the commission of serious violations of human rights or international humanitarian law,

including the risk that such arms might be diverted into the wrong hands such as terrorists; and that may affect regional and/or internal security and stability.

23. Regarding Follow Up: It was recognized that: a) there is a need to continue with discussions of global guidelines and principles for improved controls over arms transfers, imports and exports based on existing obligations under relevant law, b) that this ongoing discussion be transparent and open, and c) that the results of this Workshop be brought to the attention of other relevant process meetings, including the Second Biennial Meeting of States at the United Nations in 2005 and the Programme of Action Review Conference in 2006.