

**Preparatory Committee for the 2006 Conference to Review Progress Made in the
Implementation of the Programme of Action to Prevent, Combat and Eradicate the
Illicit Trade in Small Arms and Light Weapons in All Its Aspects**

International Committee of the Red Cross (ICRC)

Statement during thematic debate, 16 January 2006

Cluster II

Mr. Chairman,

The ICRC would like to first thank you for the opportunity to present our views in this thematic debate. As emphasized in our general statement earlier this week, the ICRC believes that the Review Conference should develop a framework for enhanced implementation of the Programme of Action through further elaboration of some of its existing commitments.

This second thematic debate focuses on some of the core control measures outlined in the Programme of Action, including controls on arms exports and imports, arms brokering, marking and tracing and compliance with UN arms embargoes. Prevention and eradication of the illicit small arms trade can only be achieved through full implementation of these key commitments. Yet, many of the provisions concerning these measures are of a general nature, providing few benchmarks to guide implementation.

For example, in Section II, paragraph 11, the Programme of Action calls on States to "assess applications for export authorizations according to strict national regulations and procedures (...) consistent with the existing responsibilities of States under international law (...)" and to "establish and maintain an effective national system of export and import licensing or authorization" In Section II, paragraph 14, it further calls for the development of "adequate national legislation or administrative procedures regulating the activities of those who engage in small arms and light weapons brokering. This legislation or procedures should include measures such as registration of brokers, licensing or authorization of brokering transactions as well as the appropriate penalties for all illicit brokering activities performed within the State's jurisdiction and control."

The Review Conference could significantly advance implementation of the Programme of Action by elaborating further on the key elements to be included in national laws and procedures on small arms, including with regard to arms transfers and arms brokering. This could for example take the form of guidelines, model regulations or best practices.

It would be useful if these include references to the various international agreements and norms relevant to the transfer of small arms and light weapons that States are already bound by. National criteria for arms transfer decisions vary among States, and only rarely do they fully reflect all of States' obligations under international law. For example, while most regional arms transfer documents include criteria based on States' obligations under international humanitarian law, only a handful of countries have included such criteria in their national arms transfer laws. This divergence in arms transfer criteria among States can increase the risk of weapons ending up where they are likely to be used to violate humanitarian law. **A reiteration by the Review Conference of the relevant international legal responsibilities that pertain to arms transfers would facilitate the harmonization of national regulations and contribute to more consistent arms transfer decision-making among States.**

In recent years, significant progress has been made at the regional level with regard to the regulation of arms transfers and arms brokering, including through the adoption of several regional instruments. These activities are an important contribution to the implementation of the Programme of Action. **The ICRC believes the Review Conference should welcome the agreements adopted at regional level, encourage States to ratify and fully implement these agreements and encourage those regions that have not yet developed such agreements to consider doing so.**

While regulations on the national and regional levels are essential, due to the transnational character of the global arms trade, they need to be complemented by global control mechanisms. A key example of this is the manner in which illicit arms brokers operate, exploiting loopholes and inconsistencies in national and regional mechanisms and avoiding prosecution by operating outside the jurisdiction of any State. These activities can only be countered through the establishment of an effective global control regime. The Group of Governmental Experts that will be established after the Review Conference will have the challenging task of identifying further international measures required to combat illicit arms brokering. **In the view of the ICRC, the Review Conference should support the important work of the future Group of Governmental Experts on arms brokering by welcoming enhanced international cooperation to prevent, combat and eradicate illicit arms brokering, including the development of a global regulatory framework.**

Mr. Chair,

Increased efforts are needed to prevent weapons from falling into the hands of those likely to use them to violate humanitarian law. The Review Conference can contribute to this goal by establishing a more detailed framework to guide implementation of the core commitments in the Programme of Action. If it succeeds in doing so, it may have a real impact on improving the protection of civilians during and after armed conflicts, facilitating post-conflict reconciliation and reconstruction, and enhancing the rule of law.

Thank you, Mr. Chairman.