

ACP-EU JOINT PARLIAMENTARY ASSEMBLY

Committee on Political Affairs

1.8.2006

DRAFT REPORT

on small arms and light weapons and sustainable development

Co-Rapporteurs: Ana Maria Gomes and Youssouf Moussa Dawaleh (Djibouti)

PART A: MOTION FOR A RESOLUTION

MOTION FOR A RESOLUTION

on Small Arms and Light Weapons and Sustainable Development

The ACP-EU Joint Parliamentary Assembly,

- meeting in Bridgetown (Barbados) from 20 to 23 November 2006,
- having regard to Rule 17 (1) of its Rules of Procedure,
- having regard to the Millennium summit and the Millennium Development Goals,
- having regard to the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (henceforth referred to as the UNPoA) as adopted in July 2001,
- having regard to the first United Nations Biennial Meetings of States to Consider the Implementation of the UN Programme of Action to prevent, combat and eradicate the illicit trade in SALW in all its aspects held, respectively, in July 2003, July 2005 and July 2006,
- having regard to the adoption by the United Nations General Assembly in December 2005 of the International Instrument to Enable States to Identify and Trace, in Timely and Reliable Manner, Illicit Small Arms and Light Weapons¹,
- having regard to the entry into force on 6 July 2005 of the 2001 Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition²,
- having regard to the report and declarations of the UN Conference to Review Progress Made in the Implementation of the Programme of Action, for the Prevention, Combating and Eradication of the Illicit Trade of Small Arms and Light Weapons in All its Aspects, which took place between 26 June and 7 July 2006 (henceforth referred to as the Small Arms Review Conference) and to the need to make a full success of that Conference's follow-up,
- having regard to UN Security Council Resolution 1325 (2000),
- having regard to the conclusions of the G8 Summit in Gleneagles (United Kingdom) of June 2005 in particular the doubling of aid by 2010 - an extra \$50 billion worldwide and \$25 billion for Africa, and the conclusions of the G8 Summit held in St Petersburg (Russia) on 16 and 17 July 2006,

¹ A/60/463 (L.55) decision, 8 December 2005.

² The Protocol known as the 'UN Firearms Protocol' was adopted in May 2001 by General Assembly resolution 55/255

- having regard to the Rome statute establishing the ICC,
- having regard to the EU strategy for Africa adopted on 12 October 2005,
- having regard to the European Consensus on Development signed on 20 December 2005,
- having regard to the European Parliament's previous resolutions of 15 March 2001¹, 15 November 2001², 19 June 2003³, and 26 May 2005⁴ on combating the proliferation and misuse of small arms and light weapons (SALW), and to its previous resolution of 17 November 2005⁵ on the Council's Sixth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports (2005/2013(INI),
- having regard to the 26 June 1997 EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms⁶, to the Council Joint Action 2002/589/CFSP of 12 July 2002 on the European Union's contribution to combating the destabilising accumulation and spread of small arms and light weapons⁷, to the Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering⁸, and to the EU Strategy to combat illicit accumulation and trafficking of SALW and their ammunition as adopted by the European Council on 15-16 December 2005⁹,
- having regard to the conclusions adopted by the General Affairs and External Relations Council at its meeting of 3 October 2005 expressing EU support for an International Arms Trade Treaty in the framework of the United Nations that would establish binding common standards on the global trade in conventional arms¹⁰,
- having regard to the European Parliament resolution of 6 April 2006 on aid effectiveness and corruption in developing countries,
- having regard to the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons adopted by the OAU ministerial meeting on 30 November and 1 December 2000 in Bamako, Mali,
- having regard to the 'African Common Position to the Review Conference on Progress made in the implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in all its aspects' adopted at the African Union's Second Continental Conference of African Governmental Experts and Regional Economic Communities on the Illicit Trade in Small Arms and Light Weapons at Windhoek, Namibia on 14-16 December 2005, and to the Decision Ex.CL/DE.255 (viii) of the African Union of January 2006, Khartoum,

¹ OJ C 5.12.2001, p. 311

² OJ C 140, 13.6.2002, p. 587

³ OJ C 69 E, 19.3.2004, p. 136

⁴ P6_TA(2005)0204

⁵ P6_TA(2005)0436

⁶ Adopted by the General Affairs Council of 26 June 1997

⁷ OJ L 191, 19.7.2002, p. 1

⁸ OJ L 156, 25.6.2003, p. 79

⁹ Council of the European Union, 5319/06, 13 January 2006

¹⁰ Council of the European Union 2678th GENERAL AFFAIRS Council meeting, Luxembourg, 3 October 2005

- having regard to the Southern African Development Community Protocol on Firearms, Ammunition and Related Materials of 2001 that entered into force in July 2005,
 - having regard to the Africa governmental conference on the implementation of the UNPoA: Needs and Partnerships in Pretoria March 2002,
 - having regard to the Nairobi Declaration and Coordinated Plan of Action of 2000 (including its three Ministerial Review Conferences 2002, 2004 and 2005) and the Nairobi Protocol for the Prevention, Control, and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa in 2004,
 - having regard to the Economic Community of West African States moratorium on the importation, exportation and manufacture of small arms and light weapons in West Africa of 1998 and its subsequent extensions,
 - having regard to the 1998 Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition and Explosives (CIFTA),
 - having regard to its resolution on the role of regional integration in the promotion of peace and security adopted in Vienna on 22 June 2006 (ACP-EU 3850/06/fin.),
 - having regard to article 12 of the Cotonou agreement stating that the Parties shall pursue an active, comprehensive and integrated policy of peace-building and conflict prevention and resolution within the framework of the Partnership and that this policy shall in particular focus on building regional, sub-regional and national capacities, and on preventing violent conflicts at an early stage by addressing their root-causes in a targeted manner, and with an adequate combination of all available instruments,
 - recalling that under the revised Cotonou Agreement serious cases of corruption can lead to consultations in accordance with Art. 96 and 97 of the Partnership Agreement,
 - recalling that there is no security or long term sustainable development without peace,
 - stressing that it is estimated that half a million people are killed each year by small arms (Small arms survey 2001, Oxford, Oxford University Press),
 - having regard to the report of the Committee on Political Affairs of the Joint Parliamentary Assembly,
- A. welcoming the growing international support for a legally binding International Arms Trade Treaty to ban transfers which risk undermining human rights or international humanitarian law, or which threaten the stability of countries or regions or that are likely to contribute to the outbreak or escalation of armed conflict,
- B. reaffirming its concern about the ongoing proliferation of SALW, which cause unnecessary human suffering, exacerbate armed conflict and instability, facilitate terrorism, undermine sustainable development and the rule of law, and contribute to grave violations of human rights and international humanitarian law,

- C. recalling that G8 countries account for around 85% of the global arms trade and that according to a report prepared for the US congress, conventional arms transfer agreements to developing nations have comprised of 62,7 % of the value of all international arms transfer agreements between 1997 and 2004 (CRS report for Congress, 29 August 2005) and that in 2004, arms deliveries to developing nations constituted 64,6 % of the value of all such arms deliveries worldwide,
- D. whereas due attention should be given to the link between the licit and illicit manufacture transfer and circulation of SALW and corruption practices in both developing and developed countries,
- E. affirming its determination to strengthen the UN Programme of Action, and to further engage governments to agree upon binding provisions to control SALW (including brokering and transfers) through international, Regional and National legislation,
- F. convinced that the time is ripe for the international and regional communities to tackle the proliferation and misuse of SALW through binding international standards that are based upon a full respect for international law, including human rights and international humanitarian law,
- G. concerned about the exclusion of ammunition and explosives from the International Instrument to Enable States to Identify and Trace, in Timely and Reliable Manner, Illicit Small Arms and Light Weapons, as well as by the non-legally binding nature of the instrument,
- H. regretting further the slow process of the UN broad-based consultations on combating illicit brokering of SALW as well as the absence of a commitment to negotiate a legally binding international instrument on arms brokering,
- I. underlining that the UN Programme of Action requires states 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 and the relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade,
- J. welcoming and supporting the ongoing campaigning efforts from the side of civil society organisations,
- K. affirming that the reduction of the availability, supply and demand for small arms and light weapons is critical to the well being of all States and their citizens and can be achieved through actions/initiatives at the national, regional continental and international levels in that respect in general, but in particular through:
- political commitment and action to address the root causes of conflict in a comprehensive manner,
 - preventing, combating and eradicating the illicit manufacture, possession, stockpiling and trade in small arms and light weapons,

- placing emphasis on public awareness and education,
 - engaging in effective collection and destruction mechanisms for both surplus and illicit arms,
 - effective disarmament, demobilisation and reintegration measures in peace agreements as may be applicable,
 - providing for rehabilitation and reintegration assistance to demobilised soldiers, ex-combatants and in particular child soldiers as referred to by the Post-Conflict Reconstruction and Development (PCRD) debate in the African Union,
 - ensuring that children are protected from being in direct contact with small arms and light weapons in conflict areas,
 - acknowledging the impact – including gender-based violence – of the presence of small arms and light weapons on women and girls in particular; ensuring the raising of awareness of the provisions contained in UNSC Resolution 1325 as well as promoting its implementation,
 - recognising the need for small arms and light weapons programmes to continue beyond post-conflict and transitional stages, through mainstreaming of small arms reduction and management in all national and local action plans related to development, crime prevention, and reconstruction,
- L. welcoming the EU's Strategy to combat illicit accumulation and trafficking of SALW and their ammunition' and affirming the need for a coherent overarching concept behind EU SALW action abroad, which takes long-term sustainable development into account,
- M. calling on EU Member States to prioritise SALW control and eradication strategies including projects aiming at the DDRRR of ex-combatants as well as to ensure sufficient funding under the forthcoming 10th EDF for such programmes,
1. Calls on the State Parties to the 2006 UN Programme of Action Review Conference to participate in and promote formal United Nations discussions to agree on a global set of principles on arms transfers, which at a minimum should ensure that a) all transfers be authorised through a physical permit or licence, b) existing obligations under relevant international law should be respected, c) arms embargoes imposed by the UNSC should be respected and enforced and 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;
 2. Urges the international community to start negotiations on an International Arms Trade Treaty within the United Nations directly after the 2006 UN Programme of Action Review Conference, in order to establish a legally binding instrument to regulate arms transfers as defined by the discussions on global principles in the previous paragraph;

3. Stresses that already existing obligations under international law with respect to arms transfers, specifically covering human rights and humanitarian law criteria, should be codified;
4. Calls all signatories to the UN Firearms Protocol to ratify the protocol and incorporate it into national legislation without any further delay;
5. Urges States Parties to the UN Programme of Action, the Firearms Protocol and other similar instruments and initiatives internationally and regionally to develop technical assistance programmes in order to assist any third State or regional organisations wishing to develop legislative controls to regulate the arms trade;
6. Urges States Parties to the UN Programme of Action and other applicable international instruments to agree on a single reporting mechanism for utilisation in subsequent Review Conferences or Processes; such a reporting instrument should be developed and coordinated by the United Nations Department for Disarmament Affairs (UNDDA) through consultations with State Parties;

At regional level

7. Establishes or designates, as appropriate, a point of contact within sub-regional and regional organisations to act as liaison on matters relating to the implementation of the UNPoA;
8. Encourages negotiations, where appropriate, with the aim of concluding relevant legally binding instruments aimed at preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects, and where they do exist to ratify and fully implement them;
9. Calls for the organisation of a conference of donors, national and regional donor/SALW focal points to ensure international, regional and national SALW priorities are incorporated into funded SALW programmes;

At national level

10. Urges States to make violations of arms embargoes (including financial or logistical support) a criminal offence under national law;
11. Highlights that reforms intended to improve the functioning, transparency and accountability of armed forces, as well as law enforcement agencies and criminal justice systems, can contribute to a secure environment where citizens no longer feel the need to pose firearms;
12. Is of the opinion that national laws should be applied and enforced to regulate private military and security services operating overseas, and where such laws do not exist that they are developed and applied in order to improve regulation and accountability over this growing security sector;

13. Urges all States to incorporate into national legislation the Code of Conduct for Law Enforcement Officials¹ and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials²;
14. Strongly recommends that governments prohibit the civilian possession and use of all automatic and semi-automatic rifles and machine guns;
15. Urges in particular States to develop national legislation for screening and licensing of SALW, automatic and semi-automatic machine guns and to prevent gun acquisition by people who have a record of violence, especially family violence, or have a criminal record for trafficking or violating arms control regulations;
16. Ensures the sustainability of national initiatives by, inter-alia, developing needs and resource assessments; promoting relevant partnerships for implementation with civil society; and accepting primary responsibility of States in the implementation of action;
17. Strengthens the existing National Focal Points/ national coordinating agencies and their links with international and bilateral donors;
18. Considers (as recommended by the Bamako and UNPoA frameworks) as priorities:
 - the establishment and development of operative national focal points, national action plans and/or national coordinating agencies where they do not already exist;
 - the need for strengthening of regulations for arms management, including the need to strengthen and harmonise legislation to that effect; the need to engage in training and capacity building programmes for law enforcement agencies on all aspects of the issue but particularly on border controls, stockpile management and recordkeeping;
 - the improvement, where needed, of operational capacity for enforcement including stockpile management, monitoring, destruction, recordkeeping and border controls;
 - the enhancement of information exchange and cooperation mechanisms to prevent combat and eradicate illicit small arms and light weapons trade;
19. Urges all States, which have not yet done so, to engage in the implementation of the UNPoA;
20. Urges all States to regulate stockpile management and secure them against theft or disappearance;
21. Urges all States to adopt, as soon as possible, where they do not exist, the necessary legislative and other measures to establish as a criminal offence under national law, the illicit manufacturing of, trafficking in, and illegal possession and use of small arms and light weapons, ammunition and other related materials;

¹ Code of Conduct for Law Enforcement Officials, Adopted by General Assembly resolution 34/169 of 17 December 1979

² Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

22. Urges all States to reaffirm their commitment to protect children from the impact of proliferation and misuse of small arms and light weapons as well as from being instrumentalised as child soldiers in times of war;
23. Urges all States to uphold their responsibilities under UNSC Resolution 1325 by putting an end to impunity and by prosecuting those responsible for genocide, crimes against humanity, war crimes including those relating to sexual violence against women and girls, and in this regard, stresses the need to exclude these crimes, where feasible from amnesty provisions;

Final considerations and priority actions

24. Affirms its determination to implement and extend the UNPoA, whose integrity should be maintained and which should not be subject to negotiation;
25. Recommends that the product of the Review Conference be a report on progress made in the implementation of the UNPoA;
26. Recommends, after the 2006 UN Review Conference on the UNPoA, whilst recognising this process will occur outside the parameters of the UNPoA and in parallel to it, the development of global principles for arms transfers to be taken forward by interested states in 2006 and/or become a parallel and complementary process within the UN system leading to the creation of an international instrument;
27. Regrets that the UN Review Conference of July 2006 was unable to reach a common position and did not set up a follow-up mechanism;
28. Calls on the UN Secretariat to convene another UNPoA Review Conference not later than 2012 in order to review further progress on the implementation of the UNPoA, with BMS meetings every two years in 2008 and 2010;
29. Requests that multilateral and regional financial institutions to include provisions for small arms and light weapons programmes, where appropriate, in the reconstruction and rehabilitation efforts in post-conflict areas, in the consolidation of governance issues, in the area of strengthening legislation and improving operational capacity of law enforcement agencies on small arms and light weapons, and in the promotion of socioeconomic developmental agendas that include public awareness on small arms and light weapons issues;
30. Encourages, where appropriate, regional support for national disarmament, demobilisation and reintegration programmes, particularly in post-conflict situations, with specific reference to the introduction, adherence to, implementation or strengthening of relevant laws, regulations and administrative procedures; to promote effective stockpile management and security, in particular physical security measures, and; to encourage regions to develop, where appropriate and on a voluntary basis, measures to enhance transparency to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects;

31. Urges all States and appropriate international and regional organisations in a position to do so should, upon request of the relevant authorities, seriously consider rendering assistance, including technical and financial assistance where needed, such as small arms funds, to support the implementation of the measures to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects as contained in the Programme of Action;
32. Urges all States and international and regional organisations, both at governmental and at parliamentary level, to cooperate, develop and strengthen partnerships to share resources and information on the illicit trade in small arms and light weapons in all its aspects;
33. In order to facilitate the implementation of the UNPoA, urges States and international and regional organisations to seriously consider to assist interested States, upon request, in building capacities in areas including the development of appropriate legislation and regulations, law enforcement, tracing and marking, stockpile management and security, destruction of small arms and light weapons and the collection and exchange of information, thereby emphasising the responsibility of all Member States to ensure the sustainability of national initiatives in the implementation of all the UNPoA undertakings;
34. Calls on the UN Secretariat to convene a technical and legal workshop with the aim of developing a legally binding International arms Trade Treaty to prevent, combat and eradicate the illicit trade in small arms and light weapons;
35. Ensures that the UN Secretariat coordinates the implementation of UNPoA action;
36. Calls on the ACP-EU Council to commit to strengthening EU-ACP cooperation on the implementation of the UNPoA and to hold regional Needs and Partnership conferences should be held every two years to revise implementation in each region (similar to the African needs and partnerships conference of 2002);
37. Ensures that illicit trade in small arms and light weapons issues are mainstreamed into relevant EU, African Pacific and Caribbean processes and documents in all peace and security policies and actions of their respective regional and national bodies in particular, as needed in the development of an SSR and DDR components;
38. Calls for the prioritisation of Parliamentary actions and work on Good Governance as essential elements to any strategy for tackling SALW and regional conflict;
39. Requests the EU and ACP Member States, the EC delegation, and EU and AU Presidencies to defend the principles and recommendations entailed in this resolution during the UN Review Conference on the UN Programme of Action, scheduled to take place between 26 June and 7 July 2006;
40. Calls on the Member States to implement their commitments in the Council's 2003 Common Position on arms brokering; furthermore, calls for the biannual review of the Strategy to be published and include a list of those Member States that have not implemented their commitments in this area;

41. Specifically calls on the Council and the Commission to allow for appropriate resources for SALW action to be mobilised through the Stability Instrument;
42. Calls for a greater involvement of EC financial instruments in the fight against SALW;
43. Is of the opinion that a clear, efficient and harmonised common arms control export policy by the European Union Member States, anchored in a legally binding Code of Conduct on Arms Exports, would be a decisive contribution by the EU to sustainable development in ACP countries;
44. Instructs its Co-Presidents to forward this resolution to the Council and the Commission, the governments and parliaments of the Member States, the Secretary General of the United Nations, the Parliamentary Forum on Small Arms and Light Weapons, and the Assembly of the Inter-Parliamentary Union;