

# Tracking Lethal Tools

## Marking and Tracing Arms and Ammunition: a central piece of the arms control puzzle

A global system for tracking illicit arms and ammunition is central to improving accountability in the international arms trade and preventing arms getting into the wrong hands. The United Nations negotiations to establish international Marking and Tracing controls present states with an historic opportunity to take a tough stance against the worldwide proliferation of illicit arms and the use of arms for violations of human rights and international humanitarian law and to make real progress.

This will be the first major international agreement to come out of the UN Programme of Action on the Illicit Trade in Small Arms and Light Weapons and represents an acid test of its credibility. People in communities suffering from conflict and armed violence in all parts of the world depend upon the successful outcome of these negotiations.

In addition to a marking and tracing treaty, states should also negotiate and agree complementary global instruments to prevent arms proliferation - an international Arms Trade Treaty (see Appendix 1) and a treaty to control arms brokers and transporters.

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## Summary

Millions of men, women, and children live in constant fear of violence committed with arms. The continuing proliferation and misuse of arms in violation of international and national law takes a massive toll in lost lives, lost livelihoods, and lost opportunities to escape poverty and oppression.

There are no easy or quick-fix solutions to ending the human tragedy associated with the misuse of all conventional weapons, and particularly small arms and light weapons. A comprehensive approach based on international standards is needed which enhances accountability and transparency on legal arms transfers, effectively combats the illicit arms trade, and limits the demand for arms.

Under the United Nations Programme of Action on the Illicit Trade in Small Arms and Light Weapons, negotiations have started to agree a common approach to marking and tracing small arms, light weapons and ammunition, and an open-ended working group has been established for this purpose<sup>1</sup>.

### **The United Nations 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 was adopted at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects held in July 2001. This Programme of Action includes a number of measures at the national, regional, and global levels, in the areas of **legislation, destruction of weapons** that were confiscated, seized, or collected, as well as international cooperation and assistance to strengthen the ability of States **to identify and trace illicit arms and light weapons**.

The United Nations General Assembly, in its resolution 56/24V, welcomed the adoption of the Programme of Action and reiterated Member States' support for action to curb the illicit flow of small arms and light weapons. For a summary of the Programme of Action see Appendix 2.

The purpose of marking is to establish strict state control of arms transfers to prevent illicit trafficking and and unlawful use of arms. Agreed tracing procedures would enable officials to systematically track illicit arms from their point of production and discover point at which point they may have been diverted or used in violation of national and/or international law, and whether they were purchased legally or not.

Effective marking and tracing will make it possible for states to control arms more closely and for the international community to hold governments, manufacturers, brokers and transporters accountable for illicit arms transfers or failure to prevent diversions. In addition, effective marking of all small arms can, for example, enable police authorities to strictly control the issuance of weaponry and ammunition to officers and to guard stocks. Tracing can also play a crucial role in criminal investigations and in establishing the evidence and proof required for convictions of those possessing, using, transferring, or brokering weapons or munitions in violation of the law. Marking and tracing systems can thereby have a preventative role, in helping to deter people from misusing arms or diverting arms to illicit destinations.

This report details essential measures that governments, with the help of the UN, should adopt if they are to seize the opportunities offered by the current UN negotiations on an international marking and tracing instrument. In particular, they must adopt a legally binding treaty rather than a voluntary instrument that governments can ignore. This treaty should include:

- high common standards for the adequate marking of all small arms and light weapons;
- detailed international standards for record-keeping on arms transfers;

- provisions for marking and tracing ammunition;
- ways of strengthening the operational capacities of governments to implement the treaty's measures;
- provisions which make it fully consistent with states' existing responsibilities under international law;
- mechanisms for future review and improvement of the agreed instrument.

A legally binding UN marking and tracing instrument for small arms and light weapons is only one part of what is required to establish accountability in the international arms trade and prevent arms getting into the wrong hands. A comprehensive solution requires a clear international legal framework which fully reflects the existing obligations of states, including an Arms Trade Treaty to control export and import decisions (see Appendix 1) and a new convention to control arms brokering and transporting. Without these complementary measures, the human suffering associated with arms proliferation and misuse will continue unabated.

### **Tracking arms and human rights**

Small arms and light weapons are among the favourite tools of human rights violators and abusers throughout the world. They are used to kill and injure indiscriminately, to torture and rape, to intimidate political opponents and to otherwise deny people their basic rights.

Human rights are enshrined in the Universal Declaration of Human Rights and codified in a long series of binding international and regional human rights treaties, in national laws and in other standards.<sup>2</sup> Prominent among these rights are those often violated using small arms and light weapons - the rights to life, liberty, security of person, freedom from torture and ill-treatment and freedom of expression and peaceful assembly.

Another strand of the international legal system, international humanitarian law, protects the basic right of both combatants and non-combatants in war, by prohibiting, for instance, the use of weapons causing unnecessary suffering, attacks targeting civilians, torture and ill-treatment of prisoners of war and civilian detainees, and wanton destruction of property. When these laws are broken, small arms are often the means.

Human rights violations and violations of international humanitarian law must be prevented. If prevention fails, they must be brought to an end. Where violations have been committed, perpetrators must be brought to justice, whether within states or in front of international courts such as the International Criminal Court. This is necessary to ensure that lessons are learned, that survivors are granted reparation and that prevention is more efficient in the future.

An international treaty on marking and tracing small arms, light weapons and ammunition, alongside an Arms Trade Treaty and a treaty on arms brokering can both help prevent violations of human rights and international humanitarian law and help bringing perpetrators to justice.

# 1. Background

The international marking and tracing of certain goods is a well-established practice. For example, global mechanisms exist that trace food or feed made from genetically modified organisms (GMOs). GMOs or products made from them can be tracked throughout their production and distribution chains to facilitate quality control and allow, if necessary, for their quick withdrawal from the market.<sup>3</sup> Similarly, a global mechanism tracks suitcases with standardized marking codes around the world's airports. Managed by computer systems reading the codes on the luggage tags, a misplaced or diverted piece of luggage can be traced, usually within hours. If such tracing of international goods is thus perfectly possible, it must also be applied to the deadly trade in weapons.

## Tracking arms and ammunition

There are some references to marking and tracing arms and ammunition in a few existing international agreements such as; 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; the Protocol on the control of firearms, ammunition and other related materials in the Southern African development community; the Organization of American States Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (1997); the Organization for Security and Co-operation in Europe Document on Small Arms and Light Weapons (2000); the Protocol against the Illicit Manufacturing of, and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (2001); the Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community (2001); 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 (2004). For summary further information on these see Appendix 3.

Yet there are no global mechanisms for the reliable tracking of weapons and ammunition from their production and subsequently through their various transfers from one party to the next. In particular, arms recovered from armed conflicts or crimes can rarely be traced to the specific point at which they were diverted into the illicit trade or used unlawfully. This significantly constrains any possibility at present to identify and hold accountable those governments or people who have authorized or failed to prevent, transferred, brokered, or used arms in violation of national and/or international law. Thus, those responsible can largely act with impunity and face little or no deterrent to continuing their activities.



**Effective marking of weapons and tracking of transfers could prevent arms reaching illicit markets and being used unlawfully.**

#### **Weapons recovered after the conflict in Sierra Leone**

A container-load of destroyed weapons from rebels who committed gross human rights abuses with them.

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For example, investigations of arms embargo violations are often unable to provide the critical proof necessary to convince governments of the clear culpability of specific actors in the arms trade and to provide evidence necessary for the prosecution and conviction in national or international courts of arms traffickers and war criminals – whether part of state-sanctioned law enforcement forces, governments or armed groups. According to Johan Peleman, an internationally recognized investigator of illicit arms flows for the United Nations and the International Criminal Court: *“tracing a 20 year old Kalashnikov...back to whoever delivered it, is virtually impossible.”*<sup>4</sup> This is illustrated by a current case in which illicit ammunition cartridges were recovered in Burundi after an atrocious violation of international humanitarian law (see box 1).

#### **Box 1: Tracing ammunition used in the Gatumba massacre in Burundi**

On 13 August 2004 armed combatants attacked Gatumba transit camp close to the border with the Democratic Republic of the Congo. The Gatumba transit camp sheltered civilian Congolese refugees, mainly of the ethnic Banyamulenge, and Burundian returnees. When the combatants reached the camp, they reportedly opened fire on the two rows of tents sheltering Banyamulenge refugees and gunned down those trying to flee. Many reportedly sang religious songs and played noisy instruments. The combatants then systematically targeted individual tents, shooting occupants and setting fire to tents. About an hour and a half after their arrival, the combatants carried away loot such as money and radios.

They left in their wake more than 150 refugees dead or dying and more than 100 wounded.<sup>5</sup>

#### **Sources of the tools of violence**

The Gatumba massacre of unarmed civilians amounts to a crime against humanity. The arms and ammunition deployed to carry out the massacre were used in clear violation of national and international law. So where did the perpetrators acquire their tools of violence? And who provided the arms and ammunition used in the massacre? States, manufacturers and traders must not transfer weapons when they know or suspect that they are likely to be used in violation of international law. Identifying these sources would also help to deny the perpetrators further access to weapons through the same channels.

Tragically, the reality is that the current practice in marking and tracing does not allow us to find out where these arms and ammunition were acquired, and therefore justice cannot be done. Were these arms acquired through raids on military stockpiles, capture on the battlefield, supply from other armed groups, purchase through international brokers, or supply from a government either with political support or for personal gain?

### Bullets used in the Gatumba massacre



Several cartridges were recovered at the scene of the massacre. Following the usual practice for ammunition for military small arms and light weapons, the cartridges are stamped with codes identifying their manufacturer and / or country of manufacture as well as their year of production.

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### Identifying the supply chain

The markings on the cartridges show that one was manufactured in Bulgaria in 1995 by Arsenal, Kazanlak; two in the People's Republic of China in 1998 by unknown Chinese manufacturers<sup>6</sup> and one in Yugoslavia in 1999 by Prvi Partizan in Uzice, Serbia<sup>7</sup>. But without high common international standards for tracing weapons transfers, identifying the legal point of manufacture is of little further use for tracking the chain of transfers of these cartridges. Without markings giving the cartridges a unique lot number, not even the manufacturers will be able to identify the original recipients of the lots of ammunition from which these cartridges came. Data on Chinese exports of small arms ammunition suggests that, in 1998, China transferred ammunition to the Democratic Republic of the Congo, Ethiopia, Nigeria, Rwanda, South Africa, Tanzania and Uganda, among others<sup>8</sup>. Without any further markings on the cartridges and adequate registration of their initial transfers, the Chinese authorities will not be able to identify whether the recovered cartridges were part of any of these transfers in 1998 or later years, nor their initial recipient.

If there was a unique identifying code on each lot of cartridges, and also if manufacturers registered the initial transfers of each lot, the initial recipient could be identified. An effective trace would still require that the subsequent recipients, who acquired and re-transferred the ammunition lots, also kept accurate records. If adequate standards were in place, this would make it possible to identify the arms dealer, broker or shipping agent, who transferred the original ammunition lots, or parts of them, to the perpetrators of the massacre.

This kind of tracing is at present largely impossible. If not even the supply chain of a weapon or ammunition lot can be identified, it will remain virtually impossible to hold accountable those who arrange illicit arms transfers. In the words of a UN expert on tracing illicit weapon flows: *"There are very, very few cases of people actually caught in the act, where information obtained by the United Nations leads to people being questioned and convicted. Very few cases."*<sup>9</sup>

## **2. UN negotiations on a marking and tracing instrument**

In 2003 the United Nations General Assembly launched a process “to negotiate an international instrument to enable States to identify and trace, in a timely and reliable manner, illicit small arms and light weapons”<sup>10</sup>

An ‘open-ended working group’ was established and it met for the first time in June 2004 to debate the scope and contents of the instrument, including the question of whether it should take the form of a political declaration or a more robust legally binding treaty. The group will meet again in January/February 2005 and in June 2005 by which time it aims to finalize the text. The text is to be presented and opened for adoption in July 2005 at the second Biennial Meeting of States on the implementation of the United Nations Programme of Action on the Illicit Trade in Small Arms and Light Weapons.

### **Need for high common standards**

This instrument, if comprehensive, binding and properly implemented, could make a substantial contribution to combating the proliferation of arms and their misuse. It could significantly strengthen international capacity to control transfers of small arms and light weapons, as well as to identify and hold accountable those who transfer such arms in violation of national and/or international law. It could also greatly assist in the prosecution of those responsible for genocide, crimes against humanity, and war crimes as well as those abusing arms in crime and domestic violence. This should have powerful preventative effects.

Unfortunately, only a few governments have argued for a viable instrument that goes further than simply codifying current minimal controls. It is crucial that the instrument stipulates high common standards that are based on existing best practices on marking and tracing small arms and light weapons as well as ammunition. Good standards of best practice on marking ammunition cartridges and boxes already exist in Brazil and legally binding standards on national record-keeping systems for arms transfers and holdings are outlined in the 2004 Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa.<sup>11</sup>

What is needed is for all governments to follow the best practices outlined in this report, and for them to be adopted in global, legally binding standards. The UN must continue to encourage and facilitate the development and adoption of such standards. Failing this, the tracing of illicit small arms, light weapons and related ammunition up to the point and actors who diverted or misused them will remain largely impossible. Those responsible for illegal acts with such arms will continue to act with impunity.

### **3. Essential elements for timely and reliable marking and tracing**

It is essential that governments and the UN adopt a pro active approach to marking and tracing illicit small arms and light weapons. Effective marking and tracing that allow for timely identification of diversions and enhances accountability in the arms trade is central for the prevention of arms proliferation and misuse. Governments are therefore urged to negotiate a robust legally binding international instrument that includes, among others, the following essential elements:

#### **Effective marking of arms**

Investigators and law enforcement officials often face obstacles in accurately identifying the manufacturer of an illicit weapon. Marks may be missing altogether, misleading, or incomplete. For example, marks with information on the manufacturer and/or country of manufacture are of limited use for tracing purposes in the absence of a further 'unique identifier' or serial number of that particular weapon or cartridge. Even then, investigations may have to struggle with attempted removals of markings, or false markings which deliberately disguise the manufacturer, and/or country of manufacture. Misleading and false markings can occur particularly in the context of the licensed production of the same weapon or ammunition type in several different countries.

Also of concern are the practices by some governments to authorize transfers of untraceable arms, for example, transfers of inadequately marked weapons from commercial or military stockpiles. Some national armed forces specify that weapons manufactured for them be without marks so they can apply their own markings later. Such unmarked weapons can find their way into the illicit sphere through diversions during delivery and theft from stockpiles. Unmarked or inadequately marked arms may intentionally be stocked for transfer to political allies that a government wishes not to be seen openly supporting.

#### **Marking of newly manufactured weapons**

Governments should therefore negotiate and adopt a treaty provision making it obligatory on states parties to mark every weapon and unit of ammunition at the point of manufacture with a unique serial number, manufacturer's mark and/or country code. This information must be applied on the arm's essential or structural components, and be clearly visible and permanent. To facilitate correct identification and recording of weapons and munitions, markings should be in numeric codes rather than geometric symbols. Increased use must be made of security markings, the destruction of which would make the weapon or unit of ammunition inoperable. Following best practice, additional marks should identify the year of manufacture, and the year and country of import.

## Marking of already manufactured arms

Thousands of tons of inadequately marked small arms and light weapons and corresponding ammunition, currently exist in military, official, dealers' and manufacturers' stockpiles. To prevent these being released into the global arms bazaar, the treaty must include an absolute prohibition on cross-border transfers of inadequately marked arms and ammunition. In addition, the treaty should require states parties to apply appropriate identifiers and to register weapons and munitions that are brought out of stockpiles into active service or are transferred to the civilian market or other destinations.

### Box 2: Basic marks on firearms



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Marks on the semi-automatic pistol shown here identify the manufacturer (HK - Heckler & Koch, Germany), the type of weapon (M8 model of the popular P7 handguns series), the country of manufacture (the stylized eagle represents Germany), and the pistol's unique serial number (86912). The marks further contain a code identifying the year of manufacture (IE stands for 1984). The stylized stag horn shows that the weapon was produced for export, and "Chantilly VA" identifies the

marketing company in the USA which distributed the weapon for Heckler & Koch in the USA.

Heckler & Koch (H&K) is obliged under German legislation to keep an arms register for all the weapons it produces and trades. The register must identify serial numbers, type, quantity, origins and destination of weapons. Such marking and registration allows arms manufacturers to provide competent authorities with basic information on the initial sale of an individual weapon. In the case of the above pistol, the register held by H&K in Germany identifies this weapon to have been exported on 3 October 1984 to Heckler & Koch Inc., Sterling, Virginia, USA.<sup>12</sup>

## Registration of transfers

Marking arms is an essential pre-requisite of tracing them, but marking is not sufficient for tracing purposes on its own. This is especially the case for weapons and munitions recovered in armed conflicts that may have been circulating on international and regional arms markets for many years or that were trafficked via highly circuitous routes transiting several countries. Marks are required to identify the point of manufacture of a weapon or unit of ammunition, but it is the accurate registration of all manufactured and stockpiled arms and, in particular, of their transfer and re-transfer, which is necessary to provide the information needed for tracing the supply chain of the items in question.

At present for cross-border transfers of arms, there is often no such registration and the documentation may not list the actors involved or the weapons and munitions by their

serial numbers. If accurate records do exist, they are usually fragmented because some of the information is held by manufacturers or dealers or exporters while other relevant information is kept by customs and/or other authorities. Despite the increasingly cheap and easy availability of electronic registration systems for arms transfers, many national systems still rely on paper-based documentation. Information on different documents, such as payment invoices and receipts or cargo manifests and waybills, is normally not cross-referenced. All these shortcomings hinder the timely and reliable retrieval of information needed for tracing arms and ammunition.

**Box 3: Violations of UN arms embargo on UNITA - insufficient tracing evidence<sup>13</sup>**

**On 15 September 1993, the UN Security Council imposed a mandatory arms embargo on União Nacional para a Independência Total de Angola (UNITA). UNITA had abducted hundreds of civilians, including children, deliberately and arbitrarily killed unarmed civilians, and raped women. Despite the embargo, UNITA managed to acquire arms and military equipment from several countries.**

Between 1997 and 1998, arms manufacturers based in Bulgaria exported approximately US\$14m worth of arms, including artillery and missiles systems, infantry and ammunition<sup>14</sup> on the basis of forged end-user certificates from Togo. After a forensic examination of the end-user certificates, as well as a study of the routes of the aircraft that carried the weapons, the UN Panel of Experts on Violations of Security Council Sanctions reached the conclusion that these arms were destined to UNITA.

Some of the equipment captured by Angolan government forces<sup>15</sup> from UNITA also included weapons such as the BM21 multiple rocket launcher, BMP armoured vehicles and Uragan missiles, which did not feature in any of the exports from Bulgaria or Romania. According to information provided by the Angolan Government and the serial numbers on the equipment, it was produced in Ukraine, the Russian Federation and China but the governments of these countries dispute this. The UN reported that other small arms and light weapons found in UNITA stocks was not marked at all<sup>16</sup>.

*"The absence of markings on a large portion of the equipment seized makes it difficult to trace its origin. The pursuit of cooperation with arms-producing countries is necessary to determine the origin of equipment marked with serial numbers."*<sup>17</sup> In all the cases, the marking of the weapons and munitions, and the records of their transfer, were insufficient for the UN Panel of Experts to trace with certainty how these weapons arrived in the hands of the UNITA combatants. In such circumstances, it is very difficult to prosecute violators of the UN arms embargo and to hold arms suppliers and traffickers accountable for their part in fuelling conflict and facilitating human rights abuses.

### **A global system to track arms transfers**

To ensure effective control based on swift and accurate information, a globally harmonized system of electronic registers is required. Governments should designate national control agencies to maintain centralized electronic registers on all arms produced and transferred under a state's jurisdiction and to carry out relevant inspections in relation to arms shipments and holdings. A globally harmonized system based on common international standards is considered by many experts to be the most efficient and cost-effective way to keep track of transfers of weapons and munitions. This is

suggested in the Model Convention on Small Arms Tracing drafted by the Belgian non-governmental research centre GRIP.<sup>18</sup>

It is regrettable that most governments are not yet supporting the creation of such a globally harmonized system. In the current UN negotiations, states appear to prefer the principle that standards for record-keeping systems are a national prerogative and need not be specified in any further detail. This would perpetuate the diverse and inadequate record-keeping standards and would leave a fundamental flaw in the tracing instrument. Governments should ensure that the marking and tracing treaty stipulates specific and detailed measures on record-keeping systems.

#### **Box 4: Tracing illegal weapons in Brazil**



In the last 10 years, over 265,000 people have been killed by small arms in Brazil<sup>19</sup>, many as a result of urban violence and the widespread proliferation of handguns and small arms.

#### **Young gang members with guns in Rio de Janeiro, Brazil, 2002.**

© Luke Dowdney / Viva Rio

Viva Rio, a Brazilian Non Governmental Organization, helped the Rio State police to introduce a new computer system in 2002 to log the type, make and serial numbers of all the weapons confiscated in police operations. Data from this system identifies the countries that manufactured the small arms. The majority came from Brazil, but other manufacturers included Argentina, Austria, Belgium, China, the Czech Republic, France, Germany, Israel, Italy, Spain, Switzerland and the USA.

The governments of these countries have been asked to explain how supposedly legally exported small arms ended up in the hands of criminal gangs in Rio de Janeiro. So far most foreign countries have not responded formally though the Argentine authorities have requested a Federal hearing and other countries including Germany have cooperated in tracing efforts.

#### **Comprehensive record-keeping**

Governments should agree on a treaty that would include high standards and impose a clear obligation on state parties to keep comprehensive and accurate records on arms manufactured, held, and transferred into or from their jurisdiction. This implies that each actor in the supply chain of weapons and munitions must maintain accurate information on where an item came from and where it went. Governments must also ensure that adequate national procedures exist which allow the competent authorities immediate access to records held by manufacturers, dealers and others involved in the trade of arms and ammunition.

Following best practices, records must identify the dates of the transfer authorization, countries of export, transit, and import, final recipient, and the description and quantity of the transferred weapons or munitions. Records must also allow for the identification by serial number of the transferred arms, and should enable investigators and law enforcement agencies to clearly identify the transfer agents involved – dealers, brokers and transport agents. Given the long life span of small arms and light weapons corresponding ammunition, the treaty must go further than merely committing to keep relevant records for a minimum of 10 years – for example, the 11 countries which have signed the Nairobi Protocol are currently considering holding all records for 25 years.

### **Organization of record-keeping systems**

Governments should negotiate and adopt a treaty detailing measures on the organization of record-keeping systems nationally and promoting best practices in this regard. At a minimum, the treaty must encourage the national adoption of comprehensive electronic record-keeping systems which use meaningful categories and cross-referencing so the data can be integrated, centralized and efficiently used for tracing and preventing abuse. This should be complemented with explicit commitments to establish and maintain complete national inventories of weapons and ammunition held by security forces and other state bodies, and the registration of all civilian-owned firearms on a centralized basis. These measures would reflect standards adopted in, for example, 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, which will become legally binding once ratified by two thirds of member states.

### **Verification of records**

Common standards are also needed for the verification of the accuracy of records held by manufacturers, dealers and others holding and transferring arms. The treaty must include high minimum standards to ensure the accuracy of records on arms manufacture, holdings and transfers.

## **Inclusion of ammunition**

Ammunition and explosives related to small arms and light weapons play a key role in the devastation associated with arms proliferation and misuse. The availability of ammunition is crucial to the outbreak and duration of armed conflict and for acts of criminal gun violence. Illicit ammunition and weapons tend to be trafficked through the same routes and by the same people. Identifying and tracing illicit ammunition flows can therefore reinforce the identification and prevention of illicit weapons flows.

While governments from the African Union, European Union and Organisation of American States, except the USA, have supported the inclusion of high common standards for the tracing of ammunition during the negotiations, other governments make the excuse that the tracing of ammunition is impractical or does not fall under the mandate of the working group negotiating the tracing instrument. However the UN Group of Governmental Experts on Tracing Illicit Small Arms and Light Weapons reported under “Definitions, Small Arms and Light Weapons” that: “*Ammunition and*

*explosives, such as cartridges (rounds) for small arms, shells and missiles for light weapons, anti-personnel and anti-tank hand grenades, landmines, explosives and mobile containers with missiles or shells for single-action anti-aircraft and anti-tank systems are generally regarded as a part of the problem of small arms and light weapons".<sup>20</sup>*

Furthermore the scheme presented below is eminently practicable – indeed, it is already operating in several states.

### Marking of cartridges and shells

The global marking and tracing treaty should have a provision that requires all states to mark shells and cartridges with codes or marks denoting:

- batch/lot number;
- manufacturer and country of manufacture where necessary;
- year of manufacture;
- and, complying with current best practice, a code identifying the original recipient of the ammunition lot - such as a police or military force. Such requirements already exist in several countries (see Box 5).

In the case of ammunition being used contrary to international law, this latter marking would allow the first recipient to be identified, and thus assist in identifying the supply chain to the perpetrator.

While each grenade, missile and shell used in a light weapon should be individually marked with its own unique code as described above to ensure they are fully traceable, it may be very expensive to do this with each individual bullet cartridge. Governments argue that marking each bullet would impose disproportionate costs on manufacturers and those responsible for maintaining record-keeping systems, and thus be impossible to implement. A more effective solution for bullet cartridges is to provide a unique serial number for packaging units at the smallest size possible.

#### Box 5: Adequately marked ammunition and boxes<sup>21</sup>



Marks on this cartridge identify the manufacturer (HP – Austrian manufacturer Hirtenberger Pat) and year of manufacture (/86 - 1986). Marks also identify the cartridge's unique lot number (1), its calibre (9mm x 19) – a widely used calibre for handguns – and a code allowing the manufacturer to identify the original recipient (RP - a German police unit).



The corresponding packaging for this lot of cartridges (86/1) includes all the same information. It also shows the number of cartridges (50).<sup>22</sup> Weichkern means cartridges with a soft core.

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## **Marking and registration of ammunition boxes**

The packaging of small arms and light weapon ammunition varies depending on the type. For example, hunting cartridges for shotguns might typically come in cardboard boxes of 25, whereas bullets for assault rifles (7.62mm) might come in boxes of 50. Larger size shells for light weapons, missiles and grenades would normally be delivered in larger boxes. The treaty should include provisions regarding the upper limit for the 'smallest packaging unit' for each type of ammunition, e.g. not more than 100 for such bullets.

To make effective tracing a real possibility, the treaty must include obligatory markings on every smallest packaging unit of all ammunition - cartridges, grenades, missiles and shells - and include a ban on any transfer of inadequately marked ammunition boxes. The marking should include:

- an identifier which is unique to that particular package of cartridges;
- the same information as on the individual cartridges, grenades, missiles and shells - lot number, manufacturer's code, year of manufacture, first recipient;
- year of packaging, if different from year of manufacture;
- the exact type of ammunition enclosed.

Again, relevant standards already exist in several countries. Brazil's legislation, for example, stipulates that all ammunition is "*placed in packages containing a bar code engraved on the box, in order to enable the identification of the manufacturer and purchaser*".<sup>23</sup>

All manufacturers and suppliers must be required to keep accurate and meaningful records of all ammunition that they transfer; recipients must be required to maintain information on any further re-transfers of the same ammunition. This is vital because knowing that recipients may be held accountable for unauthorized re-transfers of arms and ammunition will act as a deterrent from violating obligations regarding re-transfers.

## **Safeguarding and inspecting arms holdings and deliveries**

The function of the marking and tracing treaty should not be limited to only identifying diversions after an illicit weapon is recovered and traced. In order to effectively prevent illicit arms diversions and unlawful use of arms, governments must also strengthen physical security measures for arms transfers and holdings. Significant weaknesses in verification mechanisms over the legal arms trade include:

- the limited operational capacity of customs and other law enforcement officials,
- the lack of specialized training and equipment,
- insufficient physical inspection
- inadequate checking of the accurate registration of arms transfers, holdings, and end-use.

The lack of common international standards for the safe storage of arms holdings and arms in transit continues to allow theft and the diversion of arms during their transfer, including by original recipients. Governments should negotiate and adopt a treaty imposing high common standards for the operational effectiveness of verification

arrangements to check the security of arms in holdings and stockpiles, and to verify the delivery of legitimate arms transfers.

### **Promoting legitimate stockpile and delivery security**

In particular, states need to agree effective measures to ensure the security of arms in stockpiles and arms being transported to avoid the theft or diversion of weapons and ammunition. Governments must strengthen national physical verification at points of storage, loading, transfer, and unloading. There must be regular cross-checking to verify that recorded information on arms corresponds to the actual serial numbers, types and quantities in the shipment or stockpile.

Governments should provide practical manuals containing the highest standards and best practices for the identification and tracing of illicit weapons to the responsible authorities including police, customs, border guards, the military and the judiciary. Such personnel must also have adequate training, communication systems and equipment for monitoring and controlling transfers and stockpiles of weapons. States in a position to do so should offer technical and financial assistance for the establishment of adequate marking technologies, record-keeping systems, secure stockpile management, training and verification tasks.

If they do not include provisions for such physical verification and strengthened operational controls in the authorized arms trade, governments will severely limit the potential of the global marking and tracing instrument to be used to spot and prevent illicit arms transfers and unlawful uses of arms.

## **Strong review mechanisms**

It is of concern that many governments appear reluctant to adopt regular review mechanisms for the implementation of the marking and tracing instrument currently being negotiated in the UN. Given that there is very little international experience in cooperation among states in marking and tracing illicit weapons, it is very likely that, with increased experience, amendments or further development and evolution of common standards will become both desirable and feasible.

### **Review of the instrument and its implementation**

The new treaty should include a system for regular mandatory reporting by governments on their implementation of the treaty. A technical experts group on marking and tracing arrangements should be established. This experts group should review the implementation of the instrument in the light of technological developments in weaponry and munitions, marking technologies and record-keeping systems, and in the light of growing experience of the requirements necessary for effective cooperation in tracing illicit arms. The group should further have the mandate to recommend measures for the strengthening of the instrument and to draft guidelines on issues falling under the scope of the treaty. These guidelines could take the form of, for example, specifying in detail the best practice that states develop on marking, record-keeping and cooperation in tracing that would complement the minimum standards agreed in the UN marking and tracing

instrument. There should also be regular review conferences to close loopholes and negotiate improvements to the instrument.

## **4. Clear legal framework for arms transfers**

A robust, efficient, globally-consistent system for marking and tracing weapons is an essential part of the overall strategy needed to establish effective international arms controls and to improve accountability and transparency in the arms trade. However, it is only one piece of the puzzle. Controls on the international trade in arms, and controls on arms brokers and transporters, are also essential. Strengthening and implementing the UN Programme of Action on the Illicit Trade in Small Arms and Light Weapons is a unique opportunity for governments to move ahead with these measures.

### **Arms Trade Treaty**

Despite the suffering and poverty fuelled by irresponsible arms sales, there is no comprehensive conventional arms control treaty on the international trade. The proliferation and misuse of arms in so many countries across different regions is a global problem and it can only be satisfactorily addressed at international level so that all states abide by the same standards. National and regional systems to control conventional arms do exist in some places and are important, but currently they are not mutually consistent, containing loopholes and ambiguities.

The UN Programme of Action requires states to authorize exports of small arms and light weapons in line with “existing responsibilities of States under relevant international law”<sup>24</sup>. What are these existing responsibilities? The proposed Arms Trade Treaty unifies and codifies the existing responsibilities of states under relevant principles of international law governing conventional arms transfers. It is a simple clear international framework that draws together and crystallizes states current obligations under international law. This framework aims at a global policy of depriving governments and armed groups who violate and abuse human rights or commit war crimes, crimes against humanity and genocide of one of the most commonly used tools for doing so – conventional weapons and ammunition.

An increasing number of governments – including Costa Rica, Finland, Kenya, Mali, New Zealand, and the United Kingdom – as well as many individuals including 20 Nobel Peace Laureates and President Luiz Inácio Lula da Silva of Brazil, have expressed their clear support for an international Arms Trade Treaty to control arms transfers based on international human rights standards and humanitarian law. A growing number of other governments have recently expressed their support privately, and all are urged to join them and to express their support publicly.

### **Convention on Arms Brokering and Transporting**

Governments should also negotiate and adopt at the earliest opportunity an international convention to control the activities of arms brokers and transporters and to suppress arms brokering and deliveries to gross human rights violators in particular.

Such a convention should make the arrangement or facilitation of international arms deals and deliveries between third parties subject to state authorization and require the registration of every private person or entity wishing to engage in brokering and transport services. This would provide the basis for prosecuting an arms broker or arms transport agent for exporting arms without a government license. Authorizations for international arms brokering or arms transporting activities should only be granted if not in conflict with the existing responsibilities of states under international law, i.e. the criteria laid out in the Arms Trade Treaty for international transfers.

## **Complementary measures**

An international marking and tracing treaty, an Arms Trade Treaty based on international law, and a brokering convention need to be urgently established to achieve accountability in the international trade of conventional arms and especially to block the supply of arms to those who use them to violate international human rights and humanitarian law.

- Comprehensive marking, record keeping and physical verification systems would be a significant deterrent for unscrupulous suppliers or corrupt officials who allow arms to reach unauthorized destinations.
- A successful trace of recovered illicit weapons or ammunition would identify the chain of transactions and those involved in the authorization, arrangement, and delivery of weapons or ammunition to the perpetrators of violations of human rights and humanitarian law.
- Strong transfer controls, as embodied in the Arms Trade Treaty, would help ensure that governments do not transfer arms if the arms are likely to be used in contravention of international responsibilities. A government authorizing such a transfer should be held accountable for a breach of its international obligations.
- Robust international controls on arms brokering and arms transporting would help ensure that individuals and companies involved in such activities could not be used as a channel to supply arms illegally. If an arms broker or transport agent were to transfer arms without governmental authorization, they should be prosecuted.
- With these three complementary instruments in place, government could seek international cooperation to effectively investigate whether a suspected illegal arms transfer could have been prevented and whether any officials failed to exercise due diligence to prevent it.

Effective international mechanisms for marking and tracing illicit arms would reinforce the ability of states to identify such violations of international law on arms transfers and brokering, as well as those responsible.

## 5. Conclusions and recommendations

Current international standards for the marking, record-keeping, and cooperation between states on tracing of illicit arms and ammunition are inadequate and must be strengthened by the adoption of a robust international treaty. National approaches must be harmonized on high common standards and form an integral part of broader efforts to combat the proliferation and misuse of weapons.

An effective international marking and tracing instrument that is legally binding could substantially contribute to combating arms proliferation and misuse. It could greatly enhance the ability to control international arms transfers and provide credible proof of the involvement of specific actors in illicit arms diversion and the unlawful use of arms. Such a measure is important to make it possible to prosecute and convict illegal arms traffickers and also perpetrators of armed crime, human rights violations, war crimes, crimes against humanity and genocide. It could considerably help identify international arms brokers and transporters who violate national or international law, thus helping to implement international arms embargoes. It is also of great importance for involving arms producing states and companies in cross-checking dealers, agents and customers, thereby enhancing vigilance in approving arms sales and enabling follow-up checks to see whether exports of weapons or ammunition have been diverted. The marking and tracing of arms can thereby greatly contribute to enhancing accountability in the arms trade and to create a deterrent to future arms traffickers and arms users who seek to circumvent the law.

Governments should maximize the opportunities presented by the current UN negotiations of an international tracing instrument. Essential elements for effective marking and tracing have been described above. They include:

- high common standards for the adequate marking of arms and detailed measures for record-keeping on production, holding and transfers;
- inclusion of the full range of munitions which form part of small arms and light weapons in the scope of the global marking and tracing instrument and regular reviews of its implementation;
- strengthening operational capacities of arms control agencies and physical control standards for transfers and stocks.

The negotiated marking and tracing instrument should be legally binding and complemented with a clear international legal framework for conventional arms transfers and strict control of arms brokering and international shipping activities. In short, governments must work together to adopt a multi-faceted approach which embeds high standards on marking and tracing arms and ammunition in a broader international legal framework to strictly control the arms trade. Failing this, little will change in the human suffering linked to arms proliferation and misuse - millions of people will continue to live in daily fear of armed violence.

# Appendix 1

## Summary of principles of the proposed Arms Trade Treaty

Inspired by Nobel Peace Laureates, and drafted by international lawyers, the proposed Arms Trade Treaty (ATT - also known as the Framework Convention on International Arms Transfers) focuses on commitments of states in respect of the international transfer of arms. It proceeds on the basis that important related issues such as brokering, licensed production, and end-use monitoring will be addressed in subsequent protocols.

The basic principle of the ATT, set out in **Article 1**, is that all international arms transfers shall be authorized by the appropriate government authority in accordance with its national law. The national law should contain the minimum requirements to be set out in an annex to the ATT, such as that each application for an authorization should be reviewed and licensed individually. The ATT Principles are to be applied as a minimum and shall not prejudice the application of any more stringent national, regional, or international rules, instruments, or requirements.

**Articles 2, 3, and 4** of the ATT contain the main obligations of governments when authorizing arms transfers.

**Article 2** codifies existing limitations under international law on states freedom to transfer and to authorize transfers of arms. These limitations include:

- those prohibitions that arise out of the **Charter of the United Nations** (including decisions of the Security Council, such as arms embargoes);
- any **international treaty** to which a State is already bound, including embargoes adopted by other international and regional bodies established pursuant to a treaty (such as the European Union), as well as other agreements containing prohibitions of arms, such as the 1997 Anti-personnel Mines Convention;
- universally accepted principles of **international humanitarian law** including the prohibition on the use of arms that are incapable of distinguishing between combatants and civilians or are of a nature to cause superfluous injury or unnecessary suffering. The prohibition on transfers follows from the appreciation that the transfer of such arms would be irreconcilable with the per se prohibition under international humanitarian law of the use of such arms. This prohibition would also cover arms the use of which is prohibited by a specific convention but where the convention does not address the question of transfers;
- those arising under or pursuant to **customary international law**. In some circumstances, arms transfers from one State to another or to persons in the territory of another State without the latter States consent will amount to a breach of existing obligations under customary international law relating, for example, to the threat or use of force. Transfers to persons other than those exercising governmental authority may also amount to a breach of the principle of non intervention in the internal affairs of the State.

**Article 3** contains limitations based on the use or likely use of the weapon. This article encompasses the widely accepted principle of international law that a State will not participate in the internationally wrongful acts of another State, as stated in Article 16 of the UN International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts. Therefore, governments have a responsibility to ensure

that the weapons they transfer are not used illegally. The transfer must not proceed if a State knows or ought to know that the arms will be:

- used for breaches of the UN Charter, in particular the prohibition on the threat or use of force in Article 2(4) and related principles concerning threats to the peace, breaches of the peace, and acts of aggression in Article 39 of the Charter, in General Assembly Declaration of Principles of International Law of 1970 (General Assembly Resolution 2625 (XXV) of 1970) and in other standard-setting United Nations resolutions;
- used for serious violations of human rights, including violations of the non derogable provisions of key international conventions such as the 1966 International Covenant on Civil and Political Rights, the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, the 1969 American Convention on Human Rights and the 1980 African Charter on Human and Peoples' Rights, and widely accepted multilateral conventions such as the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- used for serious violations of international humanitarian law, including grave breaches of the 1949 Geneva Conventions as well as violations of fundamental principles of international humanitarian law contained in other standard-setting multilateral agreements and in customary international law;
- used in the commission of genocide or crimes against humanity; or
- diverted and used to commit any of the above.

**Article 4** does not contain prohibitions on the authorization of arms transfers. Rather, it contains three other factors that governments are required to consider before authorizing an arms transfer. These factors take into account the possible effect of the transfer of arms. Specifically, governments are to consider whether the arms are likely to:

- be used for or to facilitate the commission of violent crimes;
- adversely affect regional security and stability;
- adversely affect sustainable development; or
- be diverted and used to commit any of the above.

Where such circumstances are apparent, the Article establishes a presumption against authorization.

**Article 5** of the ATT would require States to establish authorization and licensing mechanisms under their national laws to effectively implement the convention. The legal system of each State would therefore act as the primary enforcement mechanism for the treaty. An Annex (still to be drafted) will develop minimum standards addressing such matters as the need for a transaction-by-transaction licensing mechanism, minimum disclosure requirements by applicants for licences, mechanisms for parliamentary scrutiny, etc.

**Article 6** of the ATT would create an International Registry of International Arms Transfers to which contracting parties would be required to submit an annual report on international arms transfers. Although the United Nations has already established a similar Register of Conventional Arms, it does not include all types of weapons, such as small arms, and is not tied to the implementation of a set of normative standards.

## Appendix 2

### Summary 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

[<http://disarmament2.un.org/cab/poa.html>]

The Programme of Action was adopted at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects held from 9-20 July 2001. This Programme of Action includes a number of measures at the national, regional, and global levels, in the areas of **legislation, destruction of weapons** that were confiscated, seized, or collected, as well as international cooperation and assistance to strengthen the ability of States **in identifying and tracing illicit arms and light weapons**.

The United Nations General Assembly, in its resolution 56/24V, welcomed the adoption of the Programme of Action and reiterated Member States' support for action to curb the illicit flow of small arms and light weapons.

Among other actions, in July 2001 States undertook to:

*At the national level:*

- put in place adequate laws, regulations, and administrative procedures to exercise effective control over the production of SALW within their areas of jurisdiction, and over the export, import, transit, or retransfer of such weapons;
- identify groups and individuals engaged in the illegal manufacture, trade, stockpiling, transfer, possession, as well as financing for acquisition, of illicit SALW, and take action under appropriate national law against such groups and individuals;
- ensure that licensed manufacturers apply appropriate and reliable **marking** on each small arms and light weapon as an integral part of the production process;
- ensure that comprehensive and accurate **records are kept for as long as possible on the manufacture, holding, and transfer of SALW** under its jurisdiction,
- ensure responsibility for all SALW held and issued by the State and effective measures for tracing such weapons;
- put in place adequate laws, regulations, and administrative procedures to ensure the effective control over the export and transit of SALW, including the use of authenticated end-user certificates;
- make every effort, without prejudice to the right of States to re-export SALW that they have previously imported, to notify the original exporting State in accordance with their bilateral agreements before the retransfer of those weapons;
- develop adequate national legislation or administrative procedures regulating the activities of those who engage in **SALW brokering**;

- take appropriate measures against any activity that violates a United Nations Security Council arms embargo;
- ensure confiscated, seized, or collected SALW are destroyed;
- ensure that armed forces, police, and any other body authorized to hold SALW establish adequate and detailed standards and procedures relating to the management and security of their stocks of these weapons;
- develop and implement, where possible, effective disarmament, demobilization, and reintegration programmes; and
- address the special needs of children affected by armed conflict.

*At the regional level:*

- encourage regional negotiations with the aim of concluding relevant legally binding instruments aimed at preventing, combating, and eradicating illicit trade in SALW, and where they do exist, to ratify and fully implement them;
- encourage the strengthening and establishing of moratoria or similar initiatives in affected regions or subregions on the transfer and manufacture of SALW;
- establish subregional or regional mechanisms, in particular trans-border customs, cooperation, and networks for information-sharing among law enforcement, border, and customs control agencies; and
- encourage regions to develop measures to enhance transparency to combat the illicit trade in SALW.

*At the global level:*

- cooperate with the United Nations system to ensure the effective implementation of arms embargoes decided by the Security Council;
- encourage disarmament and demobilization of ex-combatants and their reintegration into civilian life;
- encourage States and the World Customs Organization to enhance cooperation with the International Criminal Police Organization (Interpol) to identify those groups and individuals engaged in illicit trade of SALW in all its aspects;
- encourage international and regional organizations and States to facilitate the appropriate cooperation of civil society, including non-governmental organizations (NGO)s, in activities related to the prevention, combating and eradication of the illicit trade in SALW;
- promote a dialogue and a culture of peace by encouraging education and public awareness programmes on the problems of the illicit trade in SALW.

*Developments:*

2003: The First Biennial Meeting of States to Consider the Implementation of the Programme of Action was a week-long session held from 7-11 July 2003 at UN Headquarters in New York. Member States summarized their **National Reports** on implementing the Programme of Action on the national, regional, and international level. As of 11 July, 99 national reports were submitted.

Thematic discussions were held on 14 themes: weapons collection and destruction; stockpile management; capacity building; resource mobilization; marking and tracing; linkages (terrorism, organized crime, trafficking in drugs and precious minerals); disarmament, demobilization and reintegration (DDR); human development; institution building; import/export control; illicit brokering; public awareness and culture of peace; children, women, and elderly; and others.

NGOs presented statements during a specific session allocated for this purpose, including statements coordinated by the International Action Network on Small Arms (IANSA). One hundred and seventy-two NGOs were accredited to this meeting.

The Chairperson's summary of the meeting noted that progress had been made worldwide, within barely two years of adopting the Programme of Action, in public disclosures about the origins, destinations, modus operandi, and profiling of groups engaged in illicit small arms trade. A key element in moving forward was new or amended national legislation, with over 90 countries now reporting that they had domestic laws to govern the illicit manufacture, possession, and trade in weapons. Regional and global cooperation was also growing, especially with respect to brokering, but States were called upon to agree on guidelines for authorizing exports, imports, and the transit of small arms and light weapons. The Chairperson also observed that the destruction of almost half of an estimated total of over 4 million weapons collected and disposed of during the last decade had taken place over the past two years. The diversion of legitimate stocks was assumed to be one of the main avenues for acquiring illicit weapons, and participants agreed that assistance was needed to improve the security of armories. The Chairperson also noted that the United Nations Group of Governmental Experts had been established and had completed its work on the feasibility of an international instrument on marking and tracing arms.

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## Appendix 3

### Existing international agreements on Marking and Tracing small arms, light weapons, and related ammunition

1. For a summary 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, see Appendix 2

#### **2. The United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, A/Res/55/255, 31 May 2001.**

Known as the UN Firearms Protocol, this Protocol supplements the UN Convention against Transnational Organized Crime, and applies to “Firearms”, their “Parts and components” and “Ammunition”. It does not apply to state-to-state transactions.

It contains practical, tools-based measures designed to assist law enforcement communities by enhancing international cooperation and promoting greater transparency in legal transfers of firearms.

Agreements on marking (article 8), record-keeping (article 7) and tracing firearms are outlined, and comprehensive procedures are set out for import, export and transit of firearms, their parts and components, and for ammunition.

It also asks the State Party to establish a criminal offence for intentional “*Falsifying or illicitly obliterating, removing or altering the marking(s) on firearms*” (Article 5).

<http://www.un.org/Depts/dhl/resguide/r55.htm>

#### **3. 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. 21 April 2004<sup>1</sup>**

Following 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, in March 2000, the Nairobi protocol was adopted on 21 April 2004. The objectives are to prevent, combat and eradicate the illicit activities related to SALW and to promote the cooperation between the governments in the sub-region.

It includes:

- **Criminalization** of illicit activities related to SALW, especially related to marking;
- **Enhancement of operational capacity;**
- **Control/accountability of civilian possession of SALW and of state-owned SALW** by national inventories and effective tracing;
- **Marking and tracing and record-keeping of SALW**
- **Disposal of state-owned SALW:** collection, safe-storage, destruction ...
- **Disposal of confiscated or unlicensed SALW;**

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<sup>1</sup> Burundi, Democratic Republic of the Congo, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, Sudan, Uganda and United Republic of Tanzania

- **System of licenses or authorization for import, export, transfer and transit of SALW;**
- Establishment of a **national system for regulating dealers and brokers of SALW;**
- **Cooperation:** between States and as with other organizations + exchange of information.

<http://www.saferfrica.org/DocumentsCentre/NAIROBI-Protocol.asp>

#### **4. Protocol on the Control of Firearms, Ammunition and other Related Materials in the Southern African Development Community (SADC) region, 14 August 2001**

Following the Declaration concerning Firearms, Ammunition and Other Related Materials in the Southern African Development Community (SADC), 9 March 2001, a protocol was adopted by 13 states of the SADC.<sup>2</sup> It deals with the prevention, combating and eradication of the illicit manufacturing of firearms, ammunition and other related materials and their excessive and destabilizing accumulation, trafficking, possession and use of firearms.

This protocol applies to “ammunition” and “SALW” (= firearms).

It includes:

- **Legislative measures:** criminalization of illicit activities related to firearms, ammunitions and other related materials, criminalization of violation of UN arms embargoes;
- **Improvement of the operational capacity** of related agencies;
- **Control over civilian possession and disposal of confiscated or unlicensed firearms;**
- **Control and disposal of the state-owned firearms:** inventories, secure storage, collection, destruction;
- **Marking and record-keeping;**
- **Cooperation:** cooperation between States and with intergovernmental organizations.

[http://www.smallarmssurvey.org/source\\_documents/Regional%20fora/Africa/SADC%20Protocol%20august%202001.pdf](http://www.smallarmssurvey.org/source_documents/Regional%20fora/Africa/SADC%20Protocol%20august%202001.pdf)

#### **5. Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials, November 1997**

This convention was adopted by 33 member states of the Organization of American States<sup>3</sup> in November 1997. The purpose is to prevent, combat, and eradicate the illicit

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<sup>2</sup> Republic of Botswana, Democratic Republic of the Congo, Kingdom of Lesotho, Republic of Malawi, Republic of Mauritius, Republic of Mozambique, Republic of Namibia, Republic of Seychelles, Republic of South Africa, Kingdom of Swaziland, United Republic of Tanzania, Republic of Zambia, Republic of Zimbabwe

<sup>3</sup> Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia,

manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials; and also to promote and facilitate cooperation and exchange of information and experience among States in those fields.

It includes:

- **Legislative measures:** criminalization of illicit activities related to firearms, ammunitions and other related materials;
- **Marking and tracing of firearms;**
- **Authorizations** and Licenses of export, import and transit;
- **Interregional cooperation:** exchange of information, of experience and training...

<http://www.oas.org/juridico/english/treaties.html>

## **6. OSCE Document on Small Arms and Light Weapons, 24 November 2000**

The Organization for Security and Co-operation in Europe document on SALW includes a series of common norms, principles and measures aimed at fostering responsible behaviour with regard to the transfer of small arms, including marking (Sect II.B.1.), record-keeping (Sect II.D.1) and cooperation between States and with intergovernmental organizations (Sect III.E.4).

<http://www.osce.org/docs/english/fsc/2000/decisions/fscew231.htm>

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Costa Rica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Lucia, St. Vincent and the Grenadines, St. Kitts and Nevis, Suriname, Trinidad and Tobago, Uruguay, USA, Venezuela

## References - End-Notes

- <sup>1</sup> United Nations General Assembly Resolution 58/241, 23 December 2003, *paras. 8-10*.
- <sup>2</sup> For a list of international and regional human rights standards see the Office of the UN High Commissioner on Human Rights, <http://www.ohchr.org>.
- <sup>3</sup> See the 1992 Convention on Biological Diversity and its supplementary 2000 Cartagena Protocol on Biosafety for examples of international mechanisms promoting the reliable tracing of the distribution of living modified organisms across state boundaries (available at <http://www.biodiv.org>).
- <sup>4</sup> Johan Peleman, 2004, *Tracing Arms Flows*. Presentation given at the international experts meeting on tracing illicit small arms and light weapons, organized by the GRIP and the European Cost programme, Brussels, 22 October 2004.
- <sup>5</sup> See United Nations, 2004, *UN Report on the Gatumba massacre*. UN Document S/2004/821. New York: United Nations, 18 October 2004 (<http://www.un.org/Docs/journal/asp/ws.asp?m=S/2004/821>); and Human Rights Watch, 2004, *Burundi: The Gatumba Massacre: War crimes and Political Agendas*. HRW Briefing Paper. New York: Human Rights Watch, September 2004 (<http://www.hrw.org/backgrounder/africa/burundi/2004/0904/>).
- <sup>6</sup> Citing national security concerns, China maintains strict confidentiality on its national arms and ammunition manufacturers.
- <sup>7</sup> Communication with law enforcement officials in the UK and Sweden (e-mails 12 and 18 October 2004 respectively).
- <sup>8</sup> See Norwegian Initiative on Small Arms Transfers (NISAT) database of authorized transfers of small arms and light weapons (<http://www.nisat.org/>).
- <sup>9</sup> Peleman, 2002, cited in Frontline World, *Interview with Johan Peleman*. May 2002 (available at <http://www.pbs.org/frontlineworld/stories/sierraleone/peleman.html>).
- <sup>10</sup> United Nations General Assembly Resolution 58/241, operative paragraph 8, 23 December 2003
- <sup>11</sup> Weaker standards are also set in the 2001 Firearms Protocol of the Southern African Development Community (SADC).
- <sup>12</sup> Information kindly provided by Heckler & Koch GmbH, Germany, e-mail 15 November 2004.
- <sup>13</sup> Sources: United Nations Panel of Experts established by the Security Council pursuant to resolution 1237 (1999) of 7 May 1999:  
Final Report of the UN Panel of Experts on Violations of Security Council Sanctions Against UNITA - The "Fowler Report" - S/2000/203 - 10 March 2000  
Addendum to the final report of the Monitoring Mechanism on Sanctions against UNITA - S/2001/363 - 18
- <sup>14</sup> Among which: 500 RPG-7V anti-tank launchers, 20 000 82 mm mortar bombs, 6 000 000 7.62 x 39 mm cartridges, and 3 000 PG-9 anti-tank rockets
- <sup>15</sup> The government of Angola said that it had captured this equipment from UNITA at Andulo and Bailundo and other locations
- <sup>16</sup> See same Report of Monitoring Mechanism on Sanctions against UNITA - S/2001/363 - 18
- <sup>17</sup> Idem
- <sup>18</sup> See Ilhan Berkol, 2004, *Marking, Registration and Tracing Small Arms and Light Weapons: Draft Convention*. GRIP Report 2004/4. Brussels: Groupe de recherche et d'information sur la paix et la sécurité (available at [http://www.grip.org/pub/rapports/rg04-4\\_convmarquage-en.pdf](http://www.grip.org/pub/rapports/rg04-4_convmarquage-en.pdf))

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<sup>19</sup> Based on data from The Pan American Health Organization report on firearm violence in Brazil, 265.975 people died due to firearm injuries during the 90s.

<sup>20</sup> See United Nations, 2003, *Report of the Group of Governmental Experts on Tracing Small Arms*. UN Document A/58/138, para 33, page 14.

<sup>21</sup> The images in Box 5 were kindly provided by Viva Rio, a Brazilian non-governmental organization working to prevent violence, particularly gun violence (see [www.vivario.org.br](http://www.vivario.org.br) ).

<sup>22</sup> The word 'Weichkern' identifies further technical information on the bullets (i.e. they are "soft point" bullets).

<sup>23</sup> E.g. Brazilian Statute of Disarmament - Law N° 10,826/03, December, 2003, article 23.1.

<sup>24</sup> Section 2, Paragraph 11: "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 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. Likewise, to establish or maintain an effective national system of export and import licensing or authorization, as well as measures on international transit, for the transfer of all small arms and light weapons, with a view to combating the illicit trade in small arms and light weapons."

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The International Action Network on Small Arms is the global movement against gun violence - more than 500 civil society organisations working in 100 countries to stop the proliferation and misuse of small arms and light weapons. IANSA seeks to reduce the impact of small arms through advocacy, promoting the development of regional and thematic networks, supporting capacity building and raising awareness.

Email: [contact@iansa.org](mailto:contact@iansa.org)



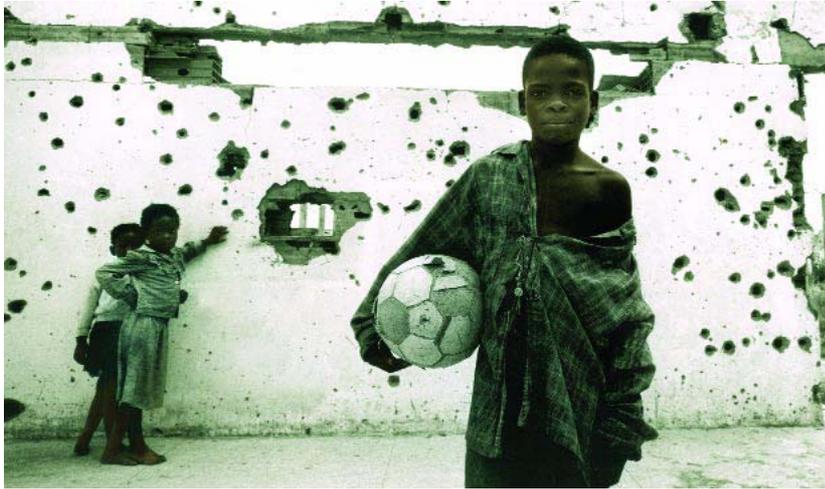
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Oxfam International is a confederation of twelve development agencies which work in 120 countries throughout the developing world: Oxfam America, Oxfam-in-Belgium, Oxfam Canada, Oxfam Community Aid Abroad (Australia), Oxfam Germany, Oxfam Great Britain, Oxfam Hong Kong, Intermón Oxfam (Spain), Oxfam Ireland, Novib (the Netherlands), Oxfam New Zealand, and Oxfam Quebec.

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# Tracking Lethal Tools

Marking and Tracing Arms and Ammunition:  
a central piece of the arms control puzzle



## Arms are out of control

Arms kill hundreds of thousands of men, women, boys and girls each year. Many thousands more are maimed, or tortured, or forced to flee their homes. The uncontrolled proliferation of arms fuels human rights violations, escalates conflicts, and intensifies poverty. The time for world leaders to act is now.

To confront this crisis, Amnesty International, the International Action Network on Small Arms (IANSA) and Oxfam International, have together launched the Control Arms Campaign, an international campaign calling for effective arms controls to make people genuinely safer from the threat of armed violence.

You can help us put an end to this horrific abuse.

Log on to the control arms website and become part of the Million Faces petition, the largest visual petition in the world.

[www.controlarms.org](http://www.controlarms.org)

**control** arms

