

Southern Regional Model United Nations XVIII
Fostering a Culture of Peace for International Development
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Dear Delegates,

I would like to welcome you to the 18th annual Southern Regional National Model United Nations Conference (SRMUN) and to the Commission on Crime Prevention and Criminal Justice (CCPCJ). My name is Earl Fields, Jr. and I am excited to serve as your Director. This is my second year as a SRMUN staff member. In January 2007, I received my master's degree in Biochemistry from Georgia State University in Atlanta and am currently working towards a doctoral degree in Chemistry.

The CCPCJ is the primary United Nations entity dedicated to preventing crime and promoting stable criminal justice systems throughout the world. In its sixteenth session, the Commission placed special emphasis on improving the efficiency and fairness of criminal justice administration systems, combating transnational crime, and terrorism. Keeping in line with the current issues being addressed by the Commission, the topics to be addressed by our committee are:

- I. Stabilizing Judicial Systems
- II. Enforcement of Intellectual Property Rights
- III. Combating Illicit Trade in Small Arms and Light Weapons

I encourage all delegates to begin preparation for these topics by thoroughly reviewing the background guide. This guide will provide you with a foundation for your research. While this guide will survey the range of issues in each topic, you will need to do additional research beyond the material presented to understand the magnitude of the topic areas.

Also, each delegation is required to submit a position paper for consideration. It should be no longer than two pages in length (single spaced) and demonstrate your country's position, policies and recommendations on each of the three topics. For more information regarding the position papers please visit the SRMUN website at <http://www.srmun.org>. Position papers must be e-mailed to ccpcj@srmun.org by Midnight EST on October 26, 2007. Late or improperly formatted papers will not be considered for awards.

Taylor and I wish you the best as you prepare for the 2007 SRMUN Conference.

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History of the United Nations Commission on Crime Prevention and Criminal Justice

“By exploiting the dominant trends of the 1990s - globalization and liberalization - transnational crime has become a major force in world finances, capable of derailing the economic and social development of key countries and undermining international security.”¹

The Commission on Crime Prevention and Criminal Justice (CCPCJ) arose during a meeting of state foreign ministers in Versailles in 1991, and was thereafter formally created by the United Nations General Assembly (GA) via Resolution 46/152, which was accepted by acclamation, creating the committee as a subsidiary of the Economic and Social Council.² The CCPCJ replaced the Committee on Crime Prevention and Control, which was created in 1971 with a narrower concentration than the CCPCJ.³ Accordingly, the CCPCJ was accorded a broader focus.⁴ The CCPCJ’s first session was held on April 21-30, 1992 where it focused primarily on drug trafficking and money laundering.

International efforts to harmonize criminal justice policy date back to the nineteenth century, when representatives of various European nations met periodically to exchange information and to consider common standards in the treatment of offenders. In 1872, the international community took a step forward by establishing the International Prison Commission (IPC). The original mandate of this commission was to collect penitentiary statistics, to encourage penal reform, and to convene further international conferences, in order to advise the participating governments on the reform of criminals, the prevention of crime, and prison reform.⁵ When the League of Nations was formed in 1919, it saw as part of its mandate the promotion of the rule of law in the international community. The IPC became affiliated with the League and continued to hold conferences, meeting in 1925, 1930 and 1935. In 1935, the IPC became the International Penal and Penitentiary Commission (IPPC).⁶

When the United Nations was created in 1945, it incorporated crime prevention and the creation of standards of criminal justice into its policy-setting role. In December 1950, the IPPC was dissolved, and was replaced by the International Penal and Penitentiary Foundation.⁷ That same year, the United Nations established an Ad Hoc Committee of Experts to propose international programs of study and policy in crime prevention and the treatment of offenders. This Ad Hoc Committee was later replaced by the Advisory Committee of Experts on the Prevention of Crime and the Treatment of Offenders, itself replaced by the Committee on Crime Prevention and Control (CCPC) in 1971.⁸

The CCPCJ was created to coordinate the growing responsibilities of the United Nations crime prevention and criminal justice program.⁹ In the broadest sense, its mandate covers the management and development of international cooperation in crime prevention and standards of criminal justice. More specifically, it assists the United Nations in setting policy, monitors progress at the international level, and develops international instruments (agreements) in the area of crime prevention and criminal justice while overseeing the implementation of those already in existence.¹⁰

The CCPCJ has a very broad mandate that carries its members into a wide range of subjects including assistance in formulating or revising laws to bring national legislation in line with international standards. Because of overlapping interests, the CCPCJ coordinates its activities with those of the Commission on Narcotic Drugs and the

¹ “United Nations, World Summit for Social Development, Crime Goes Global.” New York: United Nations Department of Public Information. New York. 1995, p. 1.

² A/Res/46/152. *Creation of an effective United Nations crime prevention and criminal justice programme.* United Nations General Assembly. December 18, 1991.

³ Ibid.

⁴ Ibid.

⁵ “International Penal and Penitentiary Commission.” United Nations Archives and Records Management. http://archives.un.org/unarms/doc/archivalcollections/ag_010.pdf

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ A/Res/46/152. *Creation of an effective United Nations crime prevention and criminal justice programme.* United Nations General Assembly. December 18, 1991.

¹⁰ Ibid.

Centre for International Crime Prevention of the Office of Drug Control and Crime Prevention of the United Nations Secretariat.¹¹

Priority areas, mandated by the Security Council when it established the Commission in 1992, are:

- international action to combat national and transnational crime, including organized crime, economic crime and money laundering;
- promoting the role of criminal law in protecting the environment;
- crime prevention in urban areas, including juvenile crime and violence;
- and improving the efficiency and fairness of criminal justice administration systems.¹²

Aspects of these principal themes are selected for discussion at each annual session of the Vienna-based Commission. The Commission formulates proposals for action by the Economic and Social Council. These resolutions eventually direct the work of the Centre for International Crime Prevention (CICP).¹³ The CICP is the United Nations office responsible for crime prevention, criminal justice, and criminal law reform. It pays special attention to combating transnational organized crime, corruption, and illicit trafficking in human beings. The Centre is part of the United Nations Office for Drug Control and Crime Prevention, headed by Under-Secretary-General and Executive Director.¹⁴

During its second inter-sessional meeting of November 23, 2005, the CCPCJ agreed that the theme for discussion during the fifteenth session would be “Maximizing the effectiveness of technical assistance provided to Member States in crime prevention and criminal justice.”¹⁵ The meeting determined that an informal open-ended working group would be established to discuss the substantive focus and format of the thematic discussion. The informal open-ended working group held two meetings, on January 31, 2006 and on February 14, 2006, and was chaired by Mr. Vasyl Pokotylo, Vice-Chairman of the Commission.¹⁶

Current Member States of the Commission on Crime Prevention and Criminal Justice are: ARGENTINA, ARMENIA, AUSTRIA, BOLIVIA, BRAZIL, CAMEROON, CANADA, CHILE, CHINA, COLOMBIA, COMOROS, COSTA RICA, DEMOCRATIC REPUBLIC OF CONGO, GERMANY, GUATEMALA, INDIA, INDONESIA, IRAN, ITALY, JAMAICA, JAPAN, LIBYAN ARAB JAMAHIRIYA, MOLDOVA, NAMIBIA, NIGER, PAKISTAN, REPUBLIC OF KOREA, RUSSIAN FEDERATION, SAUDI ARABIA, SENEGAL, SIERRA LEONE, SOUTH AFRICA, TURKEY, UGANDA, UKRAINE, UNITED ARAB EMIRATES, UNITED KINGDOM, TANZANIA, UNITED STATES OF AMERICA.

¹¹ “The Commission on Crime Prevention and Criminal Justice.” The Commission on Crime Prevention and Criminal Justice. http://www.unodc.org/unodc/en/crime_cicp_commission.html

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ “15th Session of the Commission on Crime Prevention and Criminal Justice.” The Commission on Crime Prevention and Criminal Justice. http://www.unodc.org/pdf/crime/15_commission/ISMthematicdiscussion_revEBM.pdf

¹⁶ Ibid.

I: Stabilizing Judicial Systems

Introduction

Countries can be greatly weakened by judicial systems in which certain citizens are above the law while others are victimized by unfair processes or inadequate access to justice.¹⁷ Without judicial reform, many courts would continue to operate under out-of-date laws adopted from former colonial regimes.¹⁸ Under inefficient justice systems, the poor are often have limited access to justice, court proceedings are long and unproductive, and delays can disable the court system.¹⁹ Defendants may spend years in jail before ever going to trial, while gross offenders of human rights too often escape punishment. Thus, in many developing countries there is a lack of confidence in judicial systems.²⁰ For example, a report by the United Nations Development Programme (UNDP) indicated that in Mexico, many citizens lack confidence in the Mexican judicial systems due to the absence of legal equality and protection against discrimination.²¹ Therefore, citizens make every effort to avoid using the courts at all.²² Surveys conducted by Transparency International (TI) show that in Argentina, Brazil, Ecuador, and Peru between 55 and 75 percent of the people have a very low opinion of their judicial systems.²³

The lack of confidence in judicial systems, however, is only part of the problem. In many cases, the cost of access to the courts consists of direct, indirect, and invisible expenses that are high and thus prevent many potential litigants from considering the public justice system.²⁴ High-income parties may have trouble if they are unwilling to pay bribes.²⁵ For these reasons, people who believe they have grounds for legal action usually avoid taking their cases to court.²⁶

It has long been recognized by the United Nations and many international scholars that judicial systems vary considerably among Member States and on all levels--national, regional and local.²⁷ Many of these differences are due to the diverse legal, political, economic, cultural and social norms in each country.²⁸ However, the transnational nature of crime has led to international efforts to agree on common definitions and procedures to facilitate international legal cooperation.²⁹ Together with the international human rights instruments, the United Nations standards and norms represent a collective vision of how justice systems should be structured and how policy should be further developed to respond to emerging needs.³⁰

Corruption and Judicial Systems

As noted by many international scholars, corruption is one of the main reasons why many judicial systems, especially those in developing countries, are ineffective. As defined by Transparency International, corruption is

¹⁷ "Judicial Corruption in Developing Countries; Its Causes and Economic Consequences." United Nations Office for Drug Control and Crime Prevention. Vienna. www.unodc.org/pdf/crime/gpacpublications/cicp14.pdf

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

²² "Central America and Mexico Gang Assessment." U.S. Agency for International Development. Mexico. 2006.

www.usaid.gov/locations/latin_america_caribbean/democracy/gangs_cam.pdf

²³ "Surveys and Indices." Transparency International.

http://www.transparency.org/policy_surveys_indices

²⁴ "Fighting Judicial Corruption: A Perspective from Latin America." Transparency International.

www.transparency.org/index.php/content/download/18703/255305

²⁵ Ibid.

²⁶ Ibid.

²⁷ Jenny Martinez. "Towards an International Judicial System." Stanford Law Review, Vol 56. 2003.

²⁸ Ibid.

²⁹ "United Nations Standards and Norms in Crime Prevention and Criminal Justice." United Nations. New York.

1999. http://www.unac.org/en/link_learn/monitoring/susdev_bodies_crime.asp.

³⁰ Ibid.

“the abuse of entrusted power for private gain.”³¹ This means both financial or material gain, and non-material gain, such as the furtherance of political or professional ambitions.³² Corruption impacts judicial systems by eroding the ability of the international community to tackle transnational crime and terrorism.³³ Corruption also diminishes trade, economic growth, and human development; and, most importantly, it denies citizens impartial settlement of disputes with neighbors or the authorities.³⁴ According to the UNDP, when the latter occurs, corrupt judiciaries fracture and divide communities by keeping alive the sense of injury created by unjust treatment and mediation.³⁵ Further, it sends a message to the people that corruption will be tolerated.³⁶

Judicial corruption includes any inappropriate influence on the impartiality of the judicial process by any actor within the court system.³⁷ For example, a judge may allow or exclude evidence with the aim of justifying the acquittal of a guilty defendant of high political or social status. Judges or court staff may manipulate court dates to favor one party or another. In countries where there are no verbatim transcripts, judges may inaccurately summarize court proceedings or distort witness testimony before delivering a verdict that has been purchased by one of the parties in the case.

Other parts of the justice system may influence judicial corruption. Criminal cases can be corrupted before they reach the courts if police tamper with evidence that supports a criminal indictment, or prosecutors fail to apply uniform criteria to evidence generated by the police.³⁸ In countries where the prosecution has a monopoly on bringing prosecutions before the courts, a corrupt prosecutor can effectively block off any avenue for legal redress.³⁹

Judicial corruption includes the misuse of the scarce public funds that most governments are willing to allocate to justice, which is rarely a high priority in political terms.⁴⁰ For example, judges may hire family members to staff their courts or offices, and manipulate contracts for court buildings and equipment. Judicial corruption extends from pre-trial activities through the trial proceedings and settlement to the ultimate enforcement of decisions by court bailiffs.⁴¹

The appeals process, ostensibly an important avenue for redress in cases of faulty verdicts, presents further opportunities for judicial corruption.⁴² When dominant political forces control the appointment of senior judges, the concept of appealing to a less partial authority may be no more than a mirage. Even when appointments are appropriate, the effectiveness of the appeals process is dented if the screening of requests for hearings is not transparent, or when the backlog of cases means years spent waiting to be heard.⁴³ Appeals tend to favor the party with the deepest pockets, meaning that a party with limited resources, but a legitimate complaint, may not be able to pursue their case beyond the first instance.⁴⁴

Training and Education

Poor education and training of judges threatens judicial integrity by undermining standards of professionalism and confidence in the judiciary as an institution.⁴⁵ Proper education and training, on the other hand, allows judges to

³¹ *Global Corruption Report 2007*. Transparency International. Berlin. 2007.

http://www.transparency.org/publications/gcr/download_gcr#toc

³² Ibid.

³³ Ibid.

³⁴ “Anti-Corruption Practice.” United Nations Development Programme. www.undp.org/governance/docs/AC_PN_English.pdf

³⁵ Ibid.

³⁶ Ibid.

³⁷ *Global Corruption Report 2007*. Transparency International. Berlin. 2007.

http://www.transparency.org/publications/gcr/download_gcr#toc

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ “Anti-Corruption Education.” Transparency International.

http://www.transparency.org/global_priorities/education/anti_corruption_education

acquire and build knowledge that is relevant for their positions, and helps develop a broader culture of ethical behavior and high standards of professionalism.⁴⁶ Training also provides a non-financial benefit to complement salaries, giving the prospect of advancement and a disincentive to corruption.⁴⁷

The training and education of judges is one area in which non-governmental organizations (NGOs) can be used to help combat corruption in judicial systems around the world. The Center for International Legal Cooperation (CILC), an NGO dedicated to reforming and strengthening legal systems in developing countries, has developed a series of training workshops in many countries on ethics and professional standards.⁴⁸ The CLIC projects span across 25 countries such as Uganda, Mali, China and Yem.⁴⁹ In 2004 and 2005, the CILC partnered with the Mongolian Judicial Training Center (JTC) to provide in-depth training to twelve judges on ethics and standards of professionalism.⁵⁰ The project also sought to build the technical capacity of the JTC so that they could develop new and innovative teaching materials.⁵¹

The Central European and Eurasian Law Initiative (CEELI) is an NGO established to promote the rule of law by supporting the law reform process in Central and Eastern Europe, Eurasia, and the Middle East.⁵² CEELI has undertaken several major initiatives in Moldova, including helping to establish key nongovernmental organizations (NGOs) that have both enhanced the skills of Moldova's legal professionals and increased the scope and quality of justice available to the public.⁵³ CEELI was instrumental in the development of Law Centers and Judicial Training centers in nineteen countries including the Ukraine, Serbia, Kosovo, Latvia and Moldova.⁵⁴ These centers provide continuing legal education opportunities for lawyers and judicial officials.⁵⁵ The training include courses on "recognizing internal corruption in the criminal justice system" and sessions on ethics.⁵⁶

Judicial Reform in Haiti

Haiti faces a startling set of obstacles between its present condition and the stable democracy envisioned in 1987 when the Haitian Constitution was composed. While it is hard for a struggling country to set priorities following a coup d'etat, Haiti, with the help of the international community, must do so with an emphasis on priorities conducive to long-term progress.⁵⁷ The most basic step in achieving real democracy is the existence of truly free and fair elections over time. This is especially true in Haiti, where the specter of failed elections is recent and vivid.⁵⁸ While progress on other issues such as health care, education, environmental rejuvenation, and crime prevention must not be tossed aside, electoral reform must be an essential priority for building Haitian democracy.⁵⁹ With help, Haiti's judicial system could be the catalyst to real democratic transition in Haiti. Through the administration of justice, Haiti could further four important developments necessary for successful Haitian elections: encouraging opposing participation, deterring corruption, creating public confidence, and fostering democratic liberties.⁶⁰ The legitimacy of Haiti's President and of Haiti's legislature depends on the legitimacy of the elections that put them in office.⁶¹ While restoration of those offices is the ultimate goal, there is only one branch of government whose legitimacy does not depend on adequate elections: the judicial branch.⁶² Thus, it is the lone institution that the people of Haiti

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ "About CILC." Center for International Legal Cooperation. <http://www.cilc.nl/index.html>

⁴⁹ Ibid.

⁵⁰ "Current Projects." Center for International Legal Cooperation. <http://www.cilc.nl/projects.html>

⁵¹ Ibid.

⁵² "Central European and Eurasian Law Initiative." American Bar Association. http://www.abanet.org/rol/europe_and_eurasia/.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Leslie A. Benton & Glenn T. Ware. "Haiti: A Case Study of the International Response and the Efficacy of Nongovernmental Organizations in the Crisis." *Emory International Law Review*, Vol. 12, 1998. pp. 857-58.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Marika Lynch. "A Flood of Discontent Rises Around Aristide." *Miami Herald*. November 30, 2002.

⁶² Brian Concannon, Jr., "The International Criminal Court and National Prosecutions, A View from Haiti. Beyond Complementary" *Columbia Human Rights Law Review*. Volume 32., 2000. p. 204.

may "lean on" without suspicion that electoral corruption put it there. The unelected judiciary, which is not ultimately accountable to the electorate, through promoting electoral and constitutional justice in Haiti, could serve to empower the electorate and ensure a system in which the Haitians have confidence in their power over the institutions that govern them.⁶³ In Haiti, as well as in many other developing nations, the best institution to represent the people is the one that stands for order in the face of chaos - the judiciary.

Judicial Reform in Iraq

Iraq was selected as a pilot jurisdiction, established under the United Nations Office on Drugs and Crime (UNODC), to develop procedure and programs to strengthen judicial capacity and integrity in conflict regions.⁶⁴ A 2003 UNODC mission to Iraq concluded that this nation could serve a critical case study for methods of improving judicial system through international cooperation as a means to eradicate corruption and criminal activity.⁶⁵ The mission noted that initiating an effective response against corruption, organized crime, drug trafficking, and other serious crimes would be difficult unless both the integrity of and public confidence in the judiciary were improved.⁶⁶ This greatly underscored the need for an effective infrastructure and capacity building as a critical component in the success of such an endeavor.

The source of much of the problems observed in the Iraqi judicial system could be traced back to the regimen of Saddam Hussein.⁶⁷ The Ba'ath Party manipulated and controlled the legal system to serve its own ends. The majority of the judiciary was corrupted by the system of "telephone justice" and endemic bribery. Thus, the fairness of the judicial system was impaired not only by the actions of the Ba'ath party but by the culture of corruption that permeated the system.⁶⁸ These factors were further underscored by excessive filing fees, thus impairing the effective administration of justice. Furthermore, the judiciary regularly relied on confessions obtained through torture. Also, the totalitarian regime left a legacy of property disputes that pose a significant threat to overall stability in Iraq.⁶⁹ Initiatives developed for Iraq will prove to be a good testing ground in shaky judicial systems.

The Role of the United Nations in Stabilizing Judicial Systems

To address this situation, the United Nations Office on Drugs and Crime (UNODC) has established the Strengthening Judicial Capacity and Integrity Project.⁷⁰ The project aims at complementing the efforts of the relevant authorities in building a strong, independent, and accountable judiciary; improving the country's immunity against organized crime and other undemocratic forces; and creating more favorable conditions for the country's economic, social, and political development.⁷¹ The UNODC, working closely with the relevant authorities, will support the development, implementation, and monitoring of action plans to strengthen judicial integrity and capacity within four pilot Court of Appeal jurisdictions.⁷² Based on the lessons emanating from the pilot implementation, UNODC will assist the Iraqi institutions in developing a broad-based National Blueprint for Judicial Reform.⁷³

At the 5th Meeting of the Judicial Integrity Group, which met in Vienna, Austria on February 28, 2007, a set of guidelines was established to establish standards for ethical conduct of judges.⁷⁴ The Judicial Integrity Group is

⁶³ Human Rights Watch. *Human Rights Watch World Report 2002: Haiti*. <http://www.hrw.org/wr2k2/americas7.html>.

⁶⁴ "Country Projects: Iraq." United Nations Office of Drug and Crime Prevention. http://www.unodc.org/unodc/en/corruption_projects_Iraq.html

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid.

⁷³ "Strengthening Judicial Capacity and Integrity Project." United Nations Office of Drug and Crime Prevention http://www.unodc.org/unodc/corruption_projects_Iraq_Strengthening.html.

⁷⁴ "Strengthening the Integrity of the Judiciary." United Nations Office of Drug and Crime Prevention. http://www.unodc.org/unodc/corruption_judiciary.html

composed of chief judges and high court judges from a dozen common and civil law countries.⁷⁵ Together, they developed the landmark Bangalore Principles of Judicial Integrity in 2002.⁷⁶ The Principles have been cited in numerous judgments and have been endorsed by the UN.⁷⁷ They have been the basis for judicial integrity reforms led by the senior judiciary in several countries over the past seven years. They are also designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct.⁷⁸ They are also intended to assist members of the executive and the legislature, lawyers, and the public in general, to better understand and support the judiciary.⁷⁹ These principles presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct that bind the judge.⁸⁰

In order to effectively coordinate these efforts the UN has further established an International Group for Anti-Corruption Coordination, which is intended to strengthen the international anti-corruption efforts in these and other regions.⁸¹ The group holds annual meeting focused on a theme selected by the Secretariat and the group Chairperson, and membership includes non-governmental agencies, national and regional governments, as well as intergovernmental bodies.⁸²

Conclusion

One of the greatest challenges that many developing countries face is having a justice system that effectively maintains order, successfully deters crime, and fairly decides cases, while at the same time protecting the rights of the accused. Too often, judiciaries are plagued by corruption. In corrupt judiciaries, citizens are not afforded their right of equal access to the courts, nor are they treated equally by the courts. In many instances, a citizen's economic level, political status, and/or social background play a significant role in the judicial decision-making process than the merits of the case or application of the law. Moreover, in corrupt judiciaries, well-connected citizens triumph over ordinary citizens, and governmental entities and business enterprises prevail over citizens. For these reasons and many more there is a strong need for judicial reform in developing countries and countries in transition.

Committee Directive

Stabilizing judicial systems is a very important issue, yet complicated. In order to be well prepared to discuss this topic you must understand the various forms of corruption that can take place in the judicial system. Also, it is important to understand that judicial corruption is a systemic problem in many countries and addressing ethics alone is not sufficient to tackle the problem. Keep in mind that a country's judicial system may be structured to foster corruption. Finally, delegates should have a firm grasp on the various types of judicial reform.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ *International Council on Human Rights Policy*. International Council on Human Rights. Geneva. 2005.
http://www.ichrp.org/paper_files/120_w_04.doc.

⁸⁰ "Strengthening basic principles of judicial conduct." United Nations Office of Drug and Crime Prevention.
http://www.unodc.org/pdf/corruption/corruption_judicial_res_e.pdf

⁸¹ Ibid.

⁸² Ibid.

II. Enforcement of Intellectual Property Agreements

Introduction

In November 2004, law enforcement officials in the United States arrested Lim Shang and Wang Shao Feng, along with forty-nine of their associates in an organized crime crackdown in New York City.⁸³ The members of the association were indicted on a variety of charges including racketeering, murder, and human smuggling.⁸⁴ During the raids, officials seized roughly four million dollars worth of counterfeit goods, the sale of which was thought to be financing various criminal activities.⁸⁵

In 1997, the population of South Africa infected with the AIDS virus was estimated at three million individuals.⁸⁶ Pharmaceutical manufacturers in Northern States were producing revolutionary antiretroviral drugs to combat the disease, but the cost of the medications made them out of reach for patients in developing states.⁸⁷ The same year, South Africa passed a law allowing domestic production of these commercial drugs.⁸⁸ The “compulsory license” required local companies to merely pay the drugs’ patent owners a wholesale fee.⁸⁹ Additionally, the law allowed importation of the drugs produced in States in which patent laws were routinely ignored.⁹⁰ Despite diplomatic pressure, the State felt that the needs of its citizens outweighed the profits of foreign corporations.⁹¹

These examples briefly highlight the challenges associated with the enforcement of intellectual property laws around the world. Intellectual property rights (also known as IPR) are exclusive or semi-exclusive productive or commercial rights that are granted to applicants by national or international IP offices.⁹² The term ‘intellectual’ refers to the immaterial or abstract nature of the finished product. Intellectual property rights, thus, apply to designs, labels, processes, machines, substances, software, business methods, music, movies, literature, scientific discoveries, and virtually all forms of art.⁹³ Ideally, intellectual products that are worthy of IP protection are those which are novel in their creation or use, or which demonstrate a significant level of ingenuity in their creation or use. IPR is, simultaneously, a commercial and juridical concept.⁹⁴

Effective intellectual property protection is a high priority for both developed and developing nations. Many of the global North’s most lucrative and powerful industries - their new “wealth of nations”- are those which are knowledge-based: software, pharmaceuticals, agricultural biotechnology, aerospace engineering and defense manufacturing.⁹⁵ In order to market such goods globally, and thus disperse the fruits of technology, developed countries want a guarantee against piracy.⁹⁶ Meanwhile, the concerns of developing countries are two-fold: to provide for populations desperately in need of nutrition and health care; and to nurture and develop indigenous knowledge-intensive industries of their own.⁹⁷ Legitimate commerce is hindered by the weakness and lack of global IPRs, and intellectual property protection does not hold much weight globally.

⁸³ “U.S. Authorities Target Two Chinese Organized Crime Groups.” U.S. Department of State. November 15, 2004. <http://usinfo.state.gov/gi/Archive/2004/Nov/16-654201.html>

⁸⁴ Ibid.

⁸⁵ Julia Preston. “U.S. Charges 51 With Chinatown Smuggling.” *The New York Times*. November 13, 2004. p. B2.

⁸⁶ “Innovation vs. Access: Two Epidemics Transform the Pharmaceutical Patent Law Debate into an International Controversy.” *The Journal of Young Investigators*. <http://www.jyi.org/features/ft.php?id=467>.

⁸⁷ Macklin, Ruth. *Double Standards in Medical Research in Developing Countries*. Cambridge University Press, Cambridge. 2004, p. 17.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Cornish, William. *Intellectual Property: Omnipresent, Distracting or Irrelevant?* Oxford University Press, Oxford. 2004, p. 36.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

⁹⁶ Ibid.

History of International Intellectual Property Law

The first codification of international IP law was the 1883 Paris Convention for the Protection of Industrial Property.⁹⁸ The first significant provision of this treaty required contracting states to give the same patent protection to citizens of the other parties as they would provide their own citizens.⁹⁹ If an individual applied for patent protection in a foreign state, for example, that must provide him the same degree of protection as if he were a citizen.¹⁰⁰ Secondly, the treaty specified that contracting states recognize the initial filing date as the date of application everywhere they subsequently apply.¹⁰¹ In practice, this meant that an individual in Country B could not quickly patent inventions originating in Country A if the true inventor desired protection in Country B.¹⁰² Finally, the Paris Convention stated that contracting states must provide effective measures against unfair competition to foreign nationals who held patents in their states.¹⁰³ This included prevention of acts meant to confuse a product with that of a competitor and false or misleading allegations about a product.¹⁰⁴

Copyright law was protected soon after with the Berne Convention for the Protection of Literary and Artistic Works in 1886.¹⁰⁵ This treaty provided the same stipulation as the Paris Convention - that equal protection must be given to both domestic and foreign copyrighters by contracting parties.¹⁰⁶ In many States, however, copyright protection is automatic for published works. The treaty notes that in States where such provisions exist, foreign copyrights filed in other contracting States must also be automatic.¹⁰⁷ The convention has been ratified several times since its entrance into force, with some of the most significant changes made in 1967. Most relevant to the Committee on Crime Prevention and Criminal Justice (CCPCJ) discussion, the treaty was amended at that time to exempt countries designated as developing States by the United Nations from some of their obligations, making it easier for them to translate and reproduce protected works.¹⁰⁸ Today more than 160 countries are parties to these two essential treaties, which have each been ratified numerous times over the last century.¹⁰⁹

Actions Taken by the United Nations and World Trade Organization

The Convention Establishing the World Intellectual Property Organization was signed in Stockholm in 1967, and entered into force in 1970.¹¹⁰ The organization assumed administration of the Paris and Berne Conventions the same year, and in 1974 came under the aegis of the United Nations as a specialized agency.¹¹¹ Today it administers 24 different treaties covering a variety of different areas of IP law.¹¹² Additionally, it is the principle international organization for the setting of standards and norms of IP, and assists individuals around the world in the filing of patents and copyrights.¹¹³

⁹⁷ Donald Richards. *Intellectual Property Rights and Global Capitalism: Political Economy of the TRIPS Agreement*. M.E. Sharpe, New York. 2004.

⁹⁸ "Paris Convention for the Protection of Industrial Property: Summary". World Intellectual Property Organization. http://www.wipo.int/treaties/en/ip/paris/summary_paris.html

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Article 10bis. *Paris Convention for the Protection of Industrial Property*. World Intellectual Property Organization. March 20, 1883.

¹⁰⁵ "Berne Convention for the Protection of Literary and Artistic Works: Summary". World Intellectual Property Organization. http://www.wipo.int/treaties/en/ip/berne/summary_berne.html.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Article 1. *Appendix, Berne Convention for the Protection of Literary and Artistic Works*. World Intellectual Property Organization. July 14, 1967.

¹⁰⁹ Ibid.

¹¹⁰ "Summary of the Convention Establishing the World Intellectual Property Organization." World Intellectual Property Organization. http://www.wipo.int/treaties/en/convention/summary_wipo_convention.html.

¹¹¹ Ibid.

¹¹² "Treaties and Contracting Parties." World Intellectual Property Organization. <http://www.wipo.int/treaties/en/index.jsp>.

¹¹³ "Summary of the Convention Establishing the World Intellectual Property Organization." World Intellectual Property Organization. http://www.wipo.int/treaties/en/convention/summary_wipo_convention.html.

While WIPO may be the primary organization dealing with IP, the treaties it administers do not cover some areas, and the protections it provides may be inadequate in certain circumstances.¹¹⁴ A forum that has had increasing importance in the IP debate is the World Trade Organization (WTO). The WTO was the result of the 1994 Uruguay Round of the General Agreement on Trade and Tariffs (GATT), in which countries approved a package of four controversial trade agreements known as “annexes.”¹¹⁵ One of the hallmarks of GATT ’94 was the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS is a framework for a global IPR regime that incorporates all previous major IP treaties (Rome, Paris, Berne).¹¹⁶

The treaty expanded protection to additional forms of intellectual property and created a forum for IP dispute resolution between WTO members.¹¹⁷ The portion of this agreement most significant to CCPCJ is Part III, which deals with enforcement of IP infringement.¹¹⁸ Specifically, the section requires Member States to “provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale.”¹¹⁹ The treaty states that penalties for infringement should include monetary fines and imprisonment in an effort to deter such activity.¹²⁰

It goes even further than those treaties by establishing minimum protective standards, a patent review mechanism, and a dispute settlement mechanism (DSB). The agreement aims to make certain notions common to all Member States: national treatment, most-favored nation treatment, punishment for infringers, remedies for rights-holders.¹²¹

Current Situation

Currently, the majority of the prosecution of criminal infringement of IP rights is handled domestically by individual States using varying methods.¹²² There are minimum standards of criminal prosecution for States that are members of the World Trade Organization.¹²³ While there has been increased collaboration in recent years to share information about international counterfeiting efforts, these activities remain relatively easy to commit and can yield significant profits.¹²⁴ It is these profits that entice international criminal and terrorist organizations.¹²⁵

IP-conscious countries have taken a variety of approaches to get others to cooperate in enforcement. The classic IP rivalry between the United States and China illustrates the slight trend toward cooperation. From 1989 onward, China became the “public enemy” of America’s trade investigations, as well as the primary recipient of antidumping measures.¹²⁶ More recently, it has become an egregious copier of American software and music. In retaliation in 1991 and 1994, the US took “Special 301” actions against China.¹²⁷ On the eve of mutual sanctions in 1995, the countries signed the US-China Intellectual Property Agreement.¹²⁸

¹¹⁴ “Understanding the WTO – Intellectual Property.” World Trade Organization.

http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm7_e.htm

¹¹⁵ Damrosch, Lori. *International Law: Cases and Materials*. West Publishing Company, Minnesota. 1980.

¹¹⁶ Richards, Donald. *Intellectual Property Rights and Global Capitalism*. M.E. Sharpe, New York. 2004.

¹¹⁷ Annex 1C. *Marrakesh Agreement Establishing the World Trade Organization*. April 15, 1994.

¹¹⁸ *Ibid.* Part III.

¹¹⁹ Annex 1C. *Marrakesh Agreement Establishing the World Trade Organization*. April 15, 1994.

¹²⁰ *Ibid.*

¹²¹ Damrosch, Lori. *International Law: Cases and Materials*. West Publishing Company, Minnesota. 1980.

¹²² “Intellectual Property Crime.” Interpol. <http://www.interpol.int/Public/FinancialCrime/IntellectualProperty/Default.asp>.

¹²³ *Ibid.*

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ “US Trade Policy Towards China: Discrimination and Its Implications”. Chad Brown and Rachel McCulloch. PAFTAD 30 Conference. June 2005.

¹²⁷ Patrick Hun. “Mickey Mouse in China: Legal and Cultural Implications in Protecting U.S. Copyrights”. *Boston University International Law Journal* 81. Spring 1996.

¹²⁸ “The U.S.-China intellectual property rights agreement and related trade issues: Joint hearing before the Subcommittees on International Economic Policy and Trade and Asia and the Pacific of the Committee on International Relations, House of Representatives, and the Subcommittee of East Asian and Pacific Affairs of the Committee on foreign Relations Senate.” One Hundred Fourth Congress, second session, March 7, 1996.
<http://www.worldcatlibraries.org/wcpa/top3mset/369187c1b4526b89a19afeb4da09e526.html>.

The agreement embodies ideas that are slowly prevailing in the global economy: that ineffective intellectual property protection distorts trade; that countries should enact and enforce their own IP legislation; that foreign business should have a local mechanism for redress; and that countries should cooperate to resolve IP conflicts and to harmonize IP laws.¹²⁹

Conclusion

International intellectual property law is made up of a series of loosely connected treaties and agreements that cover a diverse array of products and publications. The levels of protection and enforcement methods vary among the treaties, although the World Trade Organization's TRIPS agreement is regarded as being the most comprehensive. Like many WTO agreements, interpretation of TRIPS has led to contentious debate between the North and South. Additionally, as not all members of the United Nations are also WTO members, ensuring copyright and patent protection in all corners of the globe can be a difficult task.

Despite the connections between international counterfeiting and organized crime and terrorism, a unified international enforcement regime does not currently exist. Because these activities do not fall under the jurisdiction of the International Criminal Court, and the International Court of Justice lacks the jurisdiction to effectively enforce IP treaties. Therefore, this committee hopes to explore how to effectively handle issues relating to IPR.

Committee Directive

Delegates should be familiar with the differences and nuances between each of the relevant treaties. Additionally, a firm grasp on basic international legal concepts will be of critical importance when debating this topic. Moreover, delegates should understand their state's general feelings toward participation in the international legal system.

As this is the Commission on Crime Prevention and Criminal Justice, the committee should focus on enforcement of international law, as opposed to the creation or modification of it. What enforcement strategies could potentially work to stem the flow of profit from counterfeiting activities to criminal and terrorist organizations? Can these enforcement strategies be balanced with protections for state sovereignty and human rights? What role do these enforcement strategies play in aiding development?

III. Combating Illicit Trade in Small Arms and Light Weapons

“Our energy, our emphasis, and our anger is directed against illegal weapons, not legal ones. Our priorities are effective enforcement, better controls and regulation, safer stock piling, and weapons collection and destruction. Our targets remain unscrupulous arms brokers, corrupt officials, drug trafficking syndicates, criminals and others who bring death and mayhem into our communities, and who ruin lives and destroy in minutes the labor of years. To halt the destructive march of armed conflict and crime, we must stop such purveyors of death.”¹³⁰

- Secretary-General Kofi Annan,

At the 2001 United Nations Conference on the Illicit Trade in Small Arms, Jozias van Aartsen, the Minister of Foreign Affairs for the Netherlands stated “An ambitious Action Programme should involve more than their destruction. It should target the mechanisms and incentives behind their uncontrolled spread.”¹³¹ Small arms and light weapons not only help promulgate conflict through their use, but their illegal trade and sale also financially supports conflicts worldwide. The trade of these weapons is lucrative and also hard to regulate. With current

¹²⁹ Ibid.

¹³⁰ “The Secretary-General address to United Nations small arms review conference.” The United Nations. June 2006. <http://www.un.org/events/smallarms2006/pdf/arms060626anna-eng.pdf>.

¹³¹ “Speech by Netherlands Minister of Foreign Affairs” Global Policy Forum. <http://www.globalpolicy.org/security/smallarms/articles/2001/0709neth.htm>

estimates valuing small arms and ammunition production at US\$7.4 billion, the financial incentives to engage in illicit trade of these weapons are clearly large.¹³²

Relationship between Trade in Arms and Conflict

During the 1990s, resource wars, which are often fought primarily with small arms and light weapons, killed an estimated 5 million people globally.¹³³ As many as 20 million people were displaced from their homes during this period.¹³⁴ Small arms and light weapons fuel civil wars and other conflicts, which continues to cause harm to millions of people today, particularly in Africa.¹³⁵ Small weapons are only part of a larger trade that includes heavier and more lethal weaponry, but light arms are often particularly baneful because they are cheap, easy to transport, and can be handled by poorly trained rebel soldiers and even children in many cases.¹³⁶ Additionally in reaction to the threats of violence imposed by proliferation of small arms in local regions, many nations will divert their scarce resources to security.¹³⁷

The illegal sale of natural resources also facilitates arms trafficking, because it develops into a perpetuating cycle. Small arms can be traded directly for commodities or purchased with the profits, which are generated by commodity sales.¹³⁸ In some regions small arms have been increasingly employed as a unit of currency, in which automatic weapons can be obtained by individuals through the exchange of little as several pounds of rice or a chicken.¹³⁹ Then the same networks which are used to smuggle commodities can be employed to carry out illegal arms deals. The profits from the sale of these natural resources can then be used to arm rebel groups, terrorist organizations, and even government forces.¹⁴⁰

Traditionally contraband items such as drugs, conflict diamonds, and illegal animal products are produced mainly in the Southern regions, such as South America, Southeast Asia, and Africa but are primarily consumed in the North and Western regions, including the United States and Western Europe.¹⁴¹ This trends flows counter to the flow of small arms and light weapons, which are produced in the North and West but are mostly employed in conflict areas in the developing world, particularly in Africa. While the trading of drugs has been extensively banned this is not true for the trade in small arms, on which the international community has laid restrictions in various agreements, but which has not been prohibited in general. For this reason the proliferation of small arms has been more difficult to combat compared to the illicit trading in drugs.¹⁴²

According to reports obtained by Amnesty International, during 2005 Sudan imported \$24 million worth of arms and ammunition from the People's Republic of China, as well as nearly \$57 million worth of parts and aircraft equipment and \$2 million worth of parts of helicopters and airplanes.¹⁴³ These transfers occurred even though the government was aware, through the published and unpublished reports of the UN Sanctions Committee on Sudan, that several types of military equipment, including aircraft, had been deployed by the Sudanese armed forces and militia for direct attacks on civilians as well as for logistical support for these attacks.¹⁴⁴ This has contributed to the

¹³² "Small arms are weapons of mass destruction." The International Action Network on Small Arms (IANSA). <http://www.iansa.org/media/wmd.htm>.

¹³³ "Small Arms Working Group Fact Sheet: Consequences of the Proliferation and Misuse of small arms and Light Weapons." Amnesty International. http://www.amnestyusa.org/arms_trade/pdfs/factsheets.pdf.

¹³⁴ "Small Arms Working Group Fact Sheet: Consequences of the Proliferation and Misuse of small arms and Light Weapons." Amnesty International. http://www.amnestyusa.org/arms_trade/pdfs/factsheets.pdf.

¹³⁵ Ibid.

¹³⁶ Ibid.

¹³⁷ Ibid.

¹³⁸ "Speech by Netherlands Minister of Foreign Affairs" Global Policy Forum. <http://www.globalpolicy.org/security/smallarms/articles/2001/0709neth.htm>

¹³⁹ Ibid.

¹⁴⁰ "Small Arms Working Group Fact Sheet: Consequences of the Proliferation and Misuse of small arms and Light Weapons." Amnesty International. http://www.amnestyusa.org/arms_trade/pdfs/factsheets.pdf.

¹⁴¹ Ibid.

¹⁴² Owen Greene. "Availability and Flow of Small Arms and Light Weapons: Typology and Mechanisms." http://programs.ssrc.org/gsc/publications/gsc_activities/smallarms/Memo.Greene.doc.

¹⁴³ "Sudan: arming the perpetrators of grave abuses in Darfur." Amnesty International. November 2004. <http://www.amnestyusa.org/document.php?lang=e&id=ENGUSA20070508001>.

¹⁴⁴ Ibid.

humanitarian violations of the Government of Sudan as it routinely fails to seek to move weapons, ammunition, and other military implements into the Darfur region.¹⁴⁵ Doing so goes against the provisions of Security Council Resolution S/RES/1591 on Sudan (2005).¹⁴⁶

Identification

The international community has recognized a need for a more effective system for the identification and trace of illegal arms by Member States. One of the most crucial aspects of this is the ability to perform these identifications in a timely and efficient manner. In December 2005 the United Nations General Assembly adopted resolution *International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons*, A/CONF.192/15.¹⁴⁷ In this resolution the body called for the development of a system of marking which would allow for the identification of nation of origin as well as the time of import for specific confiscated weapons. The specific types of weapons as well as the systems of record keeping were left to the discretion of each individual Member State.¹⁴⁸ The resolution called for a 30 year minimum on the maintenance of records, as well as the prompt response to requests to tracing requests made by other states.¹⁴⁹

Eradication Programs

Since the late 1990s, various programs have been developed, which have facilitated the destruction of millions of surplus small arms and light weapons worldwide. Properly disposing of or destroying surplus or obsolete small arms and light weapons is important because surplus or obsolete weapons are often stored improperly, which makes them a public safety threat to the communities in which they are located.¹⁵⁰ Additionally, surplus or obsolete weapons are often vulnerable to theft and diversion by criminals into arms trafficking trade.¹⁵¹ Small arms destruction and disposal programs are a cost-effective and relatively simple means of reducing the threat posed by surplus and obsolete small arms and light weapons.¹⁵²

Several donor governments have established destruction assistance programs. NATO also provides such assistance through its Partnership for Peace program, which uses donations from Member States to fund destruction efforts.¹⁵³ Some countries also fund bilateral destruction assistance programs, the largest of which is coordinated by the U.S. State Department.¹⁵⁴ The 2006 Small Arms conference established a series of parameters and protocols to be employed by all Member States which will provide for the effective marking and tracing of small arms and light weapons.¹⁵⁵

Arms Brokers

Historically, arms brokers, the singularly important middlemen in the arms trade, have been uniquely unregulated. Commonly nicknamed “merchants of death,” they include negotiators, financiers, exporters, importers, and transport agents and have been used to arrange every aspect of an arms deal between the supplier and an intended client.¹⁵⁶

¹⁴⁵ Ibid.

¹⁴⁶ S/RES/1591. *Reports of the Secretary-General on the Sudan*. The United Nations Security Council.

¹⁴⁷ A/CONF.192/15. *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects*. United Nations General Assembly.

¹⁴⁸ Ibid.

¹⁴⁹ Ibid.

¹⁵⁰ “Small Arms Working Group Fact Sheet: Consequences of the Proliferation and Misuse of small arms And Light Weapons.” Amnesty International. http://www.amnestyusa.org/arms_trade/pdfs/factsheets.pdf

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ “NATO Partnership for Peace Program.” NATO. <http://www.nato.int/docu/basicxt/b040906e.htm>.

¹⁵⁴ “Small Arms Working Group Fact Sheet: Consequences of the Proliferation and Misuse of small arms and Light Weapons.” Amnesty International. http://www.amnestyusa.org/arms_trade/pdfs/factsheets.pdf

¹⁵⁵ “International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons” A Small Arms 2006 Conference. http://www.un.org/events/smallarms2006/pdf/international_instrument.pdf.

¹⁵⁶ “Expanding the Net: A Model Convention on Arms Brokering” The Fund for Peace. June 2001. <http://www.grip.org/bdg/pdf/g4026.pdf>.

The UN first exposed the significant role of arms brokers in trafficking when it embarked upon several investigations, including Angola during 2000-2001 and the Democratic Republic of the Congo (DRC) during the conflicts in 2001 and 2004.¹⁵⁷ Endorsed by all African leaders at the summit in July 2001 the African Union endorsed the formation of The New Partnership for Africa's Development (NEPAD).¹⁵⁸ The proliferation of small arms is central to the Peace and Security agenda of NEPAD.¹⁵⁹ The focus of this organization is combating the proliferation of small arms and light weapons proliferation in general and the regulation of brokers and brokering.¹⁶⁰ This endorsement served as acknowledgement that combating the illicit proliferation of small arms and light weapons is one of the important conditions needed to place African countries, both individually and collectively, in order to provide sustainable growth and development throughout the region.¹⁶¹ This agreement was a further expansion on the ideals envisioned in the Bamako Declaration which notes that in order to promote peace, security, stability and sustainable development on the African continent, it is vital to address the problem of the illicit proliferation, circulation and trafficking in small arms and light weapons in a comprehensive, integrated, sustainable and efficient manner.¹⁶²

Action in Africa

In December 2000 the Bamako Declaration was adopted by the African Union. This Declaration outlined a series of criteria intended to promote peace, security, stability and sustainable development on the continent, stating that “it is vital to address the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons in a comprehensive, integrated, sustainable and efficient manner.”¹⁶³ The declaration called for the implementation of various mutually agreed upon principles intended to promote peace, security, stability and sustainable development on the continent.¹⁶⁴ The body concluded it was vital to address the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons in a comprehensive, integrated, sustainable and efficient manner as a means of ensuring peace throughout the African continent.¹⁶⁵

The declaration called for the establishment of programs on both a national and a regional level intended to decrease the trade of illicit arms and weapons.¹⁶⁶ The declaration also called for the criminalization of illicit manufacturing of, trafficking in, and illegal possession and use of small arms and light weapons.¹⁶⁷ In addition there was a call for universal compliance with established arms embargos and the use of binding bi- and tri-lateral agreements in order to establish effective systems to control and regulate the trade of illicit arms.¹⁶⁸

Action in Latin America

On November 14, 1997 the Organization of American States (OAS) made a significant step forward in stemming the deadly trade of illegal small arms and light weapons by adopting the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials.¹⁶⁹ This

¹⁵⁷ “United Nations Workshop on the Illicit Brokering in Small Arms and Light Weapons. United Nations. www.disarmament2.un.org/cab/brokering/Sarah%20Meek%20Brokering%20-%20Regional.pdf

¹⁵⁸ “An Overview of NEPAD.” Republic of South African Department of Foreign Affairs. http://www.dfa.gov.za/au.nepad/nepad_overview.htm.

¹⁵⁹ Ibid.

¹⁶⁰ Ibid.

¹⁶¹ “United Nations Workshop on the Illicit Brokering in Small Arms and Light Weapons.” United Nations <http://disarmament2.un.org/cab/brokering/Sarah%20Meek%20Brokering%20-%20Regional.pdf>.

¹⁶² “Bamako Declaration.” African Statesmen Initiative. June 8, 2005. http://asi.ndi.org/about/declaration/bamako_declaration.pdf.

¹⁶³ Ibid.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Ibid.

¹⁶⁷ Ibid.

¹⁶⁸ Ibid.

¹⁶⁹ “Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other Related Materials.” Organization of American States. November 14, 1997. <http://www.oas.org/juridico/English/treaties/a-63.html>.

represented the first legally binding regional agreement on illicit firearms trafficking. Currently, 33 states have signed the Convention and 24 have ratified it.¹⁷⁰

Similarly, in an expansion on the previous declaration, in May 2006 the Originations of American States ratified the Antigua Guatemala Declaration.¹⁷¹ This was intended to effectively and comprehensively help address the problems arising from the illicit trade in small arms and light weapons, from a regional perspective by employing a common approach, while also taking into account the specific needs progress and experience of each of the Member States.¹⁷² Several of the recommended programs included to adopt minimum standards for safety and security of stockpiles. The Declaration also called for each of the Member States to establish and enforce regulations governing the civilian acquisition and possession of small arms and light weapons, prepared with the specific purpose of preventing the diversion of legally acquired weapons to the illicit market.¹⁷³

Case Study: Brazil

In 1993 the NGO, Viva Rio, was created in Brazil in response to two appalling massacres of unarmed civilians by military policemen.¹⁷⁴ Seven street children and one young adult were killed at the Candelária Church, Rio de Janeiro, in July, and a month later, 21 people were shot dead by a group of hooded gunmen who spent two hours shooting indiscriminately at residents in the town of Vigário Geral.¹⁷⁵ Viva Rio works with the poorest communities of Rio de Janeiro to find practical local solutions to the problems of gun crime. Some of the initiatives introduced include working with the local police to establish a system for storing and recording guns that are seized, with the goal of tracing the source of the guns and ensuring that they are not reintroduced into the community, and pilot projects of community policing.

In June 2001, Viva Rio, the International Action Network on Small Arms and other local NGOs collaborated with the state government of Rio de Janeiro and the military to destroy 100,000 weapons which had been seized by the police. The weapons were heaped into a 400-square-metre pile and bulldozed in front of a crowd of tens of thousands. The event took the record for the largest weapons stockpile to be destroyed anywhere in the world on a single day.¹⁷⁶

Conclusion

Small arms and light weapons fuel civil wars and other conflicts, causing harm to millions of people. These small weapons are only part of a larger trade that includes heavier and more lethal weaponry, but light arms are often especially baneful because they are cheap, easy to transport and can be handled by rebel soldiers and children. There have been many efforts by the international community to block the flow of small arms and light weapons. Much of the emphasis has been placed on developing adequate laws, regulations and administrative procedures to exercise control over the production of small arms and light weapons. While regulations are definitely key, emphasis also should be placed on identifying groups and individuals engaged in the illegal manufacturing, transferring and stockpiling of these weapons.

Committee Directive

¹⁷⁰ Ibid.

¹⁷¹ “Antigua Guatemala Declaration of the Regional Preparatory Meeting of the Latin American and Caribbean States for the United Nations Conference to Review Progress Made in 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.” Latin American and Caribbean States for the United Nations Conference
<http://www.iansa.org/un/review2006/documents/english/La-Antigua-Declaration-English.pdf>.

¹⁷² Ibid.

¹⁷³ Ibid.

¹⁷⁴ Global Policy Forum “Women in Brazil Take A Stand Against Guns.” February 2003.
<http://www.globalpolicy.org/security/smallarms/regional/2003/0212viva.htm>

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

Delegates should encourage Member States to improve national legislation and international cooperation to prevent proliferation of illicit trade through networks of organized crime. Explore methods to increase transparency between states in order to foster international seamless international cooperation. Explore methods of expanding international eradication efforts to a more regional and international scope. Determine how crime networks can be further impeded and dismantled through cooperative efforts of Member States.