

## OSCE COMMITMENTS ON CONVENTIONAL ARMS TRANSFERS

Mr./Mrs. Chairperson,  
Dear Colleagues,

I would like to begin by thanking the United Nations Institute for Disarmament Research for having given me the opportunity to address you here today on behalf of the OSCE Conflict Prevention Centre (CPC). I am glad to be here to exchange experience to foster our co-operation in the area of arms control.

The OSCE, as a regional arrangement under Chapter VIII of the UN Charter, continues to play an important facilitating role for early warning, conflict prevention, crisis management and post-conflict rehabilitation in the region. Increasing confidence and security throughout the OSCE region remains a continuous goal of the Organisation in the view of preventing military conflicts. Significant achievements in this area have resulted from a broad application of politico-military instruments dealing with arms control and disarmament.

I will not explain all OSCE politico-military instruments in detail, but will concentrate on the main ones, and especially how they relate to the recent discussions about the norms of a proposed Arms Trade Treaty. In this regard, I will briefly describe the purpose and content of the key tools the OSCE has created.

All efforts to conclude arms control and disarmament agreements within the CSCE/OSCE process, and to agree on politico-military instruments within that context, have been based on the obligation of States to refrain from the threat or use of force in their relations. This principle was already declared among ten basic principles guiding international relations between CSCE participating States and incorporated into the Helsinki Final Act in 1975.

### **Principles Governing Conventional Arms Transfers**

One of the key OSCE documents addressing the issue of responsible arms transfers is the Principles Governing Conventional Arms Transfers, adopted on 25 November 1993. Like the proposed ATT, it reaffirms the commitment of participating States to the UN Charter, but in addition refers also to a series of relevant CSCE documents.<sup>1</sup>

In the Principles Governing Conventional Arms Transfers, OSCE participating States reaffirm their undertaking, and I quote: “to promote the establishment of international peace and security with the least diversion for armaments of human and economic resources and their view that the reduction of world military expenditures could have a significant positive impact for the social and economic development of all peoples”.

In this regard, OSCE States committed themselves already over a decade ago to ensure that arms transferred are not used in violation of the purposes and principles of the Charter of the United Nations, and noted the need for effective national mechanisms for controlling the transfer of conventional arms and related technology. By adopting the document the participating States agreed to exercise restraint in the transfers of conventional arms and related technology. The following factors are taken into account by OSCE States while considering proposed transfers:

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<sup>1</sup> In 1997, an annual information exchange on transfers of weapons equipment systems was added.

- a) Respect for human rights and fundamental freedoms;
- b) Internal and regional situation in light of existing tensions or arms conflict as well as record of compliance of the recipient country with international commitments, in particular on the non-use of force, and in the field of non-proliferation;
- c) Requirements of the recipient country to enable it to exercise its right to individual or collective self-defence and legitimate domestic security needs of the recipient country; and finally;
- d) Whether transfers contribute to appropriate and proportionate response by the recipient country to the military and security threats as well as requirements to participate in the peacekeeping operations.

At the same time, the OSCE States agreed on specific situations when transfers should be avoided.

## **WHAT HAS BEEN DONE TO FOLLOW UP THIS DOCUMENT?**

### **From inter-state conflicts to intra-state concerns**

The considerable improvement of the security situation in Europe after the end of the Cold War has had certain consequences for the arms control process in the OSCE region. The focus shifted from state level armed conflict to resolving other security related issues. The possibility of a bloc to bloc armed conflict became increasingly less likely. At the same time the availability of Small Arms and Light Weapons (SALW) contributed to heightened tensions and deteriorating the security situation in some OSCE participating States.

### **OSCE SALW Document**

As you are well aware, the OSCE Forum for Security Co-operation adopted in November 2000 the Document on SALW to respond to these threats. The OSCE Document on Small Arms and Light Weapons is a politically binding agreement in which OSCE States agreed to norms, principles and measures to control each stage in the life of a weapon: production, transfer, storage, collection or seizure and destruction. Transparency measures established by the Document committed States to a comprehensive regime of information exchanges on legislation and national practices on all aspects of SALW control identified above. In addition, participating States committed themselves to exchange annually data on exports to and imports from other OSCE participating States, as well as on small arms deemed as surplus and/or seized and destroyed on their territory in the previous calendar year.

As outlined above, the OSCE SALW Document contains a menu of measures for SALW control as part of the OSCE's activities on early warning, conflict prevention, crisis management and post-conflict rehabilitation. In order to make these measures operational, in 2002 the FSC approved a decision outlining a five-stage mechanism to facilitate requests for assistance from participating States.<sup>2</sup>

Following the submission of respective requests from a number of OSCE States, the organization embarked on a new activity aimed at improving SALW stockpiles security and surplus destruction. In the past four years, almost EUR 3,5 million have been granted by OSCE donors to support such assistance projects in the OSCE area.

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<sup>2</sup> The assistance mechanism was updated in 2009 (FSC Decision 11/09) by introducing questionnaires for requesting and providing assistance as well as made the mechanism was coherent with the assistance mechanism on stockpiles of conventional ammunition.

The implementation of the OSCE SALW Document placed a heavy burden on some participating States. Therefore, in order to assist national policy-makers, participating States developed "best practice" guides with regard to different aspects of the SALW issue compiled in the **Handbook of Best Practices on SALW** in 2003. The Handbook serves as a model to encourage higher standards in OSCE States.

### **Principles of export controls**

In the context of the SALW document, the FSC has also paid a serious attention to preventing and combating terrorism. Taking into account a serious threat posed by a potential diversion of SALW into illegal trafficking, OSCE participating States decided to continue their efforts to ensure effective and comprehensive export controls on SALW.

In the OSCE Document on Small Arms and Light Weapons, the participating States have committed themselves to the establishment and implementation of effective criteria governing the export of small arms and light weapons. (The Document sets out a number of norms and principles concerning common export criteria; import, export and transit procedures, as well as import, export and transit documentation. OSCE participating States have agreed to follow the common export criteria in their national systems governing the export of small arms and light weapons.)

During 2004, the FSC worked out an export control package of three decisions covering different areas of the SALW export, namely:

- The Standard Elements for End-User Certificates and Verification Procedures for SALW Exports,
- The Export Controls of Man-Portable Air Defence Systems (MANPADS), and finally
- OSCE Principles on the Control of Brokering in SALW.

### **End-User Certificates as an essential part of the export control**

In 2004, the FSC/OSCE made decision outlining "Standard elements of end-user certificates and verification procedures for SALW exports". This decision poses importance for verification of the recipient of goods and orders to include certain standard elements in an end-user certificate provided prior to approval of an export licence for SALW. The participating states were also tasked to verify the information provided by the authorizing officials through different channels.

According to the OSCE Best Practice Guide on Brokering, it is recommended that licences for brokering activities be refused without an authentic document indicating the end-use of the goods. These end-use documents should in any case provide a high guarantee of authenticity.

- *They should be written on the original stationery of the authority or, in exceptional cases, of the company.*
- *They should be certified with original signatures and authentic stamps.*
- *They should be submitted in the original; in cases where a broker has indicated that an opportunity for a transaction exists, a copy can be sufficient.*
- *They should conform to the specimen requirements of the licensing State.*

End-use documents vary in content depending on whether they are import certificates or end-use assurances. *Reference is made in the following to the content of end-use assurances. They should at least contain:*

- *Information concerning the identity of the supplier;*

- *Information concerning the identity of the broker;*
- *Information concerning other persons involved;*
- *A precise description of the goods;*
- *Quantity of goods;*
- *Value of goods;*
- *Information concerning end use;*
- *Information concerning place of end use;*
- *An assurance affirming the veracity of this information*

End-use assurances could also contain re-export restrictions. Finally, private end-use statements would have to be officially authenticated.

In 2009, OSCE States exchanged sample end user certificates in order to assist in the national processes of authenticating them before approving an export license.

### **Export Control on MANPADS**

The FSC also recognized the threats posed by unauthorized proliferation and use of man-portable air defence systems (MANPADS), especially to civil aviation. Therefore, the FSC agreed on principles, which were drawn from the Wassenaar Arrangement's "Elements for Export Controls of Man-Portable Air Defence Systems" and approved a decision "OSCE Principles for Export Controls of Man-Portable Air Defence Systems" in 2004. It was also agreed to incorporate these principles into their national practices, policies and/or regulations, and to promote the application of the principles to non-OSCE countries.

This decision imposed conditions to control MANPADS export to evaluate it. The decision was based on the international obligations on export control and transit of SALW. The provisions specify the conditions where MANPADS export can take place and indicates the steps needed to carry out the export action. The provisions stated in this decision are very similar to those defined in the EUC-decision or indicated in the international agreements related to the export control. The detailed information of the items in question, the exporter, and the transport actions and of the recipient is required. Furthermore, the assurances of not to re-export MANPADS, the secure storage, handling, transport and the proper use of the MANPADS material were required from the recipient. In addition, disposal or destruction of excess stocks of MANPADS was required.

Finally, participating States agreed to introduce adequate criminal sanctions in order to strengthen the enforcement of the provisions. Transfers of MANPADS were agreed to report by using the OSCE SALW document's information exchange requirements.

In 2008, the FSC decision on MANPADS control was updated following the revisions made in the context of Wassenaar Arrangement. The purpose of these amendments was to ensure their more effective implementation by making them more easily understandable for commercial exporters and licensing authorities. In addition, the updated principles also cover issues related to the transfer of production technologies and stricter end-use assurances than the original principles of 2004.

### **Brokering as an element of export control**

Bearing in mind the importance of the need to better control brokering activities in order to prevent illicit trade in small arms and light weapons and the fact that just a limited number of states have national brokering legislation in place, the OSCE participating states understood

that it would be useful to have an instrument in the framework of the OSCE to combat illegal brokering activities within the OSCE region. The FSC approved a decision in November 2004 called “OSCE principles on the control of brokering in small arms and light weapons”. In addition, the OSCE Best Practice Guide provides a model for pS on vital elements of brokering controls.

This decision, which is politically binding for all 56 participating States, introduced a set of principles to be implemented by the participating States. First of all, it recognized the need to strengthen the regulation of the activities of international brokers in small arms in order to maintain the comprehensive approach to combating illicit trafficking of small arms in all its aspects. The main objective of the decision was to control arms brokering in order to avoid circumvention of sanctions adopted by the Security Council of the UN and the decisions taken by the OSCE, and to minimize the risk of diversion of SALW into illegal markets and to reinforce the export control of SALW. For this purpose, the decision posed several provisions to participating States, which should ensure that their existing or future legislation on arms brokering is in conformity with the provisions set out in the decision.

### **Transfer of Illicit SALW by Air**

The latest decision of the OSCE aimed to control SALW is related to transfer of SALW by air. It is known that air transport is one of the most common channels for illicit trafficking of SALW in the circumvention of UN and OSCE embargoes. Dubious transport companies employ a wide range of techniques, such as concealing information on the origin of weapons, not releasing flight plans, routes and destinations as well as falsification of aircraft registration. Very little has been done at the international level to curb the transfer of illicit SALW by air.

To address the problem, the OSCE, following the agreement in the framework of the Wassenaar Arrangement, adopted for implementation Best Practices to Prevent Destabilizing Transfers of SALW Through Air Transport. It obliges OSCE States to introduce additional scrutiny before approval SALW export involving non-governmental air transport of SALW. In addition, according to the Guide, participating States should keep air-carriers informed about the implementation of the measures of the Guide.

### **Conclusion**

The OSCE has elaborated an impressive set of norms, standards and measures aimed at ensuring responsible transfers of conventional arms and curbing the proliferation of illicit SALW contributing to the efforts at the global level. Coupled with the transparency measures, these commitments help in reducing the transfers of arms in circumvention of embargoes and other arrangements and preventing that such arms end up in the hands of terrorists and organized crime.

Serious work has been done by OSCE States in establishing one of the most advanced set of measures for controlling arms transfers. However, their effectiveness depends on the willingness of States to implement such measures. Moreover, harmonizing controls of conventional arms across regions will determine their success world-wide. Therefore, we hope that OSCE work in this area will be a brick in taking stock of the work done and using it as inspiration in the debates on the proposed Arms Trade Treaty.

Thank you for your attention.