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**THE ROLE OF PARLIAMENTS IN STRENGTHENING THE CONTROL OF TRAFFICKING
IN SMALL ARMS AND LIGHT WEAPONS AND THEIR AMMUNITION**

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I. Proliferation and illicit trafficking in small arms and light weapons: A global issue

1. For a long time, control of the proliferation and illicit circulation of small arms and light weapons (SALW) remained within the exclusive sphere of competence of individual States, but it has now gradually come to the forefront of the international community's political agenda. While throughout the duration of the cold war disarmament initiatives and arms control essentially targeted weapons of mass destruction, in the 1990s an international campaign began to address the control of illicit SALW.

2. According to the United Nations definition¹, SALW (often categorized under the shortened term "small arms") include:

- small arms (rifles, revolvers, sub-machine guns of a caliber usually less than 12.7 mm);
- light weapons (all other portable weapons of a caliber of less than 100 mm, such as machine guns, guns and mortars);
- ammunition for these weapons, missiles, hand grenades and explosives.

Moreover, a number of States distinguish between "civilian" and "military" weapons (or automatic "weapons of war"), the latter group in principle being intended for the use of security forces. The category "firearms" is often subsumed under the same heading as small arms.

3. Readily available in regions affected by conflicts, easily transported and therefore particularly well adapted to illicit transfers, SALW fuel most conflicts today² and delay the restoration of peace and security and the accomplishment of post-conflict reconstruction programmes. Such weapons are far from being the exclusive prerogative of war zones; they also present a security challenge to countries at peace, as armed crime and organized smuggling networks, illicit trafficking and terrorism all feed upon them.

¹ Definition elaborated by the United Nations Panel of Governmental Experts on Small Arms, A/52/298, 27 August 1997.

² According to the United Nations, 47 of the 49 major global conflicts reported in the 1990s were civilian conflicts which involved non-military combatants and therefore a large number of small arms.

4. Although the statistics available to quantify the impact of the misuse of these weapons would only provide rough estimates, and therefore imprecise ones by definition, there is no denying that the human, political and financial cost of the proliferation of SALW is especially high.

In human terms, each year there is an average of approximately 500,000 victims, close to 60 per cent of whom are killed by bullets in conflict situations. A more nuanced assessment of this problem would nonetheless require that the burden these victims represent for their communities, both in terms of public health and lost future productivity, must be added to this figure.³ In addition, there is the political and financial cost. This will result from instability, the erosion of government structures in warring States, and the perpetual process of reconstruction and reconciliation, humanitarian crises and peacekeeping missions.

Generally speaking, the uncontrolled proliferation of SALW poses an unprecedented threat for the international community as a whole. In addition, it jeopardizes the implementation of the Millennium Development Goals laid down by the United Nations, which should be achieved by 2015.

5. Since the system is one in which a number of actors and intermediaries each play their part, the proliferation of SALW can be countered only through the application of national, regional and international measures that are coherent and complementary. The complexity of the phenomenon, the segmentation of how weapons pass between hands for each transaction and the international aspect of arms transfers require responses that transcend state boundaries.

6. The control of the illicit proliferation of SALW has been strengthened by many recent regional and international initiatives, and basically hinges on the implementation of the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (PoA) of July 2001.⁴ In preparation for the review conference that is scheduled to take place in 2006, Member States of the United Nations met in July 2003 at the First Biennial Meeting of States on the implementation of the 2001 Programme of Action.⁵ A Second Biennial Meeting of States was held at United Nations Headquarters in New York from 11 to 15 July 2005.

7. In implementing the PoA, the member governments of the United Nations in June 2005 concluded the process of negotiations on the adoption of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons, and the Instrument was adopted by the United Nations General Assembly in December 2005. This Instrument was finalized after a long⁶ and costly international process,

³ It is estimated that the monetary cost of the 134,000 injured in the United States of America by weapons in 1992 came to US\$ 40 billion in terms of medical treatment, public service and loss of employment (see the report of the *Groupe de recherche et d'information sur la paix et la sécurité* (GRIP), No. 2000/2: *Marking and Tracing Small Arms and Light Weapons*). If the estimates for loss of quality of life were included, this figure would approach US\$ 126 billion, or US\$ 495 for each United States resident.

⁴ The Programme of Action (A/CONF.192/15) is available in electronic version on the GRIP website, at <http://www.grip.org/bdq/pdf/g1878.pdf>.

⁵ For further information on the First Biennial Meeting of States and its report, see the United Nations website at the following address: <http://disarmament.un.org:8080/cab/salw-2003.html>.

⁶ The Open-ended Working Group with a mandate to work on the document was appointed in January 2004. For further information on this subject, see the adhoc section of the GRIP Internet site: <http://www.grip.org/research/trace.html>

and has been received as a welcome first step on the international scene. It is nevertheless regrettable to note that governments have not managed to obtain sufficient consensus to go beyond this minimalist, limited and non-binding document that excludes ammunition and that will certainly require future amendments and revisions.⁷

8. Other regulatory mechanisms have also emerged to reinforce the global fight against SALW. The most important of these mechanisms include the 1996 Wassenaar Arrangement on export controls for conventional arms and dual-use goods and technologies⁸ and 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 of June 2001⁹, which entered into force on 15 April 2005 after Zambia became the fortieth State to ratify this instrument.¹⁰

9. Since weapons management is an exclusively national prerogative and derives from the sovereign competence of States, regional and international initiatives can only serve to guide policy directives and make recommendations to governments on the adoption of responsible practices. Since the active involvement of national authorities is indispensable to ensuring the effectiveness of measures adopted in an attempt to control and combat illicit trafficking, the role of parliamentary assemblies is therefore crucial in this area.

II. Various aspects of a single issue

1. The problems posed by the illicit circulation of SALW are multifaceted, with elements varying even among themselves, and are strongly determined by local and regional peculiarities. Although the overall issue involves all States throughout the world, its repercussions are not necessarily the same everywhere. Inevitably, the measures adopted in response to the problem cannot stem from a single series of universally exportable solutions; they need to be adapted to the specific security challenge confronted in each country.

2. **Production:** According to the Small Arms Survey research project, there are at least 639 million firearms in circulation in the world. The number of SALW tends to rise, as several million are produced each year. The Small Arms Survey has also reported that at least 1,249 companies in no less than 92 countries produce SALW and their ammunition.¹¹

The most reliable estimates show an average annual production of approximately 7.5 to 8 million units; approximately 7 million of these weapons are for "civilian" use, while the number of "military" weapons manufactured annually is between 500,000 and a million. From a commercial perspective, this production amounts to some US\$ 7.4 billion. The United States (the world's main producer) currently manufactures more than 3 million "civilian" firearms each year, while the Russian Federation (the second largest producer) manufactures between 500,000 and 1 million units annually.

⁷ See GRIP analytical note (to be issued soon), and United Nations document A/60/88 of 27 June 2005, adopted by the United Nations General Assembly on 8 December 2005.

⁸ For further information, including a history of the Arrangement, please see <http://www.wassenaar.org/>.

⁹ The text of the Protocol (A/RES/55/255), also known as the "Vienna Protocol", is available at <http://www.grip.org/bdg/pdf/q1880.pdf>.

¹⁰ However, only 52 countries have signed the Vienna Protocol, which remains an instrument difficult to implement in practical terms, because its scope is limited to transnational organized crime.

¹¹ The geographic distribution of the companies that produce light weapons and related products is as follows: 44% Europe and the CIS; 36% North and Central America; 9% Asia and the Pacific; 5% Middle East, 3% South America and 3% sub-Saharan Africa.

The total world production of ammunition is between 10 and 14 billion units each year.

3. Apart from the amounts produced by the small arms industry, in some regions there is also artisanal production; although the volume of such production is clearly far below the numbers produced industrially, it is often put to illicit use in banditry and crime.

4. In certain traditional societies in Africa, for instance, cutting and thrusting weapons such as machetes, clubs and lances may also help perpetrate massacres, often on a large scale, such as those carried out during the Rwandan genocide.

5. **Trade and transfers:** Several recent subregional, regional and international instruments have bolstered the regulatory framework governing the movement of conventional weapons and, more specifically, SALW. For the most part, these documents aim at strengthening effective controls and establishing practices to improve the eradication of illicit activities. Many areas are generally targeted within the framework of these agreements, and this illustrates the complexity of transfers and the inadequacy of the current system of management and the gaps that remain in national legislation.

The main difficulty in the implementation of a comprehensive regulatory regime lies in the integration of control measures in existing domestic legal provisions and in the identification of positive practices most relevant to the prevailing conditions in each country or region. Furthermore, the lack of harmonization of measures, regionally and internationally, makes it more difficult to implement such measures.

6. An effective and comprehensive legal framework for the control of transfers must govern all the areas of world trade circuits, placing emphasis on provisions governing border controls, the marking, registration and tracing of weapons in circulation, the adoption of more transparent management and export practices, the control of brokering and intermediation activities, the creation of national commissions responsible for coordinating control of trafficking, the facilitation of international collaboration and information exchange and the strengthening of international cooperation.

Although the advances achieved over recent years are certainly welcome as encouraging intermediate steps, it is regrettable that the instruments that have been adopted are weak in scope and introduce minimalist practices, and only rarely do they make explicit reference to international humanitarian law and human rights.

7. **Possession, carrying and the use of firearms:** The possession, carrying and use of firearms pose a major security challenge to the government authorities in some regions. The uncontrolled circulation and wide availability of small arms in fact encourage the spread of armed violence and the militarization of society, and a number of such factors have direct consequences on security.

8. Most States have legislation governing these issues. But most often, such laws were drafted several decades ago, and are therefore partially obsolete and poorly suited to the current situation. Furthermore, even when States have well-defined legal and juridical provisions, they often lack the means with which to adequately implement those laws.

The promotion of a culture of peace and a more responsible attitude towards firearms are indeed among the most effective tools in this area, and the drafting of stricter laws is often necessary.

9. **Conflicts, rebellions and armed crime:** SALW make up the core of the arsenals of armed groups involved in the conflicts and rebellions affecting certain regions of the world, such as sub-Saharan Africa and South-East Asia, mainly because they are easy to use and transport, including by children, and they are cheap, robust and often widely available.

In regions emerging from periods of armed crisis, SALW also initiate a culture of violence and encourage violations of humanitarian law, particularly towards the aged, women, children and the most vulnerable strata of society, preventing any sustainable development, contributing to the destruction of the environment, the illegal exploitation of natural resources and trafficking of all kinds, which develop parallel to the conflicts.

10. **Disarmament:** Civilian and military programmes for disarmament, demobilization and reintegration (DDR) are mobilizing increased attention and resources of the international community and represent an indispensable stage in rebuilding mutual confidence within communities and in restoring a normal social and political life in countries emerging from conflict situations. The experiences of the recent past illustrate the vital importance of the proper management of these programmes, the underlying risk when success is only partial and the special attention that must be paid to demobilization, psychological care and the social reintegration of child soldiers.

III. Recent initiatives on SALW

A. Africa

1. Africa has been especially affected by the destructive effects of illicit SALW available in great numbers, and faces a number of related security crises. Although African States themselves are relatively inactive in the industrial production of small arms, their governments, faced with several challenges and focusing their energies on several factors at a time, have taken initiatives aimed at reducing the traffic in illicit SALW. There are estimated to be some 30 million for the African continent alone, 70% of which are in the hands of the civilian population.

2. The Declaration of a Moratorium on Importation, Exportation and Manufacture of Light Weapons in West Africa¹² (October 1998, renewed for a period of three years in October 2001) aims at putting an end to imports, exports and the manufacture of small arms in the 15 member States of the Economic Community of West African States (ECOWAS). Exceptional imports are, however, possible when national security interests so demand, but advance notice must be issued to the other States and an explicit exemption must be obtained from the Executive Secretariat of ECOWAS. The compilation of national registers and a regional register is also envisaged, but has not yet been effectively implemented.

3. The new ECOWAS Small Arms Control Programme (ECOSAP), financed by the United Nations Development Programme (UNDP) Regional Bureau for Africa and other partners, has taken over the Programme for Coordination and Assistance for Security and Development (PCASED). It extends the activities of PCASED and includes the implementation of the Moratorium on Importation, Exportation and Manufacture of Light Weapons in West Africa and its corresponding plan of action.

¹² The complete text of the Declaration of the Moratorium is available on the Internet, at: <http://www.grip.org/bdq/g1649.html>.

Through the mediation of its national commissions, ECOSAP will offer ECOWAS member States various types of technical and financial support, and strengthen capacity-building of the ECOWAS Secretariat's new small arms group (GAL) in drafting policies and operational activities on the implementation of the Moratorium in the region. The difficulties encountered during the implementation of the Moratorium and the initiatives undertaken by ECOWAS provide a point of departure for an ECOWAS draft convention on SALW.

The European Union (EU) has decided to allocate a large budget for the development of this legal instrument as well as for the organization of ECOSAP.¹³ However, for administrative reasons, the budget has still not been entirely disbursed. Civil society in West Africa, led by Oxfam International,¹⁴ has prepared a preliminary draft convention that was presented in March 2005 at a conference in Bamako. Following a process of amendments and improvements, the text was to be submitted for adoption during the Summit of Heads of State, to be held in Niamey in December 2005.

The innovative aspect of the convention is its provision for a moratorium on arms import and export and the use of a centralized implementation mechanism that would be managed by the ECOWAS Executive Secretariat. For the first time, the concept of an international agency to control small arms transfers on the ground would be developed. It would be interesting to identify a similar mechanism for the implementation of the Nairobi and Southern African Development Community (SADC) Protocols which are discussed in the following paragraphs.

4. The Nairobi Declaration on the Problem of Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa¹⁵ (March 2000) and its plan of action represent a statement of firm intent with a comprehensive programme of action. However, its implementation has been far from perfect.

5. The Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking in Small Arms and Light Weapons (December 2000) is really a broad common position recognized as a crucial contribution to the 2001 United Nations Conference.¹⁶ The political importance of this text is heightened by the fact that it places an obligation on African member States of the Arab League – who have a crucial role to play in the fight against trafficking and the proliferation of small arms.

¹³ For further information on the European Union contribution to this process see the Decision of the Council at: <http://www.grip.org/bdq/pdf/q4228.pdf>.

¹⁴ GRIP also participated in the work done in Bamako and is expected to follow up on the process, also in collaboration with Oxfam International.

¹⁵ The complete text of the Declaration is available in electronic version at <http://www.grip.org/bdq/pdf/q4035.pdf>.

¹⁶ For the documents presented during the July 2001 United Nations Conference on illicit SALW, see: <http://disarmament.un.org:8080/cab/smallarms/index.html> (for English).

6. The SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials¹⁷ is an initiative signed by 16 southern African countries,¹⁸ including the Democratic Republic of the Congo (DRC), just after the 2001 United Nations Conference. It is a legally binding commitment that governs the most important aspects of controlling the trafficking in and proliferation of small arms in the region: traceability, cooperation between States and the control of cross-border trafficking, protection and proper management of stocks belonging to States, destruction of surplus and confiscated weapons, weapons collection programmes, sensitization, and the possession of arms by civilians.

7. The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa¹⁹ incorporates practically 80 per cent of the content of the SADC Protocol. The two Protocols are harmonized, and because of this uniformity, a comparable and coherent level of legislation in much of sub-Saharan Africa can be achieved.

8. **Parliamentary initiatives in sub-Saharan Africa:** On the initiative of the European Parliamentarians for Africa (AWEPA)²⁰ and UNDP, a series of parliamentary conferences was organized aimed at sensitizing African parliamentarians to the issues related to SALW and at building on their knowledge in that regard, to enable them to monitor the implementation of regional and international commitments undertaken by their governments, and also to strengthen national legislation and its implementation, as well as controls at the national and transnational levels.²¹ The basic document for this initiative was the Declaration of Nairobi of 15 March 2000, whose implementation has so far been quite weak.

9. An initial conference of parliamentarians of eight central and east African countries was held in Mombasa from 26 to 28 November 2003.²² A plan of action providing for parliamentary action aimed at revising and harmonizing national legislation was adopted at the end of the Conference.²³ Following this first initiative, a second parliamentary conference was held in Bujumbura from 29 to 30 March 2004, also under the auspices of UNDP and AWEPA, to harmonize legislation among the three countries of the Great Lakes region, Burundi, the Democratic Republic of the Congo and Rwanda.²⁴ These events paved the way for a plan of action for a week-long working session for parliamentarians from the three countries, which was held in Brussels from 18 to 22 October 2004. The participants at the Brussels parliamentary conference identified the topics and chapters to be harmonized by national experts and issued a joint declaration to pursue the harmonization of legislation among the

¹⁷ Signed on 14 August 2001 by the countries of the South African Development Community (SADC), see: <http://www.grip.org/bfg/q2010.html>.

¹⁸ Seychelles left SADC in 2004 to join the countries that were signatories of the Nairobi Declaration.

¹⁹ Signed on 21 April 2004 by the countries that signed the Nairobi Declaration. The complete text of the document is available at: <http://www.grip.org/bdg/q4552.html>.

²⁰ European Parliamentarians for Africa (www.awepa.org).

²¹ GRIP and UNDP experts have participated in this series of conferences, with a view to facilitating the work of parliamentarians.

²² The conference brought together delegations from the parliaments of Burundi, the Central African Republic, the Democratic Republic of the Congo, Kenya, the Republic of the Congo, Rwanda, Tanzania and Uganda and the East African Legislative Assembly, as well as representatives of civil society of the region and European parliamentarians.

²³ See details in the book on the conference, *A Parliamentarian's Handbook on the Small Arms Issue*, at: <http://www.grip.org/bdg/pdf/q4193.pdf>.

²⁴ On this subject, see the analytical note issued by GRIP, *Harmonisation des législations sur les armes légères dans trois pays des Grands lacs : le Burundi, la RDC et le Rwanda* (French only) 22 October 2004, available at: <http://www.grip.org/bdg/pdf/q4280.pdf>.

three countries and to sensitize their respective governments and parliaments in order to achieve speedy ratification of the Nairobi Protocol.²⁵

10. On 18 and 19 April 2005, the fourth parliamentary conference within the framework of the parliamentary initiative on SALW was held in Kigali, Rwanda. The parliamentary representatives of Burundi, the DRC and Rwanda met with experts from AWEPA, UNDP and the *Groupe de recherche et d'information sur la paix et la sécurité* (GRIP) to continue work on the improvement and harmonization of existing legislation while respecting the requirements of the Nairobi Protocol. In addition to the participants, several national and foreign personalities also took part in the work, which was a genuine success. The experts shared and exchanged ideas, and parliamentarians decided to meet in Kinshasa before the end of 2005 to complete the harmonization of their respective legislative texts relating to the possession, trade and transfer of SALW. The parliamentarians of the three countries also issued a joint declaration of their commitment to work towards an international treaty on the transfer of arms, and the drafting of a code of conduct for controlling the proliferation of SALW at the next conference of the countries that have signed the Nairobi Protocol.

B. Latin America and the Caribbean

1. There are subregional and regional instruments in Latin America, such as the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA) of November 1997 of the Organization of American States (OAS)²⁶ and the Andean Community's Decision 552 of July 2003.²⁷

2. At the national level, the main **parliamentary initiatives** have been taken in the areas of possession, carrying and the use of firearms. The issue of armed violence and militarization of societies, as well as crime, have been, with few exceptions, the main security threats directly linked to the illicit circulation of SALW. In general, it would nevertheless appear that vague distinctions between responsibilities and the overlapping of authority among various government services often complicate the legislative procedures and create blockages.

Furthermore, the issues relating to arms control are still regarded as the exclusive prerogative of the government, and relations between government and official spheres and the various constituents of civil society are poor or sporadic. Despite tangible progress achieved in this area, especially in Brazil, Guatemala and Uruguay, interaction and exchanges are conducted essentially on the basis of personal relations (and not systematically through a parliamentary institution) and are not lasting.

3. Inter-parliamentary work in the region takes place essentially through two distinct modalities: ad hoc encounters, and regular and recurrent meetings. The meetings fall within the scope of frequent parliamentary practices, but the topic of SALW, although broached from time to time, is not usually central to the exchanges that occur. The strengthening of these practices, particularly at the bilateral level, could however prove extremely useful, especially if

²⁵ See information on the Brussels Conference in the AWEPA bulletin at: http://www.awepa.org/downloads/AWEPA_BULL_NR42004-2.pdf (French only).

²⁶ The United States and Canada are also bound by the Inter-American Convention. The text of the Convention is available at: <http://www.oas.org/juridico/english/treaties/a-63.html>.

²⁷ This Decision was adopted by the five member countries of the Andean Community (Bolivia, Colombia, Ecuador, Peru and Venezuela). The text is available at: <http://www.comunidadandina.org/normativa/dec/D552.htm> (Spanish only).

they identify existing commonalities between control mechanisms in the countries involved and improvements to be made in strengthening the effectiveness and coherence of practices adopted at the regional level.

4. The Parliamentary Forum on Small Arms and Light Weapons represents the most important inter-parliamentary initiative in the region. This forum for exchange and dialogue has organized a series of meetings with the participation of parliamentarians from Central America, Spain and Sweden (Stockholm in 1999 and 2000, Guatemala City in 2000, Managua in 2001 and San José in 2002) with the objective of combining the efforts of parliamentarians in controlling SALW.

The official formalization of these meetings under the aegis of the Forum took place in Madrid in 2002 in the Spanish parliament, and the headquarters of the secretariat is based in Stockholm.

5. Currently, the Forum brings together around 40 parliamentarians from 15 Latin American and European countries²⁸ to encourage information exchange among parliamentarians, to define common approaches and to strengthen parliamentary activity in this area, mainly by supporting the work of national and regional parliaments and the competent legislative institutions.

In general terms, the Forum is a "global institution" since it is the only focal and coordination point that exists for parliamentarians interested in the various facets of the SALW issue.

6. The Parliamentary Forum on SALW is mainly active in the following areas:

- Activities aimed at informing the public and stimulating debate;
- Production, publication and dissemination of information of particular relevance to parliamentary work;
- Organization of seminars and other activities focused on coordinating and harmonizing the approach of actors and legislative initiatives;
- Encouraging the implementation of international agreements, especially the United Nations PoA, by national governments.

7. Since its establishment in 2002, the Forum has held two plenary meetings, in Panama (2003) and in Stockholm and Helsinki (2004). The final declarations of these two meetings call for legislative reforms, strengthening the participation of parliaments in the United Nations SALW process, recognizing the importance of promoting relations between parliaments and civil society and the establishment of an inter-parliamentary observatory for ensuring the compilation and dissemination of information on SALW for the use of parliamentarians.

8. Apart from the SALW Forum, other initiatives have been taken to support parliamentary activities relating to SALW in Latin America and the Caribbean. These include the Parliamentary Exchange Initiative, arranged in partnership with the United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC), the Swedish Fellowship of Reconciliation (SweFOR) and the Organization of American States Inter-American Drug Abuse Control Commission (OAS-CICAD).

²⁸ The countries represented within the Forum are: Brazil, Chile, Colombia, Costa Rica, El Salvador, Finland, Germany, Guatemala, Honduras, Mexico, Nicaragua, Panama, Spain, Sweden and Uruguay.

The main purpose of this project is to institutionalize knowledge and competences, particularly in the area of firearms legislation, ammunition and explosive materials. To that end, courses for parliamentary advisers and for members of national parliaments have been organized at the subregional level (such as for Central America, the Andean region and the Common Market of the Southern Cone (MERCOSUR) region) and seminars on legislation relating to the possession, carrying and use of firearms have been held in five countries (Argentina, Colombia, Nicaragua, Peru and Paraguay), with government representatives, members of parliaments and civil society in attendance.

C. North America

SALW control initiatives in North America address matters relating essentially to the control of production and exports on the one hand, and the possession of firearms by the civilian population on the other. Armed crime and the devastating impact of armed violence, particularly in urban areas, have received priority attention in the United States (where the number of firearms in civilian hands is estimated at between 238 million and 276 million, i.e. nearly one firearm per capita, the highest rate in the world) as well as in Canada.²⁹

In 2000, to mitigate the impact of the abusive use of SALW, Canada adopted several amendments to the Firearms Act, its national legislation regulating the possession, carrying, and use of firearms by individuals.³⁰ It provides in particular for the marking and centralized registration of all firearms as well as very strict provisions on their storage and use.

D. South-East Asia³¹

1. The countries in South-East Asia have only recently taken steps to combat the proliferation of SALW, and have viewed the problem exclusively in terms of illicit trafficking. This activity is indeed flourishing in the region, owing in particular to: the persistence of armed conflict in certain countries, where demand for firearms is naturally quite high; the widespread availability of firearms in countries where war has ended but where disarmament programmes have only been partially carried out (with the exception of Cambodia); the difficulty for numerous governments in the region of controlling national borders; and the lack of effective national legislation on SALW.

2. All the countries of the region, without exception, recognize the importance of giving concrete expression to the efforts made in the fight against illegal SALW and their uncontrolled proliferation. However, many steps, especially at national level, are still required, in particular with regard to regulating arms brokerage, the marking of arms and the preservation of transfer data.

Nevertheless, since 2001 legislation on SALW has enabled the adoption of new control measures which have been incorporated into those mechanisms already in place, notably in Cambodia, China and the Philippines.

²⁹ For more information on the situation in the United States, see the GRIP Report: *Marking and Tracing Small Arms and Light Weapons*, op. cit.

³⁰ The text of this law is available, in French and English, at: <http://disarmament.un.org:8080/cab/salw-legislation.htm>

³¹ The countries concerned are Brunei, Cambodia, China, the Democratic People's Republic of Korea, Indonesia, Japan, Lao People's Democratic Republic, Malaysia, Mongolia, Myanmar, the Philippines, the Republic of Korea, Thailand, and Viet Nam.

3. The Association of South-East Asian Nations (ASEAN) has framed its SALW policy within its Plan of Action to combat transnational crime, which covers terrorism, money-laundering, trafficking in humans and piracy. Within this framework, SALW issues are approached in terms of the fight against illicit firearms trafficking, with activities planned in the following areas:

- The exchange of information among member countries and strengthened cooperation among their respective police authorities;
- The harmonization of systems for marking firearms, their parts, components and ammunition in accordance with the United Nations Protocol;
- Greater cooperation between Aseanpol and Interpol, Europol and other international organizations;
- The establishment of a database on trafficking in the region.

However, given its particular nature as an organization based on the principles of "soft diplomacy" and non-interference and also in the light of the non-binding character of this Plan of Action, the measures adopted over the last few years have never had a truly regional impact. For these reasons, ASEAN has worked extensively to encourage cooperation and networking between bordering countries, favoring bilateral or multilateral initiatives in particular.

In that spirit, the Philippines and Indonesia have signed a memorandum of understanding on matters pertaining to SALW, ammunition, parts and accessories, explosives and their components, allowing most notably for the exchange of information and greater transparency in the production, storage, and transfer of SALW.

A transboundary cooperation programme has also been developed and approved by Cambodia, Lao People's Democratic Republic, Myanmar, Malaysia and Thailand.

4. The South-East Asian countries generally approach SALW from a single perspective: the fight against transnational crime. Parliaments have an important role to play, particularly in member States prepared to place full or partial application of the Plan of Action on their agenda, which could certainly promote greater regional integration in the fight against transnational crime and, indirectly, in matters pertaining to SALW.

In addition, in the absence of a dynamic regional agenda, parliaments can also support the development of bilateral agreements for customs cooperation.

Lastly, efforts should be made to improve the control of SALW possession among the populations of South-East Asia.

5. A number of extraregional initiatives have been promoted by ASEAN in the form of working groups and annual meetings pursuant to the Plan of Action for combating transnational crime. Noteworthy among these annual meetings are ASEAN + 3 SOMTC (ASEAN plus three Senior Officials Meeting on Transnational Crime), which brings together representatives of ASEAN, China, Japan, and the Republic of Korea, ASEAN-China SOMTC, ASEAN-EU SOMTC, and ASEAN-US SOMTC.

6. On a smaller scale, Japan plays an important role in promoting initiatives in South-East Asia. For example, the Japanese Assistance Team for Small Arms Management in Cambodia (JASC), in cooperation with the European Union Assistance Team for Small Arms Management in Cambodia (EUSAC), has helped the Cambodian Government, with civil society support, to establish its highly effective DDR programme and a National Commission for Weapons Management and Reform, responsible for coordinating policy in the area of SALW. These

efforts have led notably to the adoption of a new law in April 2005 on the management of weapons, explosives and ammunition.

The programme in Cambodia is valuable as an example for the region. In that respect, an ASEAN meeting was scheduled in November 2005 to try to export this model to other member States emerging from armed conflict and to increase cooperation in this area.

E. Central and South Asia³²

1. Supranational initiatives in this field in Central and South Asia are simply nonexistent. On the one hand, relations between countries in the region are often tense, and on the other, light weapons are proliferating to an exceptional degree among civilian and nongovernmental actors. This has resulted mainly from armed conflicts of all kinds (conflicts between States and between ethnic or religious groups, guerrilla warfare, and again, organized crime), which have progressively created arms-dependent societies in this region.

Rivalries between States in the region (e.g. India and Pakistan), internal tensions (Sri Lanka, Nepal), and the war recently waged by the United States in Afghanistan have contributed significantly to the supply of and demand for light weapons in the region.

The often tense relations between the South Asian countries and the partial implementation of progressive declarations of intent expressed during multilateral negotiations are among the main obstacles to a common policy with regard to SALW.

2. There are initiatives in India, Bangladesh, and Sri Lanka to encourage fulfilment of the commitments undertaken to control arms. For example, Sri Lanka, upon ratification of the light weapons protocol, established a national commission against the proliferation of illicit small arms (NCAPISA), which includes civil society in its membership, with the aim of identifying SALW problems in the country and possible solutions at the national, community, and other levels.

3. The challenges faced by Central and South Asia in dealing with SALW are numerous, and parliaments have a capital role to play in the process, particularly in addressing the widespread availability of SALW among civilian populations in a more timely and effective manner. Relevant initiatives should therefore be promoted, e.g. the establishment of regional discussion and information exchange networks concerned in particular with arms transfers between States and with illicit trafficking.

At the national level, each parliament can develop or finance public awareness campaigns on the issue and also DDR programmes. Such initiatives, however, would have little impact in the absence of more peaceful relations between certain regimes and a shift in budget allocations from defence to education and health.

F. Asia-Pacific

1. At its seventh annual meeting, in January 1999, the Asia Pacific Parliamentary Forum adopted a resolution on light weapons, submitted by the Canadian delegation.³³ It called on the Asian and Pacific countries to engage actively in the international effort against illicit

³² The countries concerned are Afghanistan, Bangladesh, Bhutan, India, Kazakhstan, Kyrgyzstan, Nepal, Uzbekistan, Pakistan, Sri Lanka, Tajikistan and Turkmenistan.

³³ Asia Pacific Parliamentary Forum, Resolution on small arms, APPF7/RES/13.

trafficking and trading in SALW, also encouraging them to take action at the national, regional and global levels, and lastly, to take all measures necessary to combat illicit trafficking.

G. Europe

1. Within the European Union several initiatives, in addition to the European Code of Conduct on arms transfers, have been taken to control light weapons, including the Joint Action of the European Council against SALW Proliferation³⁴ (July 2002) and the Council Common Position on the control of arms brokering³⁵ (June 2003).

2. There have been several national parliamentary initiatives in Europe addressing the SALW issue. In the absence of armed conflict within Europe, and given the region's predominant role in production and a trend toward the militarization of organized crime, priority in this area has been given to the control of production, practices with respect to international transfers, and legal provisions governing the possession, carrying and use of firearms.

3. The European Parliament is a good example of a regional parliamentary body that is active on the subject of SALW, even though its margin for political manoeuvre is relatively narrow. In terms of controlling SALW, the European Parliament does not make laws. This is a power left, under Article 296 of the Treaty establishing the European Community, to national authorities alone. The scope of action of this parliamentary assembly is thus confined to overseeing the application of common European measures and policies and formulating recommendations for the adoption of a more effective and coherent approach.

4. The main role of the European Parliament in controlling arms is to help define and shape the political agenda of the member States, notably with respect to implementation of the European Code of Conduct on arms exports of 1998.

Since 2000, the European Parliament has issued an annual report in response to the annual report of the European Council on implementation of the Code of Conduct. Among the recommendations issued in these reports and in resolutions adopted in this area, particularly noteworthy are those calling on governments to strengthen intergovernmental cooperation, to make export practices more transparent, to improve instruments for the control of arms brokering activities and end-user certificates, to make the Code legally binding, and to promote the Code's adoption by the Union's partner countries, following in the steps of Belgium and Hungary, which have already adopted it.

The attention that the European Parliament has paid to implementing the European Code has enabled it to assume the role of a reliable counterpart in the dialogue on conventional arms control policy, and gradually to introduce improvements in European practice. For example, the Council has frequently reiterated its intention to further strengthen cooperation with Members of the European Parliament in this particular area.³⁶

³⁴ Ammunition was not included in the first document of 1998. For the full text, see: <http://www.grip.org/bdq/pdf/q3053.pdf>.

³⁵ For the full text, see: <http://www.grip.org/bdq/pdf/q4013.pdf>.

³⁶ Sixth annual report according to operative provision 8 of the European Union Code of Conduct on arms exports, *Official Journal of the European Union*, 2004/C 316/01, 21 December 2004, section 1, paragraph 7 and section II, paragraph 7.

5. **Advocating global control of SALW:** On several occasions the European Parliament has also proposed the idea of establishing and developing a global SALW control mechanism. Three resolutions on the implementation of the United Nations Programme of Action were adopted on 15 March 2000, 15 November 2001, and 19 June 2003. These three texts called in particular on the European Council and the member States to develop common minimum standards on arms transfers and to support adoption of an international arms transfer treaty (also known as the draft Arms Trade Treaty, or ATT treaty), to promote the prompt opening of negotiations on an international instrument on arms brokering activities and to defend a draft international instrument on all aspects of the marking and identification of SALW.

In addition, the Joint EU-ACP Assembly has asked the EU and its member countries to include the non-proliferation of SALW in their political dialogue with the ACP (Africa, Caribbean and Pacific) countries.

6. A recent resolution of the European Parliament on small arms³⁷ requests the Council to "examine the Union's activities and policies in respect of SALW and to seek commitment from the Council and the Member States to deepen their regional and international policies in this area". The resolution also calls for close monitoring of efforts to develop the United Nations instrument for the tracing of SALW and the preparation of a 2006 United Nations Review Conference to pursue in particular negotiations on treaties with respect to arms brokering and transfers.

7. Beyond the institutions of the European Union, there are other regional documents. Particularly significant among these are a document on small arms issued by the Organization for Security and Co-operation in Europe (OSCE)³⁸ in November 2000, and a decision establishing OSCE principles with respect to Manned Portable Air Defence Systems (MANPADS)³⁹, issued in May 2004.

In addition, we should note that the most recent OSCE Parliamentary Assembly, held in Washington, D.C. from 1 to 5 July 2005, adopted a resolution on SALW.⁴⁰ The resolution calls upon the member States in particular to set up a follow-up mechanism to help implement the decisions of the 2004 Forum on security and to apply the OSCE Standard Elements on Brokering and End-User Certificates. It also requests participating States to play an active role in the 2006 United Nations Review Conference on the SALW Plan of Action.

H. Middle East

1. This region is characterized by a significant level of SALW proliferation, given its considerable demand for, and particularly active trafficking in, these weapons. SALW possession is widespread not only among police and military forces, but also within the general population, where there exists a veritable "weapons culture". A few initiatives have nonetheless been taken at the regional level. In December 2003, the Arab League held a meeting on the implementation of the United Nations Programme of Action against Illicit

³⁷ Resolution P6_TA-PROV(2005)0204 of 26 May 2005.

³⁸ The document is available electronically at: <http://www.grip.org/bdq/q1816.html>.

³⁹ Decision No. 3/04 of the Organization for Security and Co-operation in Europe, 26 May 2004, document FSC.DEC/3/04.

⁴⁰ Proposed by the Belgian representative, Minister of State François-Xavier de Donnea. See the Washington, D.C. Declaration of 5 July 2005, at: <http://www.oscepa.org/admin/getbinary.asp?fileid=1069>

Trade in SALW.⁴¹ The result was a number of very superficial promises to take action, without any specific commitment, in respect of the need to strengthen cooperation between civil society and governments and the importance of fighting small arms proliferation at the supranational level. On this occasion, civil society was for the first time invited to participate as a full-fledged stakeholder. The Arab League has also recently created a Department of Disarmament Affairs, but its activities are focused more on non-conventional weapons than on SALW.

The Arab Inter-Parliamentary Union has not undertaken any work on the issue.

2. In general, the issue of small arms is always approached in the Middle East from the angle of combating terrorism. In that context, governments focus mainly on the supply and transfer of SALW rather than SALW possession and demand among civilians. That being the case, the establishment of information exchange networks should in particular be encouraged to promote partnership among countries prepared to implement a voluntary policy and increase the transparency of national practices. Such work can commence now at the parliamentary level.

I. Oceania

1. This region is also confronting proliferation and trafficking of SALW. Possession is extremely widespread among the population and there have been numerous civilian conflicts in recent years on several islands, such as the Solomon Islands and Papua New Guinea.⁴²

Legislation on arms in the Pacific countries has generally been inherited from French and British colonial administrations. Given the size and limited financial resources of most Pacific countries, only Australia and New Zealand have had the capacity to undertake reforms in this area. They now seek to play a mobilizing role in the fight against SALW proliferation in the Pacific. They frequently hold regional meetings, establish working groups and furnish technical and financial assistance in respect of arms storage and in-transit security in most Pacific countries.

2. In 2000, the Forum of the Pacific Islands, through the Conference of South Pacific Chiefs of Police, launched an initiative referred to as the Nadi Framework, providing for the establishment of a regional customs cooperation network for SALW. Although the member countries have a tendency to implement this instrument selectively depending on their national priorities rather than adopting it in its entirety, some promising progress has been made in specific areas, notably with the information networks (greater transparency and stronger regional partnership) and the exchange of data on exports of firearms and explosives.

This work is coordinated by the Pacific Customs Organization, which has established an active regional cooperation network in respect of SALW trafficking.

3. While significant work on SALW has been started, most of the Pacific island States need to make a greater effort. Cooperation among these countries would be greatly facilitated for instance if each were to gradually adopt the following measures: standardized directives on

⁴¹ Conference on the implementation by the Arab countries of the United Nations Programme of Action on illicit trade in small arms and light weapons by the Arab countries, held from 16 to 18 December 2003 in Cairo.

⁴² See also the report by Philip Alpers and Conor Twyford, *Small Arms in the Pacific*, Small Arms Survey, April 2003.

arms registration, better definition and inspection of SALW storage, the establishment of common and uniform marking, the harmonization of laws on SALW imports and exports, and the adoption of sufficiently dissuasive sanctions to deter trafficking. This would bring these States into sync with the main SALW challenges in the Pacific.

IV. The role of parliaments in SALW control and final recommendations

1. Quite apart from national specificities that arise from the structural and economic differences of each country, it is possible to ascribe a role for parliamentarians in the control of SALW at several levels and in different spheres.

Obviously, the importance of each area of activity for parliamentarians in each country will depend on national circumstances - on the existence of monitoring infrastructure and effective and relevant management, or the lack thereof, on the level of involvement of parliamentarians in national politics, and on the specific threats that SALW pose to the country. Therefore, although in some countries parliamentarians are already given attention by the government on a regular basis, such as in discussions on monitoring the trafficking of SALW, in other countries priority should be placed on the establishment of such a forum for dialogue.

2. **The establishment of a national legislative framework.** The management and control of armaments in general and SALW in particular is still the exclusive prerogative of national governments and an area in which national sovereignty is exercised. The basic foundation for all effective action against the proliferation and illicit circulation of SALW is therefore the existing domestic legislative framework. The primary role of parliamentarians is therefore to promote and ensure the adoption of effective national laws and regulations that cover all aspects during the "life cycle" of a weapon. This therefore applies to the stages from production to shipment, and includes secure warehousing, stock management, trade, regulation of brokering and intermediation activities, and the possession, carrying and use of firearms. In order to reduce the risk of weapons being diverted for illegal purposes, it is necessary to create a legislative system of effective control, providing mechanisms for the identification of responsibilities in case of violations, and accompanied by a system of penal sanctions, where necessary.

3. In this area, it is in particular the responsibility of national parliaments to ensure that there are no major gaps in their national laws on arms and weapons and, where appropriate, to initiate legislative proceedings to fill any such gaps, in particular by adopting any legislative measure strengthening penalties under penal law to be imposed on those who engage in the illegal trade in SALW or who are accomplices to such activities.⁴³

4. Moreover, they have the duty to legislate to substantially strengthen penalties under penal law for those who arm, recruit or use children or minors in armed conflicts or operations and/or those who commit atrocities against children. This legislative exercise should also make it possible for parliamentarians to reinforce penal action against those who perpetrate violent crimes against vulnerable groups in society, such as elderly people, women and minors, as well as to work out a range of preventive measures in this regard.

⁴³ For example, some European parliamentarians have taken an initiative with UNLiREC to develop a comparative study of European legislation, with a view to improving Latin American legislation governing weapons, and also to establishing a data base linked with the United Nations Programme of Action on SALW and to holding training courses on weapons legislation for Latin American parliamentarians and their advisers.

5. In order to effectively guarantee the protection of the rights of children, it would also be useful for parliamentarians to study the possibility of including the use in conflicts or criminal actions of armed children in the list of crimes against humanity that falls within the jurisdiction of the International Criminal Court.

6. **Participation in national policy and transparency safeguards:** Although “national security” cases sometimes remain confined to the confidential sphere and the regulations governing arms control are not always subject to parliamentary approval, members of parliament are obliged to ensure that the legal framework at the national level is comprehensive and clearly draws a distinction between practices that are legal and those that are not.

Some examples from European countries have clearly shown that the involvement of parliamentarians in the definition and elaboration of political directives and systems of domestic control leads indirectly to more transparency of government practices and can even help to gradually improve them.

7. In order to achieve this objective, national parliaments should play an active part in verifying transfers made or received by their government, setting up, where this does not already exist, a parliamentary committee with which the government systematically communicates in this domain, thereby facilitating the creation of a scope for debate and exchange of views at the national level.

8. In general, parliamentarians should support any initiative intended to enhance transparency in national and international practices.

9. Given their prerogatives, parliaments also have a fundamental role to play in the dissemination of information among civilians, in particular by lending their support - including financial support - to campaigns to spread information and raise awareness among the population.

10. Lastly, in order to facilitate the creation of a space for dialogue with their governments and ensure a systematic follow-up of international debates on proliferation and illegal trade in SALW, national members of parliament should ask their governments to include parliamentarians in their delegations taking part in regional and international conferences dealing with these matters.

11. **Respect for international obligations:** Parliaments are also able to verify whether the obligations undertaken by governments at the regional and international levels are respected and whether the measures necessary for their implementation have been adopted.

Most often, the role of parliaments is simply crucial to the completion of the ratification of agreements and to the incorporation of provisions contained in treaties or other international instruments into the domestic regulatory and legal frameworks.

12. In other words, parliamentarians are called upon to see that their governments comply with international arms control agreements and commitments made by their governments, and also with decisions taken by the United Nations Security Council imposing embargoes on the provision of military supplies.

13. In particular, parliaments of countries engaged in DDR operations should call upon their governments to favour structured programmes in accordance with the "arms for development" principle⁴⁴ over those intended simply to purchase arms as a means of collecting them.

Moreover, they should also urge governments to destroy arms recovered in DDR operations and the fight against armed criminals.

14. Finally, they should ensure that their governments pay particular attention to reintegrating child soldiers in civilian life in order to ensure that they do not return to armed groups or become involved in armed crime.

15. **Ensure coherence and harmonization of national responses:** Trafficking and illicit trade in weapons do not necessarily respect the geographical borders of States, and the proliferation and the illicit circulation of SALW can only be controlled if this is done within a broader context that extends beyond national boundaries. In order to ensure its effectiveness, this multilateral framework, consisting of the interrelated and intersecting practices adopted and implemented at the national level, must provide a minimal level of homogeneity and coherence.

Naturally, parliamentarians have a vital role to play in this regard. Indeed, it is for them to establish forums for the exchange of information and cooperation with parliamentary representatives in other countries, so as to foster a common understanding of the issues relating to the illicit proliferation of SALW on the basis of national experiences and to prepare responses that are coherent with the weapons control instruments that are already in force.

16. Parliamentarians are therefore called upon to become involved in regional and international forums with a view to facilitating the exchange of information and cooperation between the different parliamentary assemblies, in particular to work towards a common consensual approach and harmonize national practices on the basis of a single regional model.

17. In this context, parliamentarians must transpose the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons adopted by the United Nations General Assembly in December 2005 into their respective national laws, ensuring in particular that munitions are also included in the scope of the provisions adopted.

⁴⁴ Under disarmament programmes based on the "arms for development" principle, former combatants who take part in the disarmament and demobilization process receive support in exchange for their weapons. This support is not only financial, and it allows them to be reintegrated into society through the implementation of sustainable development projects. These programmes often call for the former combatant to receive vocational training, financial assistance and individual follow-up. "Arms for money" disarmament programmes provide only for the purchase of weapons from combatants.

Recent experience has shown that the latter is generally less effective, and may bring about such undesirable results as a surge in the illicit trade in weapons.

18. In addition, they must exert pressure on their governments to ensure that they cooperate in concluding a global and binding treaty on the trade in arms (commonly referred to as TTA).

19. **Preventive measures:** It is also incumbent on parliamentarians to provide guidance to governments in adopting preventive measures that are often lacking in international instruments. This is the case because such instruments are most often adopted on the basis of consensus, and some States are reluctant to accept the supranational imposition of legal control measures. In the case of SALW, it is of prime importance to ensure the effective control of the legal traffic of weapons in order to prevent diversion to the illicit trade. Physical inspections carried out during transfers to points of export, transit and import, to verify conformity between what is actually sent and received with the related documentation, is of capital importance. Similarly, periodic verification of stocks and use is necessary to avoid later diversion to an undesirable final user.

20. For prevention purposes in the broadest sense of the term, parliamentarians must draw up a national action plan to prevent armed violence, reduce the demand for arms by the civilian population and control the circulation of arms in close cooperation with their respective governments.

21. **The creation of an international forum for dialogue:** Since the international approach in controlling the illicit circulation of SALW should be global and coherent, it is incumbent upon parliamentarians, as it is for other government actors and civil society involved in this task, to foster dialogue based on an exchange of national and local experiences.

22. The facilitation of discussion and dialogue is an area in which parliamentarians can play an active and constructive role, taking advantage of their participation in regional or international initiatives on the international agenda (transformation of the West African moratorium into a binding instrument in December 2005; draft international treaty on the transfer of arms; negotiations for the adoption of an international instrument on arms brokerage; enlarging the scope of the instrument on the marking and identification of illegal SALW munitions; etc.).

23. **Solve those social problems which are the cause of conflicts:** Conflicts that are fed and aggravated by the proliferation of SALW often have their roots in the underdevelopment of the regions concerned, poor governance, the malfunctioning of the judicial and security apparatus, corruption, and inter-ethnic and inter-religious conflicts. By adopting the measures required to resolve these social problems and by encouraging their governments to work similarly on such issues, parliamentarians can play a direct role in reducing demand for SALW.

24. As the fight against the proliferation of SALW goes beyond arms control in the strictest sense, parliamentarians must also be prepared to take legislative measures to promote government action to help realize the United Nations Millennium Development Goals, to reduce poverty, social exclusion and racism, and to help with the training and education of children and teenagers and assist in the fight against terrorism, organized crime and trafficking in human beings, drugs and raw materials.