

HE Ambassador Prasad Kariyawasam  
President Designate to the United Nations Conference to Review Progress Made in the Implementation of  
the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light  
Weapons in All Its Aspects  
Permanent Representative of Sri Lanka to the United Nations  
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24 May 2006

Dear Ambassador Kariyawasam

**IANSA submission on non-paper of 18 May 2006**

I am writing on behalf of the IANSA global network, in response to your non-paper of 18 May 2006.

IANSA's members continue to welcome your commitment to the process of consultation with States and non-governmental organisations proposing text in the lead-up to the Review Conference. When we wrote to you last on 29 March, we applauded the strong start that your first documents had made towards capturing the knowledge and commitment that has been directed towards these issues over the past five years.

We now welcome your latest non-paper's further refinement of some of these topics, including the reference to the needs of survivors, mention of global guidelines for transfer controls, strong emphasis on development and reference to the need to regulate small arms possession.

However, in the light of the increased understanding of some of these issues, and of the encouraging discussions that have taken place between a number of States, particularly on the issue of global guidelines for transfer controls, we would like to respectfully offer some further suggestions.

These suggestions are based on the position papers compiled by the worldwide IANSA network on four key thematic areas: international transfer controls, national firearm regulations, development, and assistance to survivors.

We believe the suggestions which you will find in the Annex to this letter would strengthen the ability of the proposed draft Outcome Document to reduce the proliferation and misuse of small arms and light weapons. We wish to ask your consideration of these suggestions along with other comments which you will be receiving from States on your paper in the coming week.

Yours sincerely



Rebecca Peters  
Director, IANSA

## **Annex: Specific recommendations on the non-paper for informal consultation purposes (dated 18 May 2006)**

Please note that suggested additions are shown in **bold**; while suggested deletions are shown in ~~**bold**~~ **strikethrough**.

### **Assistance to survivors**

The references to the needs of survivors in paragraph I.10 are welcome, though there remain a number of areas where assistance to survivors should be further incorporated into the Outcome Document.

We suggest that the Outcome Document refer to ‘survivors’ rather than ‘victims’ wherever possible (for example paragraph I.10), as the former has a more positive connotation.

We are greatly concerned that the reference in earlier drafts to the World Report on Violence and Health has been removed.<sup>1</sup> Implementation of these recommendations would directly contribute to implementation of the PoA, and would also incorporate assistance to survivors. We propose a new paragraph after the current paragraph II.27:

**To fully implement the nine recommendations from the World Health Organization’s 2002 World Report on Violence and Health, recognising the contribution that implementing these recommendations will make to the full implementation of the Programme of Action.**

We also propose a new paragraph after the current paragraph II.28:

**To promote where possible and appropriate the provision of services for the health, socio-economic and rehabilitation needs of survivors of small arms related violence, including in national action plans.**

We welcome the request for supporting national initiatives in paragraph II.15, but propose some changes elaborating this commitment in light of existing commitments regarding humanitarian and development impacts of small arms proliferation and misuse:

Noting the fact that over 30 States have developed, or are in the process of developing, specific national strategies for preventing and combating the illicit trade in small arms and light weapons, including national action plans, to urge support for the sustainability of such national initiatives including, *inter alia*, by carrying out needs and resources assessments and, where possible, the further development of national action plans for the implementation of the Programme of Action, **and addressing the humanitarian and development impacts of the illicit trade in small arms in all its aspects.**

There are 24 States that have been identified for particular attention related to survivor assistance for the Mine Ban Treaty. These same States could also be including small arms provisions in their strategies on survivor assistance. To assist States in a similar position, we suggest additions to paragraph III.3:

States and appropriate international and regional organizations in a position to do so should, upon request of the relevant authorities, actively consider rendering strengthened assistance, including technical and financial assistance as well as assistance in capacity-building, to further support the

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<sup>1</sup> The nine recommendations from the WHO 2002 World Report on Violence and Health are:

1. Create, implement and monitor a national action plan for violence prevention
2. Enhance capacity for collecting data on violence
3. Define priorities for, and support research on, the causes, consequences, costs and prevention of violence.
4. Promote primary prevention responses
5. Strengthen responses for victims of violence
6. Integrate violence prevention into social and educational policies, and thereby promote gender and social equality
7. Increase collaboration and exchange of information on violence prevention
8. Promote and monitor adherence to international treaties, laws and other mechanisms to protect human rights
9. Seek practical, internationally agreed responses to the drugs trade and the global arms trade

implementation of all measures as contained in the Programme of Action and in this Outcome Document of the Review Conference, including, in particular, the following:

- (a) the development and implementation of appropriate legislation and regulation
- (b) import, export, transit and transshipment controls
- (c) the operational capacity for law enforcement,
- (d) stockpile management and security,
- (e) destruction of surplus small arms and light weapons designated for destruction, transfer of technologies,
- (f) disarmament, demobilization and reintegration of ex-combatants, including assistance for ex-child soldiers,
- (g) special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict, as required by United Nations Security Council Resolution 1325 on Women, Peace and Security,**
- (h) the integration of armed violence prevention programmes in national and local plans and strategies related to national security, development, poverty reduction, crime prevention and post-conflict reconstruction**
- (i) assistance to survivors in coordination with established efforts such as the Mine Ban Treaty, and**
- (j) the establishment and effective functioning of national coordination agencies or bodies.

This paragraph is also a suitable place to reaffirm States' commitments to integrating armed violence prevention strategies into other relevant strategies, and we have suggested the additional text to the paragraph above.

The request for engagement by international financial institutions is very welcome (paragraph III.17) and we would recommend assistance to survivors as a further type of programme these institutions should support:

The Conference requests multilateral and regional financial institutions to include programmes under the Programme of Action to prevent, combat, eradicate the illicit trade in small arms and light weapons **in all its aspects**, where appropriate, in (i) reconstruction and rehabilitation efforts in post-conflict areas; (ii) in strengthening governance; (iii) the strengthening of legislation and the improvement of operational capacity of law enforcement agencies on small arms and light weapons, as well as in (iv) the promotion of socio-economic development agendas that include public awareness on small arms and light weapons issues, **(v) and assistance to survivors of small arms related violence.**

### **International arms transfers**

The Outcome Document should commit States to developing global criteria for national controls of arms transfers, which accurately represent their existing responsibilities under relevant international law.

We welcome paragraph II.5, which presents a new formulation on operational capacity in relation to international transfer controls. We particularly welcome the reference to training and resources for end-use verification in paragraph II.12. References to capacity-building and assistance for international transfer controls in Section III are also welcome (paragraphs III.3 and III.7).

We feel, however, that paragraph II.8, which would appear to be roughly equivalent to paragraph II.11 from the PoA, would benefit from maintaining the reference to State's existing responsibilities under international law and would therefore recommend its insertion as follows:

Noting efforts made by States to strengthen the capacity to assess applications for export authorizations according to national regulations and procedures that cover all small arms and light weapons, to call upon States to continue their efforts in this respect and to establish or maintain an effective national system of export and import licensing or authorization **based on States' existing responsibilities under**

**relevant international law**, as well as measures on international transit and transshipment, for the transfer of all small arms and light weapons, with a view to combating the illicit trade in small arms and light weapons.’

We welcome paragraph II.9 as an elaboration of PoA paragraph II.11, but propose some vital further elaboration below. In particular, the text should state explicitly that the global guidelines should be based upon States’ existing commitments under relevant international law. In the PoA, States are already committed to assessing export authorisations according to their existing responsibilities, so these guidelines are a necessary extension of this. The guidelines should outline the ‘highest degree of responsibility’ in small arms transfers, so should not be limited to only stopping the diversion of weapons.

To exercise the highest degree of responsibility in the import, export, **transfer , transit, transshipment** and re-transfer of small arms and light weapons, **and to apply global guidelines for national controls governing their transfer**, according to States’ existing **responsibilities commitments** under relevant international law. ~~as well as to apply an end-user certification process, and to consider applying global guidelines for national controls governing transfers of small arms and light weapons with the view to avoid their diversion to the illicit market, and to non-authorized uses or users.~~

We suggest that the proposal of an effective end-use certification process would be better incorporated into paragraph II.12 (suggestions below).

We welcome the recognition that the guidelines proposed in paragraph II.10 must contain technical and normative aspects, but we would emphasise that as an elaboration of States’ existing responsibilities under international law they should be universal rather than region-specific. While there may be some operative or technical differences at the regional level, the normative criteria on which transfer authorisations are based must be an objective, non-discriminatory and transparent elaboration of States’ existing responsibilities under international law. It is vital that there be a clear reference that the guidelines provide a global minimum standard based on States’ existing responsibilities under relevant international law. This is the only language already agreed in the PoA:

Recognizing that guidelines for national controls must contain technical and normative aspects, acknowledging that they need to be objective, non-discriminatory and transparent, adopted at the **global multilateral** level **and provide a minimum, baseline standard based on States’ existing responsibilities under relevant international law. and taking into account the particularities of each region. These guidelines must also include a clear prohibition to the transfer of small arms and light weapons, understood as exports, imports and transit, which are not expressly authorized by the competent authorities in the country of export, import or transit.**

Our proposed set of global principles can be found in the annex to this letter.

We welcome the recognition of the importance of end-use controls in paragraph II.12 and the commitment to strengthening States’ capacity to implement them. We recommend the following additional language taken from paragraph II.9:

To **apply effective end-user certification processes and to** strengthen the capacity of States to implement effective end-user certification processes, including the authenticity of end-user certificates and ensuring that the relevant authorities receive adequate training and resources for the verification of end-use, **with a view to avoiding the diversion of small arms and light weapons to the illicit market, and from authorized to non-authorized uses or users.**

International transfer controls also require effective implementation at borders. We would propose some additional text to II.21 in order to reflect this:

To urge greater efforts to improve the efficiency and effectiveness of border, transshipment and customs controls. **Those States in a position to do so are encouraged to support efforts to strengthen such controls.**

## **National firearms legislation**

We welcome the reference to regulating the possession of small arms and light weapons in paragraph II.4. This represents significant progress for the UN small arms process, reflecting the high priority attached to this topic by the large majority of States.<sup>2</sup>

In order for implementation of regulations on small arms possession to be effective, record-keeping of each weapon possessed is necessary. We therefore propose some additional text to paragraph II.4.:

To encourage States that have not already done so, to adopt adequate laws, regulations and administrative procedures to regulate the **sale, holding or** possession of small arms and light weapons, including consider prohibiting the possession of semiautomatic and automatic rifles, machine guns and all light weapons by those other than authorized persons, **and to encourage where possible and appropriate electronic record keeping of registration and licenses for small arms and light weapons, including those held by private security companies.**

This suggestion is in keeping with the 1997 resolution of the UN Crime Commission on Crime Prevention and Criminal Justice, sponsored by Angola, Australia, Botswana, Brazil, Brunei, Burundi, Canada, Colombia, Croatia, Fiji, France, Gambia, Germany, Greece, Haiti, Italy, Japan, Lesotho, Malaysia, Mexico, Morocco, the Netherlands, the Philippines, Poland, Qatar, South Korea, Romania, the Russian Federation, Saudi Arabia, Sweden, Tanzania, Thailand, and Tunisia. The resolution emphasises the importance of State responsibility for effective regulation of civilian possession of small arms, including licensing owners, record keeping for guns, safe storage requirements, and appropriate penalties for illegal possession.

Sale is distinct from transfer and includes in-country sales to a range of actors including civilians. It is therefore incongruous that attention is paid to transfer of weapons but not their sale internally. We propose adding sale and manufacture to the list of regulations in paragraph III.5 and II.8 and further elaboration in paragraph II.2:

To intensify efforts to put in place, where they do not exist, adequate laws, regulations and administrative procedures to exercise effective control over the production of small arms and light weapons within their areas of jurisdiction and over the **manufacture**, export, import, **licensing, sale**, transit and retransfer of such weapons and, where they do exist, to urge their strict enforcement in order to prevent illegal manufacture, **holding or possession** and illicit trafficking in small arms and light weapons, or their diversion **from authorized** to unauthorized recipients.

The reference to the UN Firearms Protocol in paragraph I.15 is welcome, and would benefit from further elaboration of States 'obligations under this binding Protocol, which are highly relevant for the UN small arms process:

Welcoming the entry into force of 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, on 3 July 2005, and recognizing that the Protocol establishes standards and procedures **that commit States to regulate the manufacture, export, import and transit of firearms through a system of licensing and record-keeping** that complement and reinforce efforts to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects,

Many States already prohibit the civilian possession of light weapons, and this should be recognised in the paragraph devoted to light weapons control, paragraph I.17:

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<sup>2</sup> Some 70% of States reported on their national firearm regulations as part of their annual reports on implementation of the PoA, according to UNIDIR

Recalling General Assembly Resolution A/RES/60/77 on the prevention of the illicit transfer and unauthorized access to and use of man-portable air defence systems, **and the efforts since 2001 to curtail access to light weapons by non-authorized entities,**

There is growing recognition of the need to include armed civilians in disarmament efforts following war, as often the focus is solely on official combatants and many weapons are held in the civilian population. A reference to these specific situations could be made in paragraph II.23, as follows:

Taking into account that a number of disarmament, demobilization and reintegration programmes have yielded positive results, to urge the further development and implementation, where needed, of **integrated programmes, taking into account the distinctive needs of women, men, girls and boys associated with fighting forces, and bearing in mind the need to include armed civilians in these programmes.**

### **Integrating development into small arms control**

While we welcome the strong proposals on incorporating small arms control into national development planning, the proposals do not adequately reflect the need for concrete measures to improve safety at the community level.

There a number of welcome references to integrating development into armed violence prevention, including the call for assessments of needs and resources for PoA implementation (paragraph II.13) and the call for mainstreaming of small arms & light weapons and armed violence prevention programmes (paragraph II, 24). Recognition of the role of development organisations in the PoA (paragraph III.16) is also an important contribution in the non-paper.

Demand-side references are also welcome, including the reference to the needs for public awareness and education programmes on the problems and consequences of the illicit trade in small arms and light weapons (paragraph II.27), although it is regrettable that the specific reference to the relationship between supply and demand in your earlier draft (paragraph 24 of the 27 February non-paper) has been dropped from this draft. We propose reinserting this important paragraph as a new paragraph after paragraph I.18:

**Stressing the need to combat the illicit trade in small arms and light weapons from both a supply and demand perspective,**

We also welcome the call for international financial assistance for these measures in paragraph III.17. International assistance is particularly important for developing countries, and for this reason we welcome the proposed commitment to improved information sharing aimed at increasing effectiveness in the allocation of international assistance (paragraph III.12) and the study on the needs of developing countries (paragraph III.19)

Small arms violence is undermining achievement of the Millennium Development Goals, according to the UN Development Programme (UNDP), so we believe that it is important to stress this in paragraph I.4:

Recalling the United Nations Millennium Declaration and its resolution calling for concerted action to end illicit traffic in small arms and light weapons, **and recognising that the destabilizing accumulation of small arms and light weapons poses an impediment to the full achievement of these goals,**

The reference to General Assembly resolution 60/68 is welcome, and paragraph I.10 should be elaborated to better develop the commitments contained within the resolution:

Recalling General Assembly Resolution A/RES/60/68 on “Addressing the negative humanitarian and development impact of the illicit manufacture, transfer and circulation of small arms and light weapons and their excessive accumulation” and determined to reduce the human suffering caused by the illicit

trade in small arms and light weapons in all its aspects, and **bearing in mind the need to include national measures to regulate small arms and light weapons in longer term post-conflict and peace building efforts.** Considering further the special needs of **victims survivors** of armed violence , including their health, **economic** and rehabilitation needs, as well as the **distinctive** needs of women, **men, girls, boys** the elderly and refugees,

We similarly propose an additional paragraph after current II.24:

**To systematically include national measures to regulate small arms and light weapons in longer term post-conflict peacebuilding strategies and programmes.**

This text is taken directly from General Assembly resolution 60/68, which was supported by a vote with 177 States supporting and 1 opposing.

While we strongly welcome paragraph II.24, we suggest some changes to better reflect the action at community level required to reduce the proliferation and misuse of small arms and light weapons:

To mainstream action to eliminate illicit small arms and light weapons and integrate armed violence prevention programmes, ~~as appropriate,~~ in national and local plans and strategies related to national security, development, **health**, poverty reduction, crime prevention and post-conflict reconstruction. **These measures should be conducted in consultation and collaboration with all members of the community and stakeholders engaged in the community, and make use of locally-appropriate development incentives. Non-governmental organizations can make a contribution to the development of such programmes.**

Similarly, while we welcome the confidence building measures on conflict and post-conflict situations in paragraph II. 27, we suggest the following additional wording to elaborate the suggestion:

To redouble efforts to develop and implement, including in **crime**, conflict and post-conflict situations, confidence building measures, as well as public awareness and education programmes on the problems and consequences of the illicit trade in small arms and light weapons in all its aspects **including, where appropriate, the public destruction of surplus weapons and the voluntary surrender of small arms and light weapons, if possible, in cooperation with civil society and non-governmental organizations, with a view to eradicating the illicit trade in small arms and light weapons. These programmes should include developing and supporting initiatives on formal and informal education facilities, at primary and secondary school levels.**

Some of this language has been incorporated from the original paragraph II.20 in the PoA. Community level action should also be included in paragraph III.2:

States undertake to strengthen cooperation and to enhance coordination, complementarity and synergy in efforts to deal with the illicit trade in small arms and light weapons in all its aspects at the global, regional, subregional, national **and community** levels and to establish and strengthen cooperation and partnerships at all levels **within and** among international and intergovernmental organizations and civil society, including non-governmental organizations, ~~industry~~, and international financial institutions.

Furthermore, a reference to the OECD DAC guidelines on small arms control would be particularly relevant as a new operative paragraph following paragraph III.2:

**States undertake to promote the Organization for Economic Cooperation and Development (OECD) Development Assistance Committee's guidelines and other steps taken by development partners that open up for the use of Official Development Assistance (ODA) to implement the Programme of Action, and encourage all States, agencies and institutions to take full advantage of this development; and call for further review of such guidelines to ensure that ODA can be used for all implementation of PoA commitments that help promote development.'**

## **Implementation and follow-on mechanisms**

After five years experience of implementing the PoA, it is clear that the composition of national coordinating agencies is essential to achieving effective implementation. We therefore propose the following elaboration of paragraph II.11:

Noting that over 83 States have set up national coordination mechanisms, encourage States to take the necessary measures to ensure their proper functioning, **including allocating sufficient funding and ensuring comprehensive representation from, *inter alia*, ministries of defence, law enforcement, health, education, development, customs, women, as well as non-governmental organizations.** Furthermore, where appropriate, to urge the establishment of such mechanisms in those States that have yet not done so.

We further suggest that the phrase 'effective implementation' replace 'implementation' (for example paragraph I.19).

We also welcome the strengthened commitment on the early and full preparation of national reports (paragraph IV.4). In paragraph IV.4, it would be useful reference the commitments elsewhere in the non-paper:

To encourage States to submit national reports on a voluntary basis in accordance with the Programme of Action, in the year preceding biennial meetings of States in order to facilitate their full consideration at the time of the biennial meetings; and to consider incorporating in these national reports, *inter alia*, steps taken to implement the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, and other information on progress and challenges in the implementation of the Programme of Action, including assistance and initiatives undertaken regionally, **and human security indicators. And to consider developing generic guidelines to assist States in their national reports, ensuring that the scope and quality of these reports are standardized to allow for enhanced learning of lessons.**

These reports can be strengthened further, using the following proposed amendments to paragraph II.29:

Noting that 103 national reports were submitted to the United Nations Department for Disarmament Affairs in 2003 and in 2005, respectively, to encourage States to enhance their national reports by

- (a) updating previous information,
- (b) providing more detailed information on their implementation of the Programme of Action and increasing the depth and breadth of the reports, **such as including successful policy initiatives on strengthening national laws and highlighting the consequences of small arms proliferation on human and sustainable development** and
- (c) addressing gaps and challenges in their implementation of the Programme of Action, **including, where appropriate, information related to funding, programmes and policies**

The reporting process assists in information exchange, a process that should also be referenced in paragraph II.34:

To enhance cooperation, on a voluntary basis, at the regional and subregional level in the following and, where possible, establish agreements to this end:

- (a) Police, customs and border control services, including training and exchange of information to support common action to address trafficking across borders and transshipment of illicit small arms and light weapons,
- (b) Investigation and prosecution of groups and individuals engaged in the illicit manufacture, trade, brokering, stockpiling, transfer, possession and transshipment, as well as financing for acquisition of illicit small arms and light weapons,
- (c) Weapons collection and destruction and disarmament, demobilization and reintegration programmes,

- (d) Exchange of information and experience on national laws, regulations and administrative procedures for exercising effective control over production, import, export, **holding, sale, licensing**, transit, transshipment and retransfer of small arms and light weapons.
- (e) **Exchange of information on mainstreaming action to eliminate illicit small arms and light weapons and the integration armed violence prevention programmes in national and local plans and strategies related to national security, development, poverty reduction, crime prevention and post-conflict reconstruction**

Welcoming the request to establish a dedicated international database in paragraph III.12, we call for the most cost effective, user friendly and timely delivery of such a database, and as such there needs to be some exploration within the UN system as to what existing processes can be built on. We propose a short amendment to this effect:

States request the **most appropriate UN agency** to establish a database which contains information, provided on a voluntary basis by Member States, international, regional, and other relevant organizations on the needs of affected countries, lessons learned regarding the implementation of the Programme of Action, and other information that could improve coordination and matching resources with needs.

While we welcome the funding commitment proposed in paragraph III.13, which is more specific than the reference to a ‘new mechanism’ proposed in an earlier draft, we are concerned that the current wording does not allow States a degree of flexibility in the way they support capacity building to implement the PoA. We propose some additional language in this paragraph to permit greater flexibility:

States in a position to do so are encouraged to **provide direct support to build the capacity of developing States to implement the PoA, including providing effective support to small arms and light weapons programmes and projects facilitated by United Nations agencies and non-governmental organizations with relevant experience in capacity development at a national level. This may include strengthening** the United Nations Department for Disarmament Affairs Trust Fund for global and regional disarmament activities and the UNDP Voluntary Trust Fund for small arms and light weapons in order to enable them to provide effective support to programmes and projects for the implementation of the Programme of Action at national, subregional, regional and global levels. States are encouraged to establish similar trust funds in regional and sub-regional organizations.

We welcome the request to consider further steps to clarify the concept of non-state armed groups in paragraph IV.6; however this commitment should be strengthened with a specific mandate under a UN process:

To consider further steps, **within the United Nations system**, to clarify the concept of non-state armed groups and to examine the negative impact of these groups on the implementation of the Programme of Action.

We further welcome the commitment to examine the feasibility of an international instrument to combat the illicit transfers of MANPADS in paragraph IV.7, however there has already been good progress to establish consensus on this area (for example within the OSCE and the Wassenaar Arrangement). We are therefore concerned that the call to ‘establish a group of governmental experts to examine the feasibility of an international instrument to effectively combat and prevent the illicit transfer of MANPADS’ would be an inappropriate diversion of effort and resources within the context of the PoA. The RevCon could more usefully look to develop language on transfers of MANPADS to non-state armed groups.

We welcome the breadth of follow-on mechanisms and processes, in particular the inclusion of an Intersessional Programme of Work (paragraph IV.3) and the commitments to consider a range of further steps on specific issues. We also welcome the reference to a sponsorship programme in paragraph III.15. The reference to ‘matching resources with needs’ in paragraph III.12 is also important, focussing the drive for better information sharing specifically at increasing effectiveness in the allocation of international assistance.

We welcome the stronger role given to the meetings of States on a biennial basis, in particular the mandate to make concrete recommendations (paragraph IV.2). These commitments are supported by the development of indicators for assessing the impact of the illicit trade in small arms (paragraph III.20). The mandate of the meetings of States on a biennial basis could be strengthened, as described in paragraph IV.2:

To convene meetings of States on a biennial basis starting in 2008 to:

- (a) consider the further implementation of the PoA, including national reports, and the outcome document of this review conference,
- (b) consider progress in the implementation of the International Instrument to Enable States to Identify and Trace, in a timely and Reliable Manner, Illicit Small Arms and Light Weapons, **and other relevant instruments,**
- (c) **exchange good practices and lessons learned, and;**
- (d) make concrete recommendations for consideration of the General Assembly and the Review Conference.

In addition, the role of the Intersessional Programme of Work could be expanded in paragraph IV.3:

To establish an Intersessional Programme of Work to provide an exchange of views in preparation for the Biennial Meeting of States including *inter alia*, **assistance to survivors, gender-based strategies, humanitarian action, funding coordination, matching resources to needs, action-oriented research, participation from non-governmental organizations and implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons.**

Following the success of the Secretary-General's Special Representative on Children and Armed Conflict, we propose a similar role, which could be created in anew paragraph after current paragraph IV.5:

**To request the Secretary General appoint a Special Representative on Small Arms to assist in implementing the Programme of Action through monitoring and analysis of implementation efforts.**

## **Other topics**

**Suggestions for improving clarity:** We propose the following changes to paragraph I.20, for clarity:

While acknowledging that progress has been made in the implementation of the Programme of Action at the national, regional and global levels, **but recognising and noting much** more action **towards its full implementation** is **required needed** for its full implementation.

We also suggest adding 'illicit trade in all its aspects' at the end of paragraph III.1.

Some important regional initiatives have not been reflected in the non-paper, for example paragraph II.30 could also reference the Nadi Framework Model Weapons Control Bill and the ECOWAS Moratorium.

**Human rights:** We welcome the inclusion of a reference to the multidimensional impacts of small arm proliferation and misuse in paragraph I.3, especially the reference to human rights. We believe that for consistency, human rights should also be referred to in paragraph I.7. However, we are concerned that that a declarative paragraph in an earlier draft regarding international human rights instruments has been removed from the current non-paper, and propose that the [paragraph be re-inserted after current paragraph I.9:

**Noting the broader relevance of certain existing international human rights instruments to the fight against the illicit trade in small arms and light weapons in all its aspects,**

The relevance of human rights, and human rights law, to reducing small arms proliferation and misuse was rightly acknowledged in the previous draft and needs to be retained and strengthened. The ICRC proposal for the RevCon further stresses the need for references to international humanitarian law.

Given the comprehensive study prepared by the UN Special Rapporteur on the Sub-Commission on the Protection and Promotion of Human rights, Human Rights Violations Committed with Small Arms and Light Weapons, we propose a new paragraph, after current paragraph I.15:

**Welcoming the work of the UN Special Rapporteur on the prevention of human rights violations committed with small arms and light weapons, and the relevancy of international human rights instruments**

**Appropriate use of small arm by State officials:** We welcome the reference to the existing UN instruments regulating the use of force by law enforcement officials and suggest some additional changes to this paragraph to better reflect the progress on this topic (paragraph II.22):

**Noting the efforts to implement ~~To encourage the implementation~~ of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as well as the Code of Conduct for Law Enforcement Officials, States are further encouraged to fully implement these instruments.**

**Crime reduction:** Since the PoA was agreed, research has shown that contrary to previous assumptions, more people are murdered by small arms violence through crime than through conflict. For this reason, we welcome the many references to crime prevention throughout the non-paper. However, there is no mention of the role of small arms misuse in making family and intimate partner violence more lethal, so we would propose the following gender-sensitive changes to paragraph II.25:

**To mainstream ~~take into account~~ a gender perspective issues, as well as the distinctive specific needs of women and girls, when addressing the illicit trade in small arms and light weapons in all its aspects in order to effectively implement the Programme of Action and Security Council Resolution 1325 on Women, Peace and Security; further take into full account the roles that women and women's organizations can play in post-conflict peacebuilding, crime prevention, peacekeeping, and disarmament, demobilization and reintegration processes; and that national measures to prevent intimate partner and family violence are integrated into national measures to effectively implement the Programme of Action.**

We also suggest a reference to the impact of armed crime on children in paragraph II.26:

To enhance efforts to address the special needs of children affected by **organized armed violence and armed conflict**, including those who are forced to become child soldiers, in particular the reunification with their family, their reintegration into civil society, and their appropriate rehabilitation.

**Public health:** With increasing awareness of the value of action-oriented health research, we propose an amendment to paragraph II.18:

States are encouraged to support action-oriented research, **including health research**, aimed at facilitating greater awareness and better understanding of the factors fuelling the supply and demand for illicit small arms and light weapons. **Further, States should consider requiring the compulsory medical reporting of injuries from small arms and light weapons, and cooperation between health facilities and law enforcement agencies to provide data that would inter alia, improve systems of tracking the source of illicit small arms and light weapons and identify risk factors for receiving injuries from small arms and light weapons.**

**Reducing existing stocks:** The RevCon Outcome Document should encourage States to reduce the volume of new supplies of small arms and light weapons, in addition to reducing the existing stocks in circulation. We propose the following addition to paragraph I.16:

Recognizing the need for developing common guidelines, criteria and standards on relevant issues addressed by the Programme of Action, including those related to the control of transfers of small arms and light weapons, **and the reduction of availability of illicit small arms and light weapons in circulation.**

We propose a similar amendment to paragraph III.18:

States are encouraged to support action-oriented research aimed at facilitating greater awareness and better understanding of the factors fuelling the supply and demand for illicit small arms and light weapons, **and their reduction.**

**Ammunition:** The reference to ammunition in paragraph I.18 is important since ammunition has not received adequate attention in the UN small arms process to date. To strengthen this commitment, we propose additional wording to paragraph I.18:

Recognizing that the illicit trade in ammunition is intrinsically linked to the illicit trade in small arms and light weapons, **and recognize that further attention is required to better understand issues related to illicit ammunition proliferation,**

**Marking, record-keeping and tracing:** We welcome the proposed commitment to implementation of the 2005 instrument on marking, record-keeping and tracing. The text of the instrument includes an obligation to encourage initiatives within the framework of the UN to assist implementation of the instrument, and the RevCon Outcome Document should propose proactive steps to improve implementation of this important international instrument. An option employed by several other international UN instruments is the Committee,<sup>3</sup> and we propose the following additions to paragraph II.6:

To promptly and fully implement the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, in particular,

- (a) by putting in place, where they do not exist, the laws, regulations and administrative procedures needed to ensure the effective implementation of this instrument;
- (b) by designating one or more national points of contact to exchange information and act as a liaison on all matters relating to the implementation of this instrument;
- (c) by cooperating on a bilateral and, where appropriate, on a regional and international basis to support the effective implementation of this instrument; and
- (d) by submitting **annual** reports on their implementation of the instrument to **a Committee established by the Secretary General within the framework of the instrument that will, inter alia, evaluate reports in order to prepare for meetings of States on a biennial basis; receive States' observations and difficulties encountered in implementing the instrument, and accordingly make recommendations to the United Nations General Assembly to improve the instrument.**

It can also be difficult for States in need of assistance in implementation of the instrument to be fully aware of their needs and request for assistance, and we propose that the non-paper could address this in paragraph III.4:

States and appropriate international and regional organizations should consider rendering technical, financial and other assistance, both bilaterally and multilaterally, in building national capacity in the areas of marking, record-keeping and tracing, in order to support the effective implementation of the International Instrument to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons

- (a) by building national capacity in the areas of marking, record-keeping and tracing,
- (b) **by assisting States at a national level to assess their needs and capacities in effective implementation of the instrument, and**

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<sup>3</sup> For example, the Human Rights Committee, the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, and the UN Committee of Experts for the Transport of Dangerous Goods.

- (c) by examining technologies that would improve the tracing and detection of illicit small arms and light weapons, as well as facilitating the transfer of such technologies, **and providing needs and capacities for effective implementation of the instrument as assessed by the recipient State.**

**Gender:** The non-paper represents an improvement on the PoA regarding gender. Paragraph II.25 is important, referencing UN Security Council Resolution 1325. We propose that States should ‘mainstream a gender perspective’ rather than merely ‘take into account gender issues’ since the stronger language is supported by this SC Resolution.

It is also important to recognize that UN SC 1325 was reaffirmed in the Word Summit Outcome Document and that this is directly relevant to implanting the PoA. We suggest the following addition to paragraph I.3:

Encouraged by the support expressed by the Heads of State and Government at the 2005 World Summit to the implementation of the Programme of Action, **their reaffirmation of United Nations Security Council Resolution 1325 on Women, Peace and Security**, and their recognition of the negative effect of the illicit trade in small arms and light weapons on development, peace, security and human rights,

We would also propose referencing UNSC 1325 in paragraph II.3 on rendering assistance, as proposed on page 3 above.

It is also vital that the RevCon Outcome Document facilitates a better understanding of the gendered impacts of small arms and should include references to men and boys in particular. The distinctive needs of women and men, girls and boys, should be referenced throughout the text. We suggest replacing ‘children’ with ‘girls and boys’ in paragraph I.11, for example. Also, the phrase ‘distinctive needs of girls and boys’ should replace ‘needs of children’, in paragraph II.26. Reference to girls should also be included in paragraph II.26. Paragraph II.23, regarding DDR programs, should also make reference to gender. We further propose that the RevCon Outcome Document recognise the role of women’s organisations in preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects (this could be included in paragraph II.25 as suggested under ‘crime reduction’ above).

**Children:** We welcome declarative paragraph I.11 on the various impacts on children of small arms proliferation and misuse. We also welcome paragraph II.26, covering the rehabilitation and other special needs for children in armed conflict. We recommend an additional paragraph after II.26, reflecting the commitments of States to UN agreements addressing children and armed conflict and small arms;

**To urge States that have not already done so, to fully implement the measures on small arms and children and armed conflict, as specifically outlined in Security Council Resolutions 1539, and 1612, particularly the provision of information on small arms flows as mandated and ending arms transfers to violators of children’s rights.**

We would also recommend elaborating that commitment in a second operative paragraph:

**To urge States to consider measures to co-ordinate implementation of the Programme of Action with measures to protect children, such as : co-ordination between the small arms national coordination agency and national child protection networks in creating and implementing national action strategies to stop the flow of arms into situations where children are abused; special consideration for youth in DDR programs; and programming to reduce small arms demand among youth.**

**Civil society participation:** We welcome the increased references to the contribution of civil society (I.19) and cooperation with civil society (II.28, II.44 and III.2). However, we are concerned that when examples are given of ‘civil society’, for every mention of ‘non-governmental organisations’ there is also a reference to ‘industry’. This is not the case in the PoA, where non-governmental organisations are mentioned 5 times, and industry only once (in a list with NGOs in PoA paragraph I.16). The role of the groups dedicated to preventing small arms proliferation and misuse (democracy campaigners, human rights activists, development agencies, women’s groups, religious organisations, doctors, humanitarian workers, victim

support groups, academics and lawyers and others that comprise the IANSA network) is quite different from the role of the companies that produce and sell these weapons.

It is unfortunate that there is no renewed encouragement of 'non-governmental organizations and civil society' to engage in all aspects of PoA implementation, as mentioned in paragraph IV.2(c) of the PoA.

In addition, it is widely recognised by States and UN agencies that NGOs have an important role to play in raising public awareness of the need for effective small arms control. We propose an additional paragraph after paragraph II.44:

**To cooperate with relevant international, regional and national organizations and States, including non-governmental organizations, to raise public awareness of the importance of activities related to the prevention, combat and eradication of the illicit trade in small arms and light weapons in all its aspects.**

An important PoA reference to the role of NGOs in conflict and post-conflict confidence building measures (PoA II.20) is absent in the equivalent non-paper paragraph II.2, and we suggest reinserting that reference (see page 7 of this letter). Also there is a new reference to industry in paragraph III.2 which was not in previous drafts of the non-paper, nor was it in the corresponding POA paragraph III.2. We suggest removing it. Likewise, paragraph II.44 is derived originally from paragraph II.40 in the PoA, but it now has industry added as an example of civil society. We propose that this additional reference be removed:

To encourage the relevant international and regional organizations and States to facilitate appropriate cooperation with civil society, including non-governmental organizations ~~and industry~~, in activities related to the prevention, combat and eradication of the illicit trade in small arms and light weapons in all its aspects, in view of the important role of civil society in this field.

**Arms brokering:** We are concerned that the operative paragraph from an earlier draft on the necessary comprehensive scope of arms brokering controls has been removed. We propose that the paragraph be returned, after paragraph II.17:

**To consider regulating, as appropriate, activities associated with brokering in small arms and light weapons, including transportation, financial, technical and insurance services.**

However, without an extraterritorial component these proposed comprehensive controls will be undermined, since a broker can simply operate from another country where the controls are weaker (or non-existent for non-nationals). We suggest including a reference to extraterritorial controls in paragraph II.17:

To intensify efforts to develop and enforce adequate national legislation or administrative procedures regulating the activities of those who engage in small arms and light weapons brokering, including, ~~where required~~, measures such as registration of brokers, licensing or authorization of brokering transactions as well as appropriate penalties for offences. Likewise, States should include provisions in national laws and regulations which enable the effective investigation, prosecution and punishment of illicit arms brokering activities **both** within their national jurisdiction and control, **and for their citizens operating in another State.**

**Strengthening UN arms embargoes:** We welcome the references to UN arms embargoes in paragraphs II.3 and II.16. The recommendation in paragraph II.3, that States incorporate embargoes within national legislation, is a specific example of the measures recommended in paragraph II.12. Therefore we would suggest referencing the previous commitments in paragraph II.16:

To further take appropriate measures, including all legal or administrative means, against any activity that violates a United Nations Security Council arms embargo in accordance with the Charter of the United Nations. **To this effect, States are encouraged to include provisions in national laws and regulations which enable the investigation, prosecution and punishment of export control violations, including violations of United Nations Security Council arms embargoes and the illicit use of end-user certificates.**

This recommendation expands paragraph II.15 of the PoA regarding criminalising violations of UN arms embargoes. We would also suggest that violation of a UN arms embargo become an offence with universal jurisdiction, as is the case already for piracy, war crimes, genocide, crimes against humanity, torture, and trafficking in human beings, among others. This would appear to be a logical next step and would be consistent with the growing interest in this issue at the UN Security Council. We propose this as a separate paragraph to follow paragraph II.15:

**To establish violation of a United Nations Security Council arms embargo as an offence with universal jurisdiction.**

**Weapons destruction:** We welcome the operative paragraphs re-affirming commitments to destroy weapons designated for destruction (paragraph II.19), and proposed best practice guidelines for stockpile management (paragraph II.40). However, we suggest that II.19 recognise that safe destruction of surplus stocks is preferable to retransfer or reuse of these weapons:

Noting that a significant number of destruction exercises of illicit small arms and light weapons has taken place since 2001 and taking note of initiatives to develop guidelines on national procedures to help reduce the amount of illicit small arms and light weapons in circulation, to intensify efforts to destroy surplus small arms and light weapons ~~designated for destruction~~ and to continue efforts to implement best practices and methods for destruction.

The best practices proposed in paragraph II.40 should also address this issue, and we propose the following suggestions:

To request the Secretary-General to compile lessons learned and best-practices on stockpile management and destruction with a view to developing practical guidelines, including standards and procedures for stockpile management and security and for weapons destruction, **particularly as an alternative to secure storage or reuse/retransfer. These guidelines should also cover small arms and light weapons recovered from illicit use once they are no longer required for forensic purposes.**

## **Annex: Compilation of Global Principles for Arms Transfers**

NOTE: The following Principles bring together States' existing obligations under international law and standards in respect of the international transfer of arms and are proposed by a diverse group of non-governmental organisations. The Principles reflect many international instruments of a different nature: universal treaties, regional treaties, declarations of the United Nations, multi-lateral or regional organizations, and regulations intended to be a model for national legislation, etc. Some of the Principles reflect customary land treaty law, while others reflect developing law or best practices gaining wide acceptance. The compilation indicates to States the best general rules to adopt in order to establish effective control of international transfers of all conventional arms according to the rule of law.

### **Principle 1: Responsibilities of States**

**All international transfers of arms shall be authorised by a recognized State and carried out in accordance with national laws and procedures that reflect, as a minimum, States' obligations under international law. Authorisation of each transfer shall be granted by designated State officials in writing only if the transfer in question first conforms to the Principles set out below in this instrument and shall not be granted if it is likely that the arms will be diverted from their intended legal recipient or re-exported contrary to the aims of these Principles.**

### **Principle 2: Express limitations**

**States shall not authorize international transfers of arms that violate their expressed obligations under international law.**

These obligations include:

- A. Obligations under the Charter of the United Nations – including:
  - a. binding resolutions of the Security Council, such as those imposing arms embargoes;
  - b. the prohibition on the use or threat of force;
  - c. the prohibition on intervention in the internal affairs of another State
  
- B. Any other treaty or decision by which that State is bound, including:
  - a. Binding decisions, including embargoes, adopted by relevant international, multilateral, regional, and sub-regional organizations to which a State is party;
  - b. Prohibitions on arms transfers that arise in particular treaties which a State is party to, such as the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, and its protocols, and the 1997 Anti-personnel Mines Convention.
  
- C. Universally accepted principles of international humanitarian law – including:
  - a. The Prohibition on the use of arms that are of a nature to cause superfluous injury or unnecessary suffering;
  - b. The Prohibition on weapons that are incapable of distinguishing between combatants and civilians.

### **Principle 3: Limitations based on use or likely use**

**States shall not authorize international transfers of arms where they will be used or are likely to be used for violations of international law, including:**

- A. breaches of the UN Charter and customary law rules relating to the use of force;
- B. gross violations of international human rights law;
- C. serious violations of international humanitarian law, genocide, and crimes against humanity;

### **Principle 4: Factors to be taken into account**

**States shall take into account other factors, including the likely use of the arms, before authorizing an arms transfer, including the recipient's record of compliance with commitments and transparency in the field of non-proliferation, arms control, and disarmament.**

States should not authorize the transfer if it is likely to:

- A. be used for or to facilitate the commission of violent or organised crime;
- B. adversely affect regional security or stability;

- C. adversely affect sustainable development;
- D. involve corrupt practices;
- E. contravene other international, regional, or sub-regional commitments or decisions made, or agreements on non- proliferation, arms control, and disarmament to which the exporting, importing, or transit States are part;

**Principle 5: Transparency**

**States shall submit comprehensive national annual reports on international arms transfers to an international registry, which shall publish a compiled, comprehensive, international annual report. Such reports should cover the international transfer of all conventional arms including small arms and light weapons.**

**Principle 6: Comprehensive Controls**

**States shall establish common standards for specific mechanisms to control:**

- 1. all import and export of arms;**
- 2. arms brokering activities;**
- 3. transfers of licensed arms production; and**
- 4. the transit and trans-shipment of arms.**

**States shall establish operative provisions to monitor enforcement and review procedures to strengthen the full implementation of the Principles.**