

United Nations Coordinating Action on Small Arms (CASA)



**The United Nations Second Biennial Meeting of States to
Consider 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**

New York, 11-15 July 2005

Statement on illicit trade issues

presented by

Mr. António E. Évora
Small Arms Team Leader
Department for Disarmament Affairs

on behalf of CASA

Mr. Chairman,

Excellencies,

Ladies and Gentlemen,

The diversion of legally produced weapons into illicit circulation constitutes a central source of supply for the illicit trade in small arms and light weapons. Thus to prevent, combat and eradicate this trade, we need to deepen our understanding of the many ways in which such weapons can be diverted and to develop concerted actions at the national, regional and international levels to stem the flow and reduce the proliferation of illicit small arms and light weapons.

During the First BMS in 2003, we stressed that the issues of tracing, brokering, import-export controls and law enforcement were central to the debate underlining the search for solutions to curb the illicit trade in small arms and light weapons. In this intervention, we will retake these issues and, in addition, we will address the issue of violation of arms embargoes imposed by the Security Council.

Tracing

Mr. Chairman:

The General Assembly, in its resolution 58/241, established an open-ended working group to negotiate an instrument to enable States to identify and trace, in a timely and reliable manner, illicit small arms and light weapons.

Under the Chairmanship of Ambassador Anton Thalmann of Switzerland, the open-ended working group held three substantive sessions during the period between June 2004 and June 2005. The negotiations within the working group were protracted, but at the end States agreed to adopt a politically-binding draft international instrument on tracing, which will be submitted to the General Assembly in its forthcoming sixtieth session. The instrument contains a number of provisions concerning requirements for: the marking of small arms and light weapons; record-keeping; and for cooperation in

tracing. Under those provisions, States committed themselves to, inter alia: marking all small arms or light weapons at the time of their manufacture; marking small arms and light weapons to the extent possible at the time of their import; taking all necessary measures to ensure that all small arms and light weapons in the possession of government armed and security forces for their own use are duly marked; ensuring that accurate and comprehensive records are established for all marked small arms and light weapons within their territory. Another important achievement of the open-ended working group, which will facilitate future international discussions on the problem of illicit trade, is the adoption of a universally-accepted definition of small arms and light weapons and of criteria for determining when such weapons can be considered to be illicit.

The outcome of the open-ended working group is frankly encouraging. The fact that the vast majority of States were in favour of a legally-binding international instrument gives us hope that States will not spare efforts to ensure that the commitments undertaken under the politically-binding instrument will be implemented in a vigorous and effective manner.

Brokering

In the two years that followed the First Biennial Meeting of States, there has been considerable progress regarding the issue of illicit brokering in small arms and light weapons. The General Assembly, in its resolutions 58/241 and 59/86, requested the Secretary-General to conduct broad-based consultations on further steps to enhance international cooperation to prevent, combat and eradicate illicit brokering in small arms and light weapons. Accordingly, the Department for Disarmament Affairs carried out four broad-based consultations, in 2004, and two in 2005, in New York and Geneva, respectively. In addition, DDA has also conducted consultations in the framework of various meetings at the subregional level, organized in partnership with other CASA members, particularly the UNDP, and interested Members States. These meetings include -- to name a few -- workshops held in Nairobi, for the countries of the Nairobi Secretariat and the Southern Africa Development Community (SADC), in Beijing, for the Southeast and Central Asian States, in Lima, for the Andean Community States, in Cairo, for the

League of Arab States, in Nadi, for the Pacific Forum States, and in Almaty, for the Central Asian States, as well as two workshops organized in Geneva and New York to help delegates from Member States prepare for the broad-based consultations. These consultations have been complemented and/or supported by initiatives undertaken by Member States, especially the Netherlands and Norway.

These consultations revealed that there is general agreement that illicit brokering is one of the vehicles used for the channelling of small arms and light weapons into illicit uses and markets. They also revealed that the underlying issues are complex and that further work needs to be done to pin down a definition of brokering activities and brokers, to gather reliable data on brokering activities, to develop common understandings on the issues of registration of brokers and/or brokering activities, extraterritorial jurisdiction, and how to enhance international cooperation to address the problem of illicit brokering in small arms and light weapons.

Another important step forward is the request contained in General Assembly resolution 59/86 for the establishment, by the Secretary-General, of a Group of Governmental Experts to consider further steps to enhance international cooperation to prevent, combat and eradicate illicit brokering in small arms and light weapons. This group will be established after the Review Conference to consider the implementation of the Programme of Action, to be held in 2006.

In terms of national measures to control illicit brokering activities, only 32 countries in the world have enacted some legislation relevant to arms brokering activities. In most countries, brokers are able to circumvent national arms and security controls with impunity. Thus, there is a need to redouble efforts to put in place appropriate legislation and controls and to provide assistance to developing countries that might lack the capacity to develop and implement such controls.

Import-export issues

Mr. Chairman:

In the Programme of Action, States committed to adopt adequate laws, regulations and administrative procedures to exercise effective controls, within their areas of jurisdiction, over the export, import, transit and retransfer of small arms and light weapons. A related issue is the need to establish effective and reliable national end-user certificate system.

Although most countries have legislation and controls regarding small arms and light weapons, in many cases these controls are inadequate or leave room for loopholes. The lack of adequate controls for the export, import, and transit of small arms and light weapons creates opportunities for weapons to be diverted into the illicit trade. It should also be noted that the existence of adequate controls is a necessary condition for the success of any actions aimed at regulating the brokering in small arms and light weapons. Therefore, more efforts are needed to improve controls and to provide assistance to States that might so require, in order to enable them to modernize their legislative framework and administrative measures.

In this regard, the initiative on small arms and light weapons transfer controls, undertaken by the United Kingdom, has been critical in stimulating debate at the subregional level to develop common understandings on export, import and transit controls with a view to identifying areas where such controls need to be tightened as well as to exploring the possibilities for the harmonization of controls at the subregional level.

Law enforcement

Mr. Chairman:

The success of the fight against the illicit trade in small arms and light weapons depends not only on the quality of the legislative or administrative measures adopted by States, but also on the capacity of States to enforce the laws. During the period in review,

CASA members have carried out many training activities aimed at building the capacity of law enforcement officials to prevent and combat the illicit trade in small arms and light weapons. These training activities have also been complemented with initiatives aimed at fostering networking and information exchange among law enforcement agents, at the subregional level. But more needs to be done, particularly with regard to the provision of adequate equipment and facilities for law enforcement, the improvement of the conditions of employment of law enforcers and institutional arrangements.

Mr. Chairman,

Another source of diversion of weapons into illicit circulation stems from activities that violate the arms embargoes imposed by the Security Council. Weapons obtained in violation of these embargoes affect not only the countries of their initial destination but often spill over to neighbouring countries where they can fuel conflict and support criminal activities. In this connection, a conscious effort needs to be made to enhance information exchange and data collection with a view to identifying patterns of arms embargoes violation and to assist States in developing their capacity to track and prosecute arms embargoes violators.

CASA will remain committed to providing policy advice and assisting States in preventing, combating and eradicating illicit trade in small arms and light weapons.

Thank you.