



PARLIAMENTARY FORUM
ON SMALL ARMS AND LIGHT WEAPONS

Policy Statement on Private Illicit Transfer of Small Arms to Latin America

The Board of the Parliamentary Forum on Small Arms and Light Weapons,
meeting in Washington, United States on April 27, 2010;

In recent years, although the incidence of armed conflict and combat deaths has been declining, the number of people killed due to armed violence has not. In Latin America the issue of insecurity and armed violence is linked with the proliferation of small arms in the region. According to the Latin American Barometer Report of 2008, for the first time since the survey was initiated in 1995, Latin Americans consider crime to be the most serious problem they face, pushing unemployment and other economic issues into second place.

The World Health Organization has also highlighted that gun-related fatalities are the leading cause of death among Latin Americans between the ages of 15 and 44. This is aggravated by the presence of organised crime closely linked to drugs trafficking, human trafficking, international car theft, money laundering, and other related activities such as, among others, the exchange of drugs for weapons. At the same time, the criminal activities of violent youth gangs have increased, and the use of weapons to solve daily social conflicts also seems to be rising.

To tackle this issue, efforts should be made to reduce private illicit transfers, as well reduce the demand for small arms and light weapons.

Small arms and light weapons are diverted from the public regulated sphere to reach the hands of individuals who fuel conflicts, crime, violations of human rights which have an impact on public health and security and hinder development due to irregularities such as porous national borders, poor coordination among authorities, corruption, and differences in the laws between neighbouring countries which are used by criminals to purchase and smuggle small arms across national borders.

Detecting transfers of weapons, however, is a complicated matter due to the way the transfers operate in an “ant-like” trade in which large numbers of people are involved in carrying small volumes of weapons across borders, seemingly for personal or non-commercial purposes. Arms brokers and traders operate by exploiting differences in the laws, evading customs and airport controls and falsifying documents in violation of United Nations arms embargos, with small arms and ammunition being the main items transferred. The significant lack of regulation on brokering activities makes it very difficult to distinguish between legitimate and illicit activities, thus, there is

an urgent need for the adoption of comprehensive controls, as well as penalization of the violation of UN embargoes within the legal systems of member states.

Another problem connected with illicit transfers is the lack of inadequacy of custom categorization and systematization of the weapons that are being transferred, which hinders the acquisition of accurate information on the flow of such transfers. Furthermore, reluctance to cooperate and under-reporting by national governments hinders transparency.

One area of particular concern to this Forum is the flow of weapons between the United States and Mexico, which is closely related with the illicit transfer of drugs between these two countries, making the issue more complex. Based on the Second Constitutional Amendment of the United States, the American people have the right to bear arms, and thus, suppliers face relatively few restrictions when selling firearms. This in turn is seen by criminal groups as an opportunity to purchase weapons to be transported across national borders in violation of the law of the destination countries. Starting in Mexico, firearms then make their way further south through Central America, which has also been identified as the path followed by 88% of drug traffic moving from south to north to reach the U.S. market in exchange for weapons that are destined either for Colombia or various drug cartels in Mexico.

The governments of Mexico and the United States acknowledged the need to collaborate in order to solve this shared problem and in 2007 decided on the implementation of The Mérida Initiative to broaden and deepen bilateral cooperation against trans-national drug trafficking organisations and organised crime, as well as the illicit transfers of weapons. This initiative includes actions that each country will implement in their territories, with their own resources, to confront organised crime, but also includes enhanced bilateral cooperation, in areas such as information exchange, technical assistance, equipment transfers, technology and training to strengthen the responsive capacity of Mexican security and law enforcement agencies.

In her recent visit to Mexico, the U.S. Secretary of State Hillary Clinton bluntly acknowledged that the United States bears some of the blame for the crisis because of its "insatiable" appetite for illicit drugs and its role as a supplier of weapons that are smuggled into Mexico to arm the cartels' members, stating that the Mérida Initiative is to be expanded from its security and military strategy approach to include communities and civil society, as well as address social factors that drive violence, such as the lack of employment.

However, this problem is an international concern and, as such, requires commitments at a regional and international level in Latin America to reduce transfers of weapons. The UN Secretary-General Ban Ki-moon has identified the absence of a normative framework for all states to guide decisions regarding arms transfers as a "recurring problem", but some improvements are being made through the UN Programme of Action (PoA) in Latin American countries. The Inter-American Convention against the illicit manufacturing and trafficking of firearms, ammunition, explosives, and other related materials (CIFTA) mandates states to establish or maintain an effective system of export, import, and international transit licenses or authorizations for transfers (of firearms, ammunition, explosives, and other related materials) and the exchange of information, mutual assistance and cooperation to reduce the flow of illicit transfers.

Also, the Arms Trade Treaty (ATT), currently under negotiation, may create a risk assessment system to determine the legality of a transfer, considering the likelihood of harm to civilians, the

use of those weapons for purposes other than national defence or the fight against crime, on a case by case basis, and thus may help to reduce transfers. The harmonization of national laws to address legal incompatibilities, as well as the restructuring and re-categorization of customs rules will help to provide clearer information on the flow of weapons, their destination and purpose.

The Parliamentary Forum is of the view that, in order to address this issue, efforts should also be made to decrease the demand for weapons. Alongside the harmonization of national laws and regulation at an international level, governments also need to address inequalities and poverty, improve public security and crime prevention, as well as undertake criminal justice reform and democratic community policing in order to help reduce armed violence, and thus the demand for weapons and illicit transfers.

Objectives

The Board of the Parliamentary Forum of Small Arms and Light Weapons, meeting in Washington, United States on April 26, 2010;

Draws attention to the need to establish more comprehensive and harmonized laws, to prevent legal transfers of small arms and light weapons being diverted into the illegal realm, fuelling instability in the Latin American region.

Takes note of the fact that the lack of transparency of the transfers of weapons in the region is related not only to the lack of categorization of weapons and weak controls and corruption at borders, but also to the networking method utilized to carry out the transfers; and the need to comprehensively regulate the brokering of weapons.

Welcomes the cooperation between the United States, Mexico and Central America through the Merida Initiative to reduce drug demands, stop the flow of arms and weapons, and confront gangs and criminal organizations.

Urges the United States to strengthen regulations regarding the authorization of purchases and transfers of small arms and weapons, especially by demanding end-user licenses or authorizations; and to adopt the necessary measures at export points to control, detect and prevent illicit trafficking in firearms, ammunition, explosives, and other related materials between its territory and Mexico.

Recognizes the work carried out by the 2001 UN Programme of Action on Small Arms and Light Weapons in All its Aspects (UN PoA) to reduce the human suffering caused by the illicit trade in small arms and light weapons by strengthening or developing norms and measures at the global, regional and national levels that would reinforce and further coordinate efforts to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects.

Supports universal ratification and the implementation of the Inter-American Convention against the illicit manufacturing of and trafficking in firearms, ammunition, explosives, and other related materials (CIFTA) in the Latin American countries as well as the efforts to reduce the volume and number of transfers in the region by cooperating among the State Parties.

Recognizes that knowledge and awareness on the part of the general public and Parliamentarians is one of the most effective tools for achieving real change in the area of the illicit transfer of arms, and recommends that further research on the topic is conducted.

Encourages the members of the Forum to revise their national legislation to ensure it is comprehensive and harmonized with the laws of neighbouring countries in order to prevent arms brokers and dealers exploiting differences and incompatibilities in laws; and to implement the CIFTA regulations into their national legislations.

Mandates the Forum, its members and the Secretariat to undertake all necessary activities to support the implementation of a strong Arms Trade Treaty (ATT); and to work together against the illicit transfer of small arms into Latin America.