

Annex 1

Guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991

I. Introduction

1. Arms transfers are a deeply entrenched phenomenon of contemporary international relations. All States have the inherent right to self-defence, as enshrined in the Charter of the United Nations, and consequently the right to acquire arms for their security, including arms from outside sources. However, international transfers of conventional arms have, in recent decades, acquired a dimension and qualitative characteristics which, together with the increase in illicit arms trafficking, give rise to serious and urgent concerns.
2. Arms transfers should be addressed in conjunction with the question of maintaining international peace and security, reducing regional and international tensions, preventing and resolving conflicts and disputes, building and enhancing confidence, and promoting disarmament as well as social and economic development. Restraint and greater openness, including various transparency measures, can help in this respect and contribute to the promotion of international peace and security.
3. The problem of the illicit traffic in arms has a social and humanitarian component in addition to its technical, economic and political dimensions. The human suffering that is caused, inter alia, by the devastating consequences of war, destabilizing violence and conflicts, terrorism, mercenary activities, subversion, drug trafficking, common and organized crime and other criminal actions cannot be ignored. The negative effects of illicit arms trafficking can often be disproportionately large, particularly for the internal security and socio-economic development of affected States. Illicit arms trafficking, which affects many countries and several regions of the world, puts to the test the capacity of States to find a solution to it.

4. Legal, political and technical differences in internal control of armaments and their transfer and, in some cases, inadequacy or absence of such controls can contribute to the growing illicit traffic in arms.
5. International cooperation in curbing illicit arms trafficking and in condemning it will assist in focusing the attention of the international community on this phenomenon and will be an important factor in combating it.
6. The United Nations, in keeping with its overall purposes and principles, has a legitimate interest in the field of arms transfers, recognized by the Charter, which refers specifically to the importance of the regulation of armaments for the maintenance of international peace and security.
7. Illicit arms trafficking is understood to cover that international trade in conventional arms, which is contrary to the laws of States and/or international law.
8. Limitations on arms transfers can be found in international treaties, binding decisions adopted by the Security Council under Chapter VII of the Charter of the United Nations and the principles and purposes of the Charter.

II. Scope

9. According to paragraph 1 of General Assembly resolution 43/75 I of 7 December 1988, entitled “International arms transfers”, arms transfers in all their aspects deserve serious consideration by the international community. The General Assembly, in paragraph 4 of its resolution 48/75 F of 16 December 1993, of the same title, noted that the Disarmament Commission had included the question of international arms transfers, with particular reference to resolution 46/36 H of 6 December 1991, also of the same title, in the agenda of its substantive session in 1994.
10. In its resolution 46/36 H, the General Assembly called upon all States to give high priority to eradicating illicit arms trafficking in all kinds of

weapons and military equipment; urged Member States to exercise effective control over their weapons and military equipment and their arms imports and exports to prevent them from getting into the hands of parties engaged in illicit arms trafficking; and also urged Member States to ensure that they had in place an adequate body of laws and administrative machinery for regulating and monitoring effectively their transfer of arms, to strengthen or adopt strict measures for their enforcement, and to cooperate at the international, regional and subregional levels to harmonize, where appropriate, relevant laws, regulations and administrative procedures as well as their enforcement measures, with the goal of eradicating illicit arms trafficking.

11. Licit transfers of conventional arms can be addressed, inter alia, through national legislative and administrative actions and increased transparency. The objective in the case of illicit arms trafficking must be the eradication of this phenomenon.
12. All stages of illicit arms trafficking should be the focus of scrutiny. An essential factor in eradicating illicit arms trafficking is the effective control of arms to prevent them from being acquired by unauthorized persons.

III. Principles

13. In their efforts to control their international arms transfers and to prevent, combat and eradicate illicit arms trafficking, States should bear in mind the principles listed below.
14. States should respect the principles and purposes of the Charter of the United Nations, including the right to self-defence; the sovereign equality of all its Members; non-interference in the internal affairs of States; the obligation of Members to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State; the settlement of disputes by peaceful means; and respect for human rights; and continue to reaffirm the right of self-determination of all peoples, taking into account the particular situation of peoples under colonial or other forms of alien

domination or foreign occupation, and recognize the right of peoples to take legitimate action in accordance with the Charter of the United Nations to realize their inalienable right of self-determination. This shall not be construed as authorizing or encouraging any action that would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind.

15. States should recognize the need for transparency in arms transfers.
16. States should recognize the responsibility to prohibit and eradicate illicit arms trafficking and the need for measures to achieve this end, taking into account the inherently clandestine nature of this traffic.
17. States, whether producers or importers, have the responsibility to seek to ensure that their level of armaments is commensurate with their legitimate self-defence and security requirements, including their ability to participate in United Nations peace-keeping operations.
18. States have responsibilities in exercising restraint over the production and procurement of arms as well as transfers.
19. Economic or commercial considerations should not be the only factors in international arms transfers. Other factors include, inter alia, the maintenance of international peace and security and efforts aimed at easing international tensions, promoting social and economic development, peacefully resolving regional conflicts, preventing arms races and achieving disarmament under effective international control.
20. Arms-producing or supplier States have a responsibility to seek to ensure that the quantity and level of sophistication of their arms exports do not contribute to instability and conflict in their regions or in other countries and regions or to illicit trafficking in arms.
21. States receiving arms have an equivalent responsibility to seek to ensure that the quantity and the level of sophistication of their arms imports are

commensurate with their legitimate self-defence and security requirements and that they do not contribute to instability and conflict in their regions or in other countries and regions or to illicit trafficking in arms.

22. International arms transfers should not be used as a means to interfere in the internal affairs of other States.

IV. Ways and Means

A. National

23. States should ensure that they have an adequate system of national laws and/or regulations and administrative procedures to exercise effective control over armaments and the export and import of arms in order, among other goals, to prevent illicit arms trafficking.
24. States should scrutinize their national arms-control legislation and procedures and, where necessary, strengthen them in order to increase their effectiveness in preventing the illegal production, trade in and possession of arms in their territory that can lead to illicit arms trafficking.
25. States should intensify their efforts to prevent corruption and bribery in connection with the transfer of arms. States should make all efforts to identify, apprehend and bring to justice all those involved in illicit arms trafficking.
26. States should establish and maintain an effective system of export and import licences for international arms transfers with requirements for full supporting documentation.
27. The exporting State should seek to obtain an import certificate from the receiving State covering the exported arms. The receiving State should seek to ensure that imported arms are covered by a certified licence of the authorities in the supplying State.

28. The use of small arms and light weapons in conflicts and war has a major bearing on regional and international peace and security and national stability. The alarming dissemination and illicit transfer of such weapons and the serious threat they pose require States to ensure strong and effective supervision of all aspects of trade in such weapons.
29. States should provide for adequate numbers of customs officials adequately trained to enforce the necessary regulations over the export and import of arms.
30. States should define, in accordance with their national laws and regulations, which arms are permitted for civilian use and which may be used or possessed by the military and police forces.
31. In developing practical measures at the national level, States should take into account and apply, as appropriate, the relevant recommendations of Interpol.
32. States should recognize that combating illicit arms trafficking and reducing those potentially negative aspects of the arms trade require reciprocal commitments by producer and recipient countries, including through defence-conversion programmes and by way of refraining from destabilizing accumulations of armaments.

B. International

33. All arms-transfer agreements and arrangements, in particular between Governments, should be designed so as to reduce the possibility of diversion of arms to unauthorized destinations and persons. In this context, a requirement by the exporter for import licences or verifiable end-use/end-user certificates for international arms transfers is an important measure to prevent unauthorized diversion.
34. States should cooperate at the bilateral and multilateral levels as appropriate to share relevant customs information on trafficking in and detection of illicit arms and coordinate intelligence efforts. In this

context, States should endeavour to ensure effective control of borders with a view to preventing illicit arms trafficking.

35. States should intensify international cooperation in the relevant field of criminal law. They should assist each other in the development and enforcement of effective national controls, with a view to curbing the evasion of justice by illicit arms traffickers.
36. In order to help combat illicit arms trafficking, States should make efforts to develop and enhance the application of compatible standards in their legislative and administrative procedures for regulating the export and import of arms.
37. States have a legal obligation to comply strictly with sanctions and arms embargoes imposed by the Security Council under the authority of Chapter VII of the Charter of the United Nations.
38. States should report all relevant transactions in their annual reports to the Register of Conventional Arms as an important confidence-building measure. Those States which do not yet provide annual reports to the Register are strongly encouraged to do so. States should also consider developing additional transparency measures at the regional, subregional and national levels as well as unilateral transparency measures.
39. States should maintain strict regulations on the activities of private international arms dealers and cooperate to prevent such dealers from engaging in illicit arms trafficking.

V. Institutional Arrangements

A. Role of the United Nations

40. The United Nations has an important role to play in the field of international arms transfers and the eradication of illicit arms trafficking in accordance with its overall purposes and principles. The cooperation of the international community is essential for the United Nations to be successful in these endeavours.

41. By its resolution 43/75 I of 7 December 1988, the General Assembly expressed its conviction that arms transfers in all their aspects deserve serious consideration by the international community, inter alia, because of: (a) their potential effects in areas where tension and regional conflict threaten international peace and security and national security; (b) their known and potential negative effects on the process of the peaceful social and economic development of all peoples; and (c) increasing illicit and covert arms trafficking.
42. Subsequently, pursuant to that resolution, the Secretary-General submitted a study (A/46/301, annex), prepared with the assistance of governmental experts, on ways and means of promoting transparency in international transfers of conventional arms on a universal and non-discriminatory basis, taking into consideration the views of Member States and other relevant information, including information on the problem of illicit arms trafficking. A number of the recommendations made in the study were taken up subsequently in General Assembly resolutions 46/36 H and 46/36 L, of 6 and 9 December 1991, respectively.
43. By its resolution 46/36 L, entitled “Transparency in armaments”, the General Assembly requested the Secretary-General to establish and maintain a universal and non-discriminatory Register of Conventional Arms. It, inter alia, called upon all Member States to provide data on imports and exports of arms and invited them, pending the expansion of the Register, also to provide available background information on military holdings, procurement through national production and relevant policies.
44. Transparency measures concerning arms transfers are not in themselves measures of limitation or restriction, but they can in several ways promote and facilitate the introduction of unilateral or multilateral measures of restraint as well as help in the detection of arms transferred illegally. The United Nations, the Conference on Disarmament and other appropriate international forums should continue to play an important part in the elaboration and adoption of transparency measures in the field of arms transfers, including the possible improvement of the Register.
45. The adoption by consensus of resolution 46/36 H reflects the concern of the international community over the increasing illicit arms trafficking, which, by its clandestine nature, defies transparency. This kind of trafficking represents one of the major problems for the authorities of many countries which attempt to free their territories from the criminal use of arms and the consequences it has for peace and stability. Under that resolution, the Secretary-General was given the mandate for the promotion of efforts to eradicate illicit trafficking in arms.
46. By its resolution 46/36 H, the General Assembly, inter alia, called upon all States to give high priority to eradicating illicit arms trafficking in all kinds of weapons and military equipment, a most disturbing and dangerous phenomenon often associated with terrorism, drug trafficking, organized crime and mercenary and other destabilizing activities, and to take urgent action towards that end, as recommended in the study submitted by the Secretary-General.
47. By its resolution 48/75 F of 16 December 1993, the General Assembly recognized that illicit arms trafficking is a disturbing, dangerous and increasingly common phenomenon and that, with the technical sophistication and destructive capability of conventional weapons, the destabilizing effects of illicit arms trafficking increase. The Assembly also called upon all Member States to give priority to eradicating the illicit arms trafficking associated with destabilizing activities, such as terrorism, drug trafficking and common criminal acts, and to take immediate action towards that end.
48. By its resolution 50/70 B of 12 December 1995, entitled “Small arms”, the General Assembly requested the Secretary-General to prepare, within the existing resources, a report, with the assistance of a panel of qualified governmental experts, on the question of small arms and light weapons in all its aspects.
49. And by its resolution 50/70 H, entitled “Assistance to States for curbing the illicit traffic in small arms and collecting them”, the General Assembly invited the international community to give appropriate support to the efforts made by the affected countries to suppress the illicit circulation of small arms, which is likely to hamper their development.

B. Other institutional arrangements

50. States should continue to use and further develop mechanisms for the exchange of information at the global, regional and subregional levels in order to assist institutions engaged in the control, tracking and seizure of arms in making full-scale efforts to eradicate illicit arms trafficking.