implementing the UN action programme for combating the illicit trafficking in small arms and light weapons in all its aspects

Briefing 15

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Implementing the UN Action Programme for Combating the Illicit Trafficking in Small Arms and Light Weapons in All Its Aspects

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Executive Summary

The UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects was the first of its kind, and its achievement in generating political will and momentum for efforts to control small arms light weapons (SALW) is important. Although many of the commitments agreed in its Programme of Action (PoA) are less comprehensive than hoped for, it is clear that the UN Small Arms Conference has contributed to a better understanding of the nature of the illicit trade in SALW and of the particular concerns and priorities of different countries and sub-regions. Furthermore, while the PoAprovides a set of minimum standards and commitments which all states should adopt, it also encourages further action from all States willing to adopt more stringent commitments and comprehensive programmes. The UN Small Arms Conference process also demonstrated a willingness amongst a number of States to build upon the PoA and take more concrete and far-reaching measures at national, sub-regional and regional levels.

Review of the UN Small Arms Conference and Programme of Action

The Biting the Bullet (BtB) project published thirteen briefings on issues that were addressed in the final PoA. The extent to which the recommendations put forward by the BtB project were adopted, varies from issue to issue. However, the PoAincludes important commitments with regard to the reduction of surplus small arms stocks, requiring States to regularly review their stocks and to establish programmes for the responsible disposal of surplus weapons, preferably through destruction. The PoAalso establishes clear international norms and encourages programmes to promote secure stockpile management for SALW as well as provisions relating to the disarmament, demobilisation and reintegration of ex-combatants. Although the UN Small Arms Conference could not agree on the establishment of a set of internationally accepted export criteria which would enhance controls on legal transfers, the PoAdoes contain an important commitment requiring States to authorise exports of SALW on the basis of strict national export criteria that are consistent with States existing obligations under international law. It also explicitly calls on States to cooperate with the enforcement of UN Security Council arms embargoes.

In other areas, the UN Small Arms Conference achievements were more mixed. Consensus could not be reached on the need to establish an international mechanism to trace SALW lines of supply, with a recommendation that a UN study be undertaken to examine the feasibility of developing an international instrument in this regard alongside a number of politically-binding national commitments on marking, record-keeping and tracing of SALW. Although the PoA does not include a commitment to negotiate an international legally binding instrument to control arms brokering and transportation, it makes a number of recommendations for the adoption of national controls – including registration of arms brokers and licensing of individual transactions – and it requires States to consider international co-operation on this issue. Whilst the final PoAcontains a number of measures to regulate the trade in SALW, more specificity would have been useful in the definition of what constitutes “adequate laws and regulations”, as well as greater detail on the type of information that should be included in licensing and authorisation procedures. At the same time, the PoA contains a major flaw in its assertion of “the right of States to re-export small arms and light weapons.” Whilst it is unclear from where this “right” derives a number of States expressly forbid the unauthorised re-exportation of arms and security equipment which they have originally exported.

There remain a number of issues that were not adequately addressed in the UN Small Arms Conference final PoA. The failure of the international governmental community as a whole to recognise the dangers resulting from the spread and inadequate control of SALW through licensed production overseas is unfortunately reflected, through its absence, in the final PoA. The issue of information exchange and transparency in arms control remained controversial

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throughout the conference with a small group of States opposed to the inclusion of specific language on transparency measures. Without systematic information exchange and consultation, however, effective implementation of a number of the provisions within the PoA must be thrown into doubt. Whilst the PoA endorsed and encouraged weapons collection it did not go beyond this to recommend or establish any specific programme or mechanisms to promote implementation and it lacks a clear commitment by States to ensure that seized or collected SALW are destroyed, with the possibility that “another form of disposition or use” may be “officially authorised”. Finally, despite a number of assertions outlining the potential contribution of civil society in combating the problems associated with SALW, the PoA remains very much State-oriented.

Follow-up to the UN Small Arms Conference and implementation of the Programme of Action

Proposals for a system of both UN and ad hoc mechanisms to implement the PoAwere mooted in the first draft PoA (A/Conf.192/L.4). These met with opposition from several quarters with concerns, in particular, over the role of existing UN departments and agencies and regarding the issue of resources. As a result, in the final agreed PoA, most of the operational implementation of the PoAis left to States, which may voluntarily report to the UN Department for Disarmament Affairs on progress made. Specifically, the PoAprovides for a Review Conference no later than 2006 and Biennial Meetings of States to consider national, regional and global implementation of the PoA.

BtB is clear on the need for concrete, measurable mechanisms to control and monitor the proliferation of and the illicit trade in SALW being agreed in the coming years, with the development of such mechanisms linked to the Biennial Meetings of States. In the first BtB briefing, issues were identified where it was judged there was greater potential for agreement by the time of a Review Conference and so BtB urges individual States or groups of States to take the lead in ensuring that progress is made in developing and implementing the provisions of the PoA in each of these areas. The Biennial Meetings and Review Conference represent crucial opportunities to assess progress in addressing these issues and for encouraging action on the part of more reluctant States that are falling or lagging behind.

Funding and resourcing the implementation of the Programme of Action and promoting international assistance

The UN Small Arms Conference PoAmakes only minimal provision for funding of activities for its implementation. The UN is required to fund the feasibility study on tracing and to use available resources to circulate information provided by States on implementation of the PoA on an annual basis. Beyond these sparse provisions, the implementation of the PoArests on voluntary funding, either through the UN and its agencies, for example the United Nations Development Programme (UNDP), or through individual countries or regional organisations.

In view of the myriad of challenges facing governments seeking to control the proliferation of and illicit trade in SALW at national, regional and global levels, a major increase in available funding will be required from all states and organisations in a position to contribute. Whilst many governments have modest budget lines dedicated to addressing small arms proliferation, the scale of the SALW problem will undoubtedly require accessing the more substantial funds located within security, defence and development budgets of more affluent States.

In this context, BtB believes that there are three main tasks in enhancing international assistance in implementing the PoA:

- identifying the needs and priorities for assistance;
- mobilising resources for effective international assistance; and
- matching identified needs with resources available for assistance.

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Outcomes and ways forward

The PoAagreed at the UN Small Arms Conference provides a key set of agreed principles, commitments and programmes that all participating States should implement. Clearly, different States and regional groupings will implement these according to their own situations and capabilities. However, even in the months since the conclusion of the UN Small Arms Conference a number of encouraging regional initiatives to tackle SALW proliferation, availability and misuse have begun to develop. The diverse problems associated with small arms ensure, however, that any effective solution requires a multi-sectoral approach. The UN Special Session on Children will be an important opportunity to highlight the impacts of small arms on children as well as to develop a strong international response that builds upon the outcomes of the UN Small Arms Conference. While multilateral efforts to curb small arms proliferation, availability and misuse are still relatively new and untested, the negotiation of the UN Protocol against the Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition is a positive development.

Acrucial element required for effective implementation of the UN Small Arms PoAis the establishment of a mechanism for systematic exchange of information and experience between regional, sub-regional and international bodies involved in efforts to prevent and reduce SALW proliferation, availability and misuse. In order to develop a process of thorough monitoring, the BtB project is seeking to work with a wide variety of partners to develop substantial *Biennial and Review Conference Reports* on progress made by States in the implementation of key elements of the PoA. BtB will also seek to promote international implementation of key commitments in the PoA through the convening of informal *Expert Groups* to explore issues that are considered ripe for action. There are a number of key areas where NGOs and civil society can make a vital contribution towards successful implementation of the PoA and in combating SALW proliferation and misuse. In these activities the International Action Network on Small Arms (IANSA) is in a position to play a pivotal coordinating role.

Introduction

Historically, UN conferences have been criticised for resulting more in compromises than in commitments to real change, which is also a charge that has been levelled against the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (UN Small Arms Conference). The consensus-based approach adopted throughout the negotiations had the advantage of binding all participating States to all aspects of the agreed Programme of Action (PoA), but it also ensured that it would be difficult to achieve a sufficiently rigorous and comprehensive agreement on all of the measures required to tackle the trafficking, proliferation and misuse of small arms and light weapons (SALW). Therefore, in spite of the efforts of many governments and NGOs, the UN Small Arms Conference did not agree sufficiently robust agreements in several areas. Nonetheless, it was a valuable and productive process. The resulting PoAincludes a reasonably comprehensive set of key principles and commitments, which provide a basis for taking forward action at national, regional and global levels. The PoAwas agreed by all of the participating States, amounting to more than 100, and each are politically bound to adopt and implement it.

Given that the UN Small Arms Conference was the first of its kind, its achievement in generating political will and momentum for efforts to control SALW is important. Although many of the commitments are weaker and less comprehensive than hoped for by many governments and organisations, it is significant that the PoAcontains at least some important commitments in all but two of the 'core' issue areas raised by States. The two exceptions relate to transfers to non-State actors and to civilian trade, possession and use of SALW, restrictions which were strongly opposed by the USA. Equally, human rights related issues were noteworthy by their absence in the PoA.

Whilst the process of reaching agreement began with a far-reaching draft PoA in December 2000 (A/Conf.192/L.4), most of the comments that were tabled on this text during the second Preparatory Committee in January 2001 came from countries that sought to weaken its commitments. The subsequent draft (A/Conf.192/L.4/Rev.1) was therefore weaker, with the result that progressive States faced an uphill task in seeking to strengthen its provisions.

The next draft PoA emerged at the UN Small Arms Conference itself in the form of a third draft (A/Conf.192/L.5). Although still limited in a number of key areas – such as export criteria and transparency – this document went further than L.4/Rev.1 in a number of respects and included specific international commitments, including on brokering and tracing lines of supply. This, however, proved too ambitious an agenda for a small group of States and in the end the document that was adopted by consensus (A/Conf.192/L.5/Rev.1) represented a lower-level compromise.

Despite the difficulties of agreeing the consensus-based PoA, the process culminating in the agreement was perhaps as important as the agreement itself. UN Small Arms Conference represented the first time that all UN Member States had met to discuss the illicit trade in SALW in all its aspects with a view to agreeing a comprehensive set of measures to address the problem. Although many of the commitments contained in the PoAare couched in equivocal language that will allow States to do as much or as little as they like, it is clear that the UN Small Arms Conference has contributed to a much better understanding, amongst all stakeholders, of the nature of the illicit trade in SALW and of the particular concerns and priorities of different countries and sub-regions. It is also clear that although the Programme of Action provides a set of minimum standards and commitments which all states should adopt, it also encourages further action from all States willing to adopt more stringent commitments and stronger programmes. There is a willingness among a number of States to build upon the PoAand take more concrete and far-reaching measures at national, sub-regional, regional and international levels, such as specific arrangements for tracing co-operation, or mechanisms to co-ordinate efforts to improve stockpile security or weapons destruction.

Introduction

This briefing provides a critical assessment of key provisions in the UN Small Arms Conference PoA. Section 1 measures the overall outcomes of the conference against those that the Biting the Bullet (BtB) project proposed as optimal conclusions, and suggests ways to put the commitments contained in the PoA into practice. Section 2 assesses the implementation and follow-up commitments contained in the PoA, and identifies ways of promoting the implementation of Sections III and IV, as well as options for making the most of the Biennial Meetings of States and the Review Conference in 2006. Section 3 examines funding and resourcing possibilities for the PoA including identifying needs, mobilising resources and matching needs with resources. The final section of the briefing focuses on the way forward, and in particular on how implementation of the PoA could build on existing regional initiatives and develop common international approaches to controlling SALW proliferation, availability and misuse. It also examines how action to prevent and combat the illicit trade in SALW in all its aspects can be taken forward at sub-regional and regional levels in conjunction with all major stakeholders, including civil society, in the period leading up to the first Review Conference.

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The BtB project published thirteen briefings that presented a range of outcomes for the UN PoA on many issues that were contained in the final programme.[1] This section assesses the degree to which key outcomes were achieved, and suggests ways of building on the results contained in the PoA. In particular, it focuses on the issues that have been identified as most important and necessitating collaborative, global responses. These areas are:

- Marking, record-keeping and tracing
- Brokering
- Licensing and end use controls
- Manufacture and licensed production overseas
- Enhancing controls on legal transfers
- Information exchange and transparency
- Weapons collection
- Weapons destruction and reducing surplus arms stocks
- Stockpile security
- Disarmament, demobilisation and reintegration
- Role of civil society
- Regional initiatives

These issues are examined in the context of the nature of the problem and possible responses, recommendations made by the BtB project, how these issues were treated in the PoA, and ways forward for optimising the implementation of the provisions within the PoA.

Marking, record-keeping and tracing

The importance of enhancing the 'traceability' of flows of SALW had become widely recognised by the time of the first PrepCom for the UN Small Arms Conference in early 2000. The capacity to trace sources and lines of supply of illicit or destabilising SALW was considered by many as necessary for States to identify points of diversion of authorised stocks or shipments into illicit networks and thus to take corrective action. It was also supported in order to promote awareness and accountability in arms transfers to deter irresponsible or destabilising transfers, and thus limit the 'grey market' trading that is so central to the processes of small arms proliferation and subsequent availability and misuse. It was widely hoped that the PoA would establish clear and adequate international standards for marking, record-keeping and co-operation in tracing of SALW and launch the development of an effective regime for tracing illicit or destabilising sources and flows of such weapons.

The BtB project consistently argued that the PoA should include not only strong national commitments on marking, record-keeping and tracing but also launch negotiations for a detailed and binding international instrument to enhance cooperation to identify and trace lines of supply of SALW of concern. In the end, consensus could not be achieved to launch international negotiations to establish a tracing mechanism, and the PoAlimits itself to a number of politically-binding commitments. At the national level, it declares in Section II, paragraph 7, that States are committed: "To ensure that henceforth licensed manufacturers apply an appropriate and reliable marking on each small arm and light weapon as an integral part of the production process… identifying the country of manufacture and also provide information that enables the national authorities… to identify the manufacturer and serial number."[2] Therefore, States must "adopt where they do not exist and enforce all the necessary measures to prevent the manufacture, stockpiling, transfer and possession of any unmarked or inadequately marked small arms and light weapons" (Section II, paragraph 8).[3] In Section II, paragraph 9, the PoA calls on States: "To ensure that comprehensive and

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Marking, record-keeping and tracing

accurate records are kept on the manufacture, holding and transfer of small arms and light weapons… These records should be organized and maintained in such a way as to ensure that accurate information can be promptly retrieved and collated."[4] It further calls on States to take "effective measures for tracing… weapons" held and issued by the State (Section II, paragraph 10).[5] At the global level, there is an undertaking to "strengthen the ability of States to cooperate in identifying and tracing in a timely and reliable manner illicit small arms and light weapons" (Section II, paragraph 36).[6]

To promote implementation of these international standards, Section III of the PoAestablishes that States and regional and international organisations should:

- provide capacity-building assistance, on request, for tracing and marking (paragraph 6)[7]:
- co-operate and assist in examining technologies to improve tracing and detection of illicit trade in SALW and facilitate technology transfer (paragraph 10)[8];
- undertake to co-operate with each other in tracing illicit SALW, particularly by strengthening mechanisms based on the exchange of relevant information (paragraph 11)[9]; and
- exchange information on a voluntary basis on their national marking systems (paragraph 12)[10].

These are strong commitments. They complement and reinforce obligations contained in the recently-agreed UN Firearms Protocol, which legally commits participating States to clear standards of marking and record-keeping of firearms, and to cooperate in tracing firearms associated with transnational crime and criminal trafficking.[11] What is most lacking now is a clear international mechanism for cooperation in tracing sources and lines of supply of SALW, particularly weapons that have been discovered in unauthorised possession or shipments associated with regions of conflict or human rights crises.[12] This mechanism would clarify procedures and rules for cooperation in this politically sensitive area, and properly establish capacity building and other systems to facilitate marking and tracing efforts.

During the preparations for the UN Small Arms Conference, France and Switzerland sought to build support for a proposal to establish such an international tracing mechanism for SALW of concern.[13] Despite wide interest in and support for their efforts, proposals to establish negotiations to develop this mechanism were blocked by a group of States (including China, the USAand the Arab League) which were opposed to launching follow-on negotiations for legally-binding agreements in any area.

As a weak compromise, the PoArecommends that the UN General Assembly undertake a UN Study to examine the feasibility of developing such an instrument (Section IV, paragraph 1(c)).[14] United Nations General Assembly draft resolution L.47, agreed during the First Committee in October 2001, adopts this recommendation, and requests the study be submitted to its 58th session in 2003.[15] This at least keeps the process alive within the UN system even if it postpones serious negotiation on an issue that is probably already 'ripe' for international agreement.

The immediate challenge is to promote implementation of all of the commitments relating to this issue contained in the PoA, which should start immediately. Moreover, an international 'coalition of willing' States should quickly agree to participate in a politically-binding tracing arrangement. This would establish the process of tracing cooperation and provide valuable experience in preparation for the time when an international agreement can be negotiated within a UN framework. The launch of such an arrangement would be diplomatically delicate, but support for cooperation in tracing is probably already sufficiently wide and strong to make it realistic.

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Brokering

Recent UN and non-governmental studies have shown that arms brokering and transport agents play a significant role in the illicit small arms trade. Recognising this fact, BtB argued that reaching international agreement on the control of arms brokering and transport agents was one of the most important challenges facing the UN Small Arms Conference. BtB further argued that effective action to prevent and combat illicit trafficking in SALW by arms brokering and transportation agents would require a comprehensive international agreement, encompassing registration and licensing of arms brokering agents at the national level and provisions for international information exchange and cooperation on enforcement. BtB also argued that the very serious consequences of unregulated arms brokering and transportation necessitates the adoption by States of extra-territorial legislation in the same vein as has been agreed under the terms of international conventions to prohibit chemical weapons and land-mines.

With specific reference to the UN Small Arms Conference PoA, BtB urged States to commit to the negotiation of a legally binding international convention for the control of arms brokering and transportation by 2003. However, in the event that such agreement proved impossible to reach, BtB advocated a series of relevant associated measures, which would facilitate the establishment of an international regime for the control of arms brokering and transportation agents. These included:

- explicit acknowledgement that unregulated arms brokering and transportation is a problem that needs to be addressed;
- an undertaking that, by the time of the first Biennial Meeting of States in 2003, there be a review of progress towards achieving a common understanding of the nature and extent of the problem;
- an undertaking to develop model regulations for the control of arms brokering, also by the first Biennial Meeting;
- agreement to establish a mechanism whereby States can learn from each others' experience in controlling arms brokering; and
- a commitment to provide assistance to countries seeking to take action in this area.

Finally, BtB argued that to be truly effective in preventing and combating illicit trafficking in conventional arms, these measures would need to be backed up by effective controls on arms exports (for example, through effective control and monitoring of end-use, and agreement on strict criteria governing exports of SALW based on States' existing responsibilities under international law).

The PoA recognises that arms brokering is an international problem that requires an international solution. The primary reference to the control of arms brokering in Section II, paragraph 14, requires States: "To develop adequate national legislation or administrative procedures regulating the activities of those who engage in SALW 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."[16] These commitments are similar in scope to, though slightly stronger than, those set out in the UN Firearms Protocol.[17] The Firearms Protocol merely requires States to *consider* adopting such measures whilst the PoA asserts that States *should* adopt measures such as registration and licensing. This more concrete statement suggests that the international governmental community's commitment is strengthening in this field.

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Brokering

The PoAalso contains a reference in Section II, paragraph 39, to the need "to develop common understandings of the basic issues and scope of the problems related to illicit brokering in small arms and light weapons." [18] However, in view of the significant body of information that now exists relating to arms brokering and transportation, it is to be hoped that this process can be completed fairly quickly and the common understandings articulated by the time of the first Biennial Meeting. Encouragingly, in the final Section of the PoA, Section IV, paragraph 1(d), States undertake to "consider further steps to enhance international co-operation in preventing, combating and eradicating illicit brokering in small arms and light weapons." [19] Although this falls short of a commitment to negotiate an international legally binding instrument to control arms brokering and transportation, it does leave the way open for States to pursue such an initiative. Indeed, if all of those States that are committed to action in this area (such as the EU Member States) implement the registration and licensing provisions outlined in the PoA, it is to be hoped that, by the time of the Review Conference in 2006, sufficient momentum will have been generated towards the development of an international agreement. In order to facilitate this process, those States that have experience of developing and enforcing legislation in this area should provide assistance and advice to those wishing to do likewise.

Licensing and end use controls

Developing effective national, regional and international controls on SALW export licensing and end use are crucial elements in ensuring that this trade remains under government control and is not diverted to illicit markets or end users. The UN Small Arms Conference provided an important opportunity to develop such controls, building on the agreements in the UN Firearms Protocol, as well as other international and regional measures, such as those in the OSCE Document on SALW and those adopted by Wassenaar Arrangement Member States.

BtB urged that the PoA include a commitment to develop and elaborate model regulations for licensing and best practice in end-use certification and monitoring, ideally by the first Biennial Meeting of States, and at the latest by the time of the Review Conference in 2006. BtB recommended that these model regulations should build on national best practice, as well as that developed and agreed regionally, specifically the Model Regulations adopted by the Organisation of American States (OAS). BtB further recommended that such model regulations include detailed certification procedures on the export and import of firearms and ammunition, in terms of both licensing authorisations and end-use undertakings. Information required for each process is summarised in the table below.

	Licensing/Authorisation	End-use
Place and date of issuance of licence	✓	
Date of expiration	✓	
Name of exporter; country of export	✓	✓
Details of intermediate and final consignees	✓	✓
Modes of transportation	✓	✓
Country of import	✓	✓
Final recipient	✓	✓
Description and quantity of firearms, parts, components and ammunition	✓	✓
Description of end-use	✓	✓
List of proscribed end-uses	✓	✓
Requirement not to re-export without prior authorisation	✓	

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Licensing and end use controls

BtB further urged that these transfer and end-use controls should apply to all classes of small arms and light weapons and extend to State-to-State transfers, building on agreements on the commercial trade in firearms contained in the UN Firearms Protocol. BtB recommended that in cases where the diversion or misuse of SALW is uncovered, States should give serious consideration to withholding further exports of military and security equipment until the factors behind the diversion or misuse are addressed.

The final PoA does contain a number of measures to regulate the trade in SALW. Section II, Paragraph 11, declares that States should: "…establish or maintain an effective national system of export and import licensing or authorisation, as well as measures on international transit, for the transfer of all small arms and light weapons, with a view to combating the illicit trade in small arms and light weapons." [20] Furthermore, in Section II, paragraph 12, States commit to "put in place… adequate laws, regulations and administrative procedures to ensure the effective control over the transfer of small arms and light weapons, including the use of authenticated end-user certificates, and effective legal and enforcement measures." [21] Whilst this paragraph sets important markers for action by States, more specificity on what adequate laws and regulations are, as well as detail on the type of information that should be included in licensing and authorisation procedures needs to be developed. International agreement on the type, quality and amount of information to be provided on licenses and authorisations would assist not only in the development of future legally binding agreements on issues such as tracing, but would also improve controls over the legal trade in SALW and reduce the likelihood of SALW being diverted or used for purposes contrary to those for which the license was issued. The development of such controls should be a priority for the Biennial Meetings of States.

The above developments are to be welcomed. However, the PoAdoes contain a major flaw detailed in Section II, paragraph 13. This declares that States should "make every effort, in accordance with national laws and practices, without prejudice to the right of States to re-export small arms and light weapons that they have previously imported, to notify the original exporting State in accordance with their bilateral agreements before the retransfer of those weapons." [22] It is unclear from where "the right of States to reexport small arms and light weapons" derives. Anumber of leading manufacturers specifically prohibit re-export without prior authorisation from the original exporting State. Furthermore, such a requirement is in line with best practice and the procedures set out in the indicative list of end-use assurances in the Wassenaar Arrangement. It is hoped that the development of a norm prohibiting "reexport without - consent" can be established prior to, and reaffirmed during, the Review Conference in 2006.

Finally, Section II, paragraph 27, of the PoAincludes reference to developing appropriate regional and sub-regional measures to enhance information sharing and trans-border customs cooperation in combating the illicit trade in SALW across borders. BtB believes this should now be built upon to include measures for the exchange of information on the risks of diversion or misuse of SALW. Hopefully, a norm encouraging information exchange, consultation, and consent before reexport can be established by the time of the Review Conference in 2006.

Although it proved impossible to agree on the elaboration of norms and standards in these areas within the PoA itself, the document does, at the very minimum, provide the basis for the establishment of a forum whereby international best practice can be identified and elaborated upon. This should further provide a basis for model regulations and the establishment of an international instrument regulating the manufacture, licensing and end-use of SALW. Only through such harmonisation of measures at the international level will the preventive efforts necessary to stem the proliferation and misuse of SALW in this area be successful.

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Manufacture and licensed production overseas

Comprehensive and stringently enforced licensing systems controlling manufacture of small arms and light weapons are a crucial element in combating the illicit trade. An increasingly important element of SALW manufacture is licensed production overseas – the practice where one company allows and enables a second company in another country to manufacture its products under license. Licensed production – and the concomitant transfer of arms production technology and expertise – has become a major factor behind the steady increase in the number of companies and countries that manufacture SALW. At present it is inadequately controlled in many countries.

BtB urged governments to commit themselves in the PoA to developing regulatory mechanisms that would adequately address current trends in SALW manufacturing and begin to control licensed production. BtB recommended that the PoAcontain the following:

- Recognition that the inadequate regulation of licensed production agreements contributes to the spread and misuse of SALW and is a problem that needs to be urgently addressed by the international community;
- At the national level, States should establish control mechanisms requiring prior licensing approval from companies seeking to establish licensed production facilities overseas. The criteria for such government authorisation, and the end use control systems should be as stringent as for direct SALW exports; and
- Acommitment by States to review, at the first Biennial Meeting, national approaches to controlling licensed production with a view to establishing best practice and developing effective national, regional and international controls.

Unfortunately the failure of the international governmental community as a whole to recognise the dangers resulting from the spread and inadequate control of SALW through licensed production is reflected in the final PoA, which contains no specific reference to controlling licensed production arrangements.

There are, however, sections of the PoAthat deal with illicit manufacture that could be applied or adapted to aid the control of licensed production arrangements. Section II, paragraph 2, requires States to put in place “adequate laws, regulations and administrative procedures to exercise effective control over the production… export, import, transit or retransfer of [SALW]”[23] in order to prevent unauthorised manufacture of and illicit trafficking in these weapons. Furthermore, in Section II, paragraph 3, States are required “to ensure that those engaged in such [illicit] activities can be prosecuted under appropriate national penal codes.”[24] Additionally Section II, paragraph 9, requires States to ensure “comprehensive and accurate records are kept for as long as possible on the manufacture, holding and transfer of SALW under their jurisdiction.”[25]

These paragraphs are important provisions, crucial for effective State control of SALW manufacture, and form a solid basis on which further national and international controls can be built. They should be applied to all forms of SALW manufacture including licensed production overseas. The application of such controls to licensed production overseas, together with a process for future consultation, information exchange and development of best practice provide a solid framework for States to address the current trends in SALW manufacture.

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Enhancing controls on legal transfers

There is extensive evidence that many of the weapons circulating in the illicit market originate as government authorised, or legally transferred, weapons. An essential element of efforts to combat illicit trafficking must therefore be control of the so-called legal trade to prevent diversion to unauthorised end-users. Some governments have restrictively defined the illicit trade as those international transactions that are not authorised by either one or both States concerned in the transfers. Whilst such transfers are clearly illicit, the UN Disarmament Commission (UNDC) articulated a wider global definition of the illicit trade in SALW, defining the illicit arms trade as "…that international trade in conventional arms, which is contrary to the laws of States and/or international law".[26]

International law specifies a number of direct prohibitions on the transfers of arms. These can take the form of UN arms embargoes and trade sanctions, which impose a ban on the export of some or all categories of arms to particular end-users, or controls on specific types of weapons whose effects are deemed inhumane or excessively injurious. International law also curtails States' freedom to authorise transfers with restrictions primarily dependent upon the use being made of the weapons. Accordingly States should not transfer arms which they know could be used to violate the following principles: the prohibition on the threat or use of force; non-intervention in internal affairs of other States; preventing terrorism; international humanitarian law; human rights law and standards; and preventing genocide.

BtB called for the UN Small Arms Conference to elaborate upon each of the above international law principles, with a view to arriving at a common understanding amongst all State Parties of the consequences of these principles for the regulation of SALW transfers. BtB further called on the UN Small Arms Conference to agree upon a comprehensive set of legal, administrative and practical measures to ensure that the elaborated norms and standards are enforced rigorously by all States.

In order to ensure consistent application and progressive development of the above norms and standards and associated legal and administrative measures, BtB recommended that the UN Small Arms Conference agree the establishment of an international mechanism in order to conduct an annual review of the application of the norms and standards based on information on SALW transfers provided by all States Parties. Furthermore, BtB argued that the progressive development of elaborated international norms and standards should be included in the Review Conference, which should also explore the development of a legally binding international agreement on the regulation of SALW.

Although the UN Small Arms Conference could not agree on the establishment of a set of internationally accepted export criteria, the PoAdoes contain a specific reference to export criteria, linking them to international law. Under Section II, paragraph 11, States are called on: "To assess applications for export authorisations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with States' existing responsibilities under relevant international law, taking into account, in particular, the risk of diversion of these weapons into the illegal trade."[27]

This is an important commitment that should now be built upon. The international community should now, therefore, develop a process whereby States can arrive at a common understanding of what their "existing responsibilities under relevant international law" are in regard to the trade in SALW. This process could also explore the feasibility of developing a legally binding international agreement on the regulation of SALW transfers, based upon applicable international law standards. During the UN preparatory process, a grouping of NGOs led by the Arias Foundation for Peace and Human Progress, working with international lawyers and supported by a commission of 19 Nobel Peace Prize laureates, launched a draft

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Enhancing controls on legal transfers

Framework Convention on International Arms Transfers which attempts to codify States' existing obligations under international law with regards to conventional arms transfers.[28] This framework could be used in the development of a legally binding international agreement.

Finally, one very important area where the UN Small Arms Conference did reach agreement was with regard to UN Security Council arms embargoes. In both the national and international sections of the PoA, there are explicit calls on States to cooperate with the enforcement of UNSC arms embargoes. Section II, paragraph 15, declares that States undertake to "take appropriate measures including all legal or administrative means, against any activity that violates a United Nations Security Council arms embargo."[29] Although such statements leave no room for ambiguity, the international community must now ensure that they are fully enforced and that those who breach such embargoes are duly sanctioned.

Information exchange and transparency

Many provisions of the PoA would benefit from regular, coordinated information exchange. However, the issue of information exchange and transparency in arms control is a difficult issue for States to agree in the context of the UN, and remained controversial throughout the conference – the US, China and the Arab Group were among those opposed to the inclusion of specific language on transparency measures.

Although recognising the challenge of multilateral agreements on information exchange, BtB believed that systematic information exchange and consultation was a critical component for a successful PoAand recommended its inclusion. Therefore, BtB advocated enhanced information-exchange and transparency in virtually all of the areas covered in the PoA. It argued for mechanisms to enhance confidential information exchange amongst governments and to promote co-operation on issues such as: combating illicit trafficking; marking and tracing; controlling legal transfers to prevent diversion, destabilising flows, or misuse; stockpile security; and collection and destruction of SALW. BtB also proposed enhanced provision of public information.

These areas identified, at present, are characterised by excessive secrecy which limits the potential for cooperation amongst all sections of society (government, parliament, NGOs, industry and citizens) as well as between governments. For example, BtB argued that the scope of the UN Register for Conventional Arms should be extended at least to include light weapons such as rocket and grenade launchers, light mortars, heavy machine guns and shoulder-fired missiles. In addition, specific international transparency arrangements for small arms should be developed, encouraging systematic information exchange on matters such as laws, policies and measures. BtB endorsed including explicit encouragement for regional and international arrangements relating to information exchange and enhanced transparency on SALW.

In the event, however, transparency provisions were significantly weakened or completely eliminated in the final document. The preamble, paragraph 16, of the first draft PoA[30] established that "enhanced openness and transparency and improved information exchange… would contribute greatly to confidence-building and security among States including a better understanding of the illicit trade in small arms and light weapons."[31] Furthermore, Section II, paragraph 26, called on States to "make public, or submit to relevant regional and international organizations, relevant information" relating to the manufacture, trade, transport of SALW.[32]

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Information exchange and transparency

However, none of these provisions remained intact. In the final document there is no mention of information exchange and transparency in the preamble. It is not mentioned in any detail until Section III, paragraph 1, which states that: "States need close international cooperation to prevent, combat and eradicate this illicit trade." [33] In addition, many measures have been made voluntary, qualified 'as appropriate', or left sufficiently vague. For example, the UN Department for Disarmament Affairs (UN DDA) is called on to collate and circulate "data and information provided by States on a voluntary basis" (Section II, paragraph 33).[34] However, experience shows that this is unlikely to stimulate much additional information exchange. Unless States systematise what information is expected to be regularly reported, information exchange is likely to remain limited and ad-hoc. Under the relevant section in the PoA, the UN DDAhas little authorisation to remind and encourage states to provide useful information. Furthermore, the UN DDA has only limited resources to manage and promote such information exchange, and the PoAcalls on this role to be played 'within existing resources.'

Without systematic information exchange and consultation it is difficult to see how some of the other provisions within the PoAcan be effectively implemented. For example, in operationalising marking and tracing systems to enable governments to trace sources of illicit arms. It is also difficult to see how national coordination agencies and national points of contact (liasing between States) will improve the situation in many affected countries without exchanges of experience and information. However, in the absence of such agreements, States should, at a minimum, provide information to the UN DDA and encourage others to do likewise, while strengthening and supporting information sharing measures in relevant regional or multilateral arrangements.

Weapons collection

The importance of weapons collection and destruction programmes in removing "surplus" SALW from both post-conflict situations and societies at peace, and thus in combating recycling and misuse of these weapons, was highlighted throughout the UN Small Arms Conference. BtB made a number of recommendations for best practice in the development and implementation of weapons collection programmes. At the heart of these is the premise that encouraging civilians and ex-combatants to give up their weapons requires the factors driving the demand for SALW to be comprehensively addressed. Accordingly, respect for human rights, the existence of a stable peace, and the ability of governments to assure the security of civilians will be important prerequisites for any successful weapons collection programme. Beyond this, BtB argued that the removal of weapons from society must be reinforced by:

- appropriate legislation that restricts access to SALW on the part of civilians;
- effective controls on government-owned stocks of SALW to prevent leakage into the illicit market; and
- legal and operational measures (including strengthened customs and border controls) to block new supplies of illicit weapons.

The possibility of providing rewards to communities for surrendering illicit weapons and the primacy of ensuring speedy destruction of all collected SALW were also highlighted.

BtB recommendations for the UN Small Arms Conference PoAurged the explicit acknowledgement of the role of weapons collection in post-conflict peace-building and in tackling violent crime, and called for a clear commitment by States to promote and support weapons collection in post-conflict regions and regions where SALW proliferation is a problem. States were further urged to agree to exchange information and build upon best practice in weapons collection as well as to identify and facilitate the provision of technical and financial assistance for the implementation of such initiatives.

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Weapons collection

The PoAcontains a voluntary commitment to submit information on SALW confiscated or destroyed to relevant regional and international organisations in Section II, paragraph 23[35], and in Section III, paragraph 14, urges that States "in a position to do so should provide assistance in the destruction or other responsible disposal of surplus stocks or unmarked or inadequately marked small arms and light weapons."[36] The importance of weapons collection programmes as a tool for reducing levels of illicit small arms in circulation is not explicitly recognised, although in Section II, paragraph 20, the public destruction of surplus weapons and the voluntary surrender of SALW in co-operation with civil society and non-governmental organisations is encouraged.[37] Beyond this, the most critical weakness is that there is no clear commitment by States to ensure that seized or collected SALW are destroyed, with the possibility that "another form of disposition or use" may be "officially authorised" (Section II, paragraph 16).[38] The "effective collection, control, storage and destruction of small arms" is raised in the context of disarmament, demobilisation and reintegration programmes in Section II, paragraph 21, however, the possibility of "another form of disposition or use" is again raised.[39]

Whilst the PoAendorses and encourages weapons collection it does not go beyond this to recommend or establish any specific programme or mechanisms to promote implementation. This was perhaps a missed opportunity, and these need to be established as a priority in the follow-on. Although highlighted during opening day ceremonies by the governments of the Netherlands, the UK, Brazil and Mali, among others, the UN Small Arms Conference was unable to address some of the most crucial factors driving the demand for illicit SALW and fell short of an unequivocal commitment to destroy seized and collected SALW. The role of weapons collection programmes in post-conflict environments and in the context of disarmament, demobilisation and reintegration programmes is, however, clearly recognised. States should follow up on this by ensuring that all future UN and other international and regional peacekeeping missions and demobilisation programmes have at their core the collection and destruction of weapons. Moreover, whilst the PoAmay allow for recycling of seized, surplus and collected SALW, all States undertaking such programmes should ensure that a norm of destruction is established through practice.

Weapons destruction and reducing surplus arms stocks

Measures to reduce 'surplus' stocks of SALW, including ammunition, are widely recognised to be an essential part of any effective action programme to prevent and reduce illicit trafficking and proliferation and misuse of small arms. Closely linked with this are programmes to promote destruction of confiscated or surplus weapons. In this context, 'surplus' weapons are serviceable or unserviceable SALW held in stockpiles by military or police forces or other such bodies that are surplus to requirements, or illicit weapons that have been seized or confiscated.

BtB proposed that the UN Small Arms Conference establish a norm of destruction for SALW that were no longer needed, and that States undertake the responsible and expeditious disposal of surplus SALW, normally through destruction. In addition, BtB also encouraged States to agree that SALW transfers should include understandings about the disposal and destruction of arms rendered surplus by the transfer, and proposed the development of regional and international mechanisms to enhance cooperation and provide assistance in the destruction of confiscated and surplus SALW.

The PoAincludes important commitments in this regard. Section II, paragraph 18, commits States "to regularly review… stocks of small arms and light weapons held by armed forces, police and other authorized bodies, and to ensure that such stocks declared by competent national authorities to be surplus to requirements, are clearly identified", and furthermore,

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Weapons destruction and reducing surplus arms stocks

that "programmes for responsible disposal, preferably by destruction, of such stocks are established and implemented and that such stocks are adequately safeguarded until disposal." [40] It also asserts that SALW should be destroyed, taking into account internationally recognised destruction methods (Section II, paragraph 19).[41] The PoAalso "encourages, where appropriate, public destruction of surplus weapons," including in "conflict and post-conflict situations" (Section II, paragraph 20).[42] Furthermore, Section III, paragraph 14, states that: "Upon request, States and appropriate international or regional organisations in a position to do so should provide assistance in the destruction or other responsible disposal of surplus stocks or unmarked or inadequately marked small arms and light weapons." [43]

The European Union, amongst others, tried to include in the PoAsome illustrative criteria for relevant national authorities to take into account when determining whether arms stockpiles are surplus to requirements. However, this proposal proved to be unacceptable to a number of countries, which were sensitive to anything that might imply that such a determination was not solely a matter for individual national governments to decide, based upon their own situation. Nevertheless, the PoA establishes clear international norms and standards on which to build. The challenge now is to translate such norms and standards into programmes which will facilitate and resource effective national and regional implementation. In practice, many armed forces are unprofessional in their approach to excess arms holdings and confused about whether older weapons are surplus or need to be held in reserve. Programmes to encourage a responsible and realistic identification of surplus are needed. Moreover, there is still a long way to go in the development of regional and international programmes to assist with timely and effective destruction.

Stockpile security

The UN Small Arms Conference confirmed the importance of measures to ensure that there are adequate safeguards to prevent the loss of SALW from official or authorised stocks through theft, corruption or neglect. Losses from military or police stocks, for example, are a major source of illicit or destabilising arms in many countries. BtB identified information exchange as a prime requirement for effective stockpile security and recommended that a process of information exchange, including on practice in stockpile management, be established.

Section II, paragraph 17, of the PoAcommits States to ensure that "the armed forces, police or any other body authorized to hold small arms and light weapons establish adequate and detailed standards and procedures relating to the management and security of their stocks of these weapons." [44] It goes on to elaborate some of the safeguards which these standards and procedures should encompass, including:

- appropriate locations for stockpiles;
- physical security measures;
- control of access to stocks;
- inventory management and accounting control;
- staff training;
- security, accounting and control of SALW held or transported by operational units or authorised personnel; and
- procedures and sanctions in the event of thefts or loss.

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Stockpile security

At the regional level, the PoAalso states that measures should be taken "to promote safe, effective stockpile management and security" and "to implement, where appropriate, regional and sub-regional mechanisms in this regard" (Section II, paragraph 29).[45] Section III, paragraph 6, also states that capacity-building assistance should be made available, on request, to assist States with ensuring good stockpile management and security. Furthermore, Section III, paragraph 8 states, "Regional and international programmes for specialist training on small arms stockpile management and security should be developed [and], upon request, States and appropriate international or regional organisations in a position to do so should support these programmes… [while] the United Nations… and other appropriate international or regional organizations should consider developing capacity for training in this area." [46]

The PoAtherefore goes as far as it usefully could to establish international norms and encourage programmes to promote secure stockpile management for SALW. The fact that consensus in this area was achieved without much difficulty reflects substantial progress: only a few years ago, arms stockpile management was generally regarded as an internal matter, outside the scope of international negotiations. However, effective implementation will require substantial national, regional and international programmes. The immediate challenge is to develop these so that there is real, urgently needed, progress in reducing losses from authorised holdings of SALW.

Disarmament, demobilisation and reintegration

The PoAacknowledges the importance of effective disarmament, demobilisation and reintegration (DDR) programmes for peacekeeping and peacebuilding efforts in Section II paragraphs 22, 34 and 35 and Section III paragraph 16. Although these provisions remain somewhat vague, the disarmament, demobilisation and reintegration provisions within the PoAwere, on the whole, well supported by the delegations at the conference. In the BtB briefing on the impact of small arms on children recommendations were made for DDR programmes.[47] In particular, the need to take account of the special needs of children, particularly girls, and the need to develop and support effective skills training and education programmes for former child combatants.

Despite support for DDR measures, a number of concerns did arise. Aconsistent concern throughout the UN Small Arms Conference was the question of resources in Section III. The PoAdoes not identify resources for the establishment of DDR programmes in those countries lacking the resources for effective implementation. Indeed, in Section III, paragraph 16, "relevant regional and international organizations" are called upon to support "appropriate programmes" related to DDR "within existing resources" although Section II, paragraph 35, does "encourage the United Nations Security Council to consider… the inclusions of relevant provisions for [DDR] in the mandates and budgets of peacekeeping operations." [48] While to date there has been considerable support for DDR programmes, due to the significant funding and technical requirements, the failure to develop integrated, coordinated and comprehensive commitments at the regional and international levels may hinder the development and implementation of effective DDR programmes.

Another concern in the PoA relating to DDR is the emphasis on programmes in post-conflict situations with no reference made to the importance of peacetime programmes. Many States continue to suffer the problems associated with small arms due to the failure or part-failure to implement effective DDR programmes once a peace accord has been established. The failure to carry out such programmes or to complete reintegration can lead to high levels of armed criminality as a country seeks a return to peace. Both political and financial resources need to be directed to peacetime DDR programmes in those countries where there has been

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incomplete DDR and where there is a struggle with insecurity, violence and crime associated with small arms availability. For example, the provisions for peacetime DDR programmes could be designed and implemented alongside weapons collection and destruction programmes outlined in the PoA enhancing feelings of insecurity all-round. The PoA recognises the issue of children in armed conflict and includes measures to "address the special needs of children affected by armed conflict, in particular… their reintegration into civil society, and their appropriate rehabilitation" (Section II, paragraph 22).[49] However, no specific reference is made to the importance of addressing their specific needs, as well of those of women, in DDR programmes. These should be addressed at other multilateral occassions, for example the Special Session on Children, which is examined in Section 4.

Role of civil society

The BtB project consistently emphasised the potential and actual role of civil society in preventing, combating and eradicating the illicit trade in small arms. However, the role of civil society, particularly non-governmental organisations, in the UN Small Arms Conference remained unclear until the final Preparatory Committee meeting in March 2001 due to significant opposition from some governments. In the end, the many NGOs that were determined to have their voices heard in the UN Small Arms Conference achieved their goal at least to a limited extent. In addition to many NGO side events and much corridor work, a morning at the start of the second week of the conference was dedicated to NGO presentations. Anumber of NGO representatives also formed part of government delegations. Despite most importantly perhaps, the final document recognises "the important contribution of civil society including non-governmental organizations and industry… in assisting governments to prevent, combat and eradicate the illicit trade in small arms and light weapons in all aspects" (Section I, paragraph 16).[50]

However, despite final provisions outlining the potential contribution of civil society to combating the problems associated with SALW, the PoAremains very much State oriented. The Preamble states: "Governments bear the primary responsibility for preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects" (Section I, paragraph 13).[51] Although States are encouraged to "facilitate the appropriate cooperation of civil society in activities" (Section II, paragraph 40)[52] and "undertake to cooperate and to ensure coordination, complementarity and synergy in efforts"(Section III, paragraph 2)[53] to deal with the illicit trade in SALW, there is little definition of how civil society should be engaged in the actual implementation of the PoAat the national, regional or global levels. Therefore, while in Section IV, paragraph 2(c), NGOs and civil society are encouraged to "engage, as appropriate, in all aspects of international, regional, sub-regional and national efforts to implement… the PoA"[54], the only clear area where civil society and NGOs have a determined role is in the development and support of "action-oriented research aimed at facilitating greater awareness and better understanding of the nature and scope of the problems" (Section III, paragraph 18).[55] In light of the shortfall in the PoA, and the important role to be played by civil society, section 4 of this briefing identifies some ways in which the activities of civil society can be further integrated into State efforts to control SALW.

Section 1: Review of the UN Small Arms Conference and Programme of Action

Regional initiatives

BtB recognised the complexity of the task of ensuring that the UN Small Arms Conference PoAcomplements and reinforces the diverse range of existing regional initiatives. Nevertheless, BtB argued that this was a crucial aspect of the international PoA and, by studying a number of regional and inter-regional arrangements, made a series of recommendations as to how the PoA could both support and learn from existing initiatives.

Regional Efforts Supported by the UN PoA

One aspect which could be applied from the OAS experience in particular – but which is also relevant in many other contexts – is for the UN PoA to support and encourage ratification and implementation of legally binding regional instruments to control SALW. Encouragingly the PoAurges regional "negotiations… with the aim of concluding relevant legally binding instruments aimed at preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects, and where they do exist to ratify and fully implement them (Section II, paragraph 25)."[56]

In addition, BtB urged that a substantive commitment be made to the provision of technical and financial assistance for the implementation of regional initiatives. In this regard, the PoA does not explicitly call upon States to provide assistance specifically for implementing regional commitments, however, a range of supporting statements have been made which should assist in this regard. For example, the PoA requests that States, regional and international organisations "consider assisting interested States… in building capacities" in a variety of areas primarily "with a view to facilitating implementation of the PoA(Section III, paragraph 6)."[57] In addition States and international and regional organisations are encouraged to "co-operate, develop and strengthen partnerships to share resources and information on the illicit trade in SALW in all its aspects (Section III, paragraph 5)."[58] Accordingly, these and other provisions for the allocation of assistance should, if implemented fully, have the effect of facilitating and encouraging implementation of regional SALW initiatives.

Regional Efforts Inform the UN PoA

Whilst pointing to the ways in which the UN PoA could support efforts to tackle SALW proliferation in the regions, BtB also sought to draw upon regional experiences so as to inform the scope and development of international commitments. In this regard harmonisation of licensing procedures (as specified in the OAS Convention)[59] should be considered an important focus for efforts to address the illicit SALW trade. However, whilst calling for the establishment of "adequate laws, regulations and administrative procedures to exercise effective control over the production of SALW… and over the export, import, transit or retransfer of such weapons" (Section II, paragraph 2),[60] the PoAfails to mention the need for convergence or harmonisation in such areas or the possibility of developing model regulations.

One of the most protracted areas of debate in advance of the UN Small Arms Conference concerned the issue of criteria for the export of SALW. The EU Code of Conduct on Arms Exports provides the most comprehensive example of regional agreement in this area with elaborated criteria, consultation mechanisms and an annual review process. Had the political will existed amongst States, the EU Code could have been a useful model on which to base an international agreement. Since some States argued that the focus on the illicit trade in SALW negated the need to examine this issue, the fact that the PoAdoes address the issue of export controls on SALW represents an achievement in itself. Nevertheless the undertaking to "assess applications for export authorizations according to strict national regulations and procedures… consistent with the existing responsibilities of States under relevant international law" (Section II, paragraph 11) represents a starting point for the development of international controls in this area upon which States should seek to build.[61]

Section 1: Review of the UN Small Arms Conference and Programme of Action

Regional initiatives

An important aspect of the ECOWAS Moratorium on the Importation, Exportation and Manufacture of Light Weapons and the associated PCASED process is the explicit recognition of how insecurity and the proliferation of SALW undermine development.[62] It is encouraging, therefore, to note that the preamble of the PoArecognises the role that poverty and underdevelopment can play in fuelling the illicit trade in SALW, and that this is substantiated in Section III, paragraph 17, in which States are urged to "make greater efforts to address problems related to human and sustainable development."[63] Furthermore, the PoA also explicitly endorses and recommends the ECOWAS approach by calling for the "strengthening and establishing… of moratoria or similar initiatives in affected regions or sub regions on the transfer and manufacture of small arms and light weapons… and to respect such moratoria… and co-operate with the States concerned in the implementation thereof, including through technical assistance and other measures" (Section II, paragraph 26).[64]

In terms of inter-regional co-operation, BtB noted a number of aspects of the EU-SADC arrangement that could inform and help substantiate the PoA, including the need for synergy between political and operational agencies in tackling the illicit trade in SALW. In this regard it is encouraging to note that the PoA urges States to "enhance co-operation, the exchange of experience and training among competent officials, including customs, police, intelligence and arms control officials at the national, regional and global levels (Section III, paragraph 7)."[65] However, there are other aspects of the EU-SADC approach that are not addressed by the PoA. For example the need for domestic regulation of SALW ownership is clearly articulated in the *Southern Africa Action Programme on Light Arms and Illicit Trafficking,* but provisions for addressing civilian possession of SALW remains one of the most notable and serious omissions from the PoA.[66]

Section 2: Follow-up to the UN Small Arms Conference and Implementation of the Programme of Action

The PoAadopted at the UN Small Arms Conference represents a first step towards international, co-ordinated action to combat the proliferation and misuse of small arms and light weapons. Global conferences, such as the UN Small Arms Conference, represent a universal response to problems that transcend national borders. The UN Small Arms Conference was an important effort towards mobilising political and public support for combating SALW and for international action to tackle the proliferation and misuse of these weapons. The conference agreed on a range of valuable politically binding commitments, though it stopped short of launching negotiations for specific international instruments.

Proposals for a system of both UN and ad hoc mechanisms to implement the PoAwere mooted in the first draft programme, after meeting opposition from many quarters. Some countries resisted giving too much authority to the UN Department for Disarmament Affairs under such a broad mandate. Others opposed the creation of micro-bureaucracies within the UN system. While some were cautious about the financial implications of formalised mechanisms. The result was a move to the other extreme, in which most of the operational implementation of the PoAis left to States, which may voluntarily report to the UN DDAon steps taken to implement the PoA.

The PoAcalls for the following concrete follow-up measures:

- AReview Conference no later than 2006 to review progress made in the implementation of the PoA;
- Biennial Meetings of States to consider national, regional and global implementation of the PoA; and
- AUN feasibility study of developing an international instrument to identify and trace illicit SALW.

The PoAalso includes a set of voluntary measures for States to take to support the implementation of the PoA and to further international cooperation, including to:[67]

- cooperate and ensure coordination, complementarity and synergy in efforts to deal with the illicit trade in SALW and encourage partnerships, including with civil society;
- provide technical and financial assistance and support efforts to build capacity to further the implementation of measures to prevent, combat and eradicate the illicit trade in SALW contained in the PoA;
- develop specialist training on SALW stockpile management and security and provide support for these programmes, including developing UN capacity for training;
- use and support, including by providing information, the Interpol International Weapons and Explosives Tracking System or other databases;
- consider international cooperation and assistance to examine technologies to improve the tracing and detection of the illicit trade in SALW;
- cooperate in tracing SALW, particularly by strengthening mechanisms based on information exchange, including national systems for marking SALW;
- provide assistance for destruction or other responsible disposal of surplus SALW or unmarked or inadequately marked SALW;
- support DDR programmes;
- develop and support action-oriented research;
- provide information on a voluntary basis to the UN DDAon implementation of the PoA with the information to be collated and circulated by the UN DDA; and
- develop a common understanding of the basic issues and the scope of the problems related to the illicit brokering of SALW.

Section 2: Follow-up to the UN Small Arms Conference and Implementation of the Programme of Action

Aclear challenge to the uniform implementation of the PoAis the onus that has been placed upon action at the national level, with few specific areas earmarked for regional or global action. Calls for more specificity in the PoA, on a time-frame for implementation, and a series of benchmarks against which to measure implementation, did not achieve wide support or remain a priority in the follow-up. However, as the President of the Conference, H.E. Mr. Camilo Reyes Rodriguez, noted, the PoA represents a road map for actions, objectives and purposes, based on agreed recommendations that leaves space for those willing to go faster or slower in the implementation of the PoA.[68] Yet, this said, it will be important to ensure that all States remain on this road and make good progress in implementing the commitments in the PoA. The following discussion outlines a number of crucial opportunities for encouraging and monitoring this progress.

UN General Assembly and Security Council

The First Committee of the UN General Assembly debated a resolution on the UN Small Arms Conference (A/C.1/56/L.47) that gives form to some of the follow-up measures contained in the PoA. The resolution, sponsored by 57 countries from Africa, the Americas, Asia and Europe (but excluding China, Russia, the UK and the USA) calls for the following steps:

- a Review Conference by 2006 with the date and venue to be decided in 2003;
- the first Biennial Meeting of States in 2003 to consider national, regional and global implementation of the PoA;
- a UN study to examine the feasibility of an international instrument to enable States to identify and trace illicit SALW to be completed in 2003;
- consideration of further steps to enhance international cooperation in preventing, combating and eradicating illicit brokering in SALW in 2002;
- destruction of surplus, confiscated or collected SALW with States reporting to the UN the types and quantities destroyed and the methods of destruction; and
- to ensure that the UN Secretariat has the necessary resources and expertise to promote the implementation of the PoA.

In August 2001, a few weeks after the end of the UN Small Arms Conference, the UN Security Council held an open debate on the issue of small arms. While many of the statements made on behalf of governments resembled those made the previous month, the fact that the debate occurred and helped sustain the profile of the issue is important in its own right.

Section 2: Follow-up to the UN Small Arms Conference and Implementation of the Programme of Action

Biennial Meetings and the first Review Conference

The PoAagreed at the UN Small Arms Conference establishes a key set of principles, obligations and measures to which all participating States are committed. In spite of the widely differing perspectives between countries and regions on priorities in preventing and reducing illicit trafficking and proliferation of SALW that were manifest at the conference, the agreed PoAprovides a 'floor' of minimum standards and obligations that every country and region should adopt and pursue. Beyond these, States and regions are encouraged to take further and more stringent measures according to their specific priorities and situation.

The follow-up mechanisms adopted by States in the PoA do, nevertheless, provide a means of building greater support for global, coordinated approaches through the Biennial Meetings and the first Review Conference. Indeed, the President of the conference advanced the suggestion that the Review Conference in 2006 be viewed as a deadline to accomplish the PoA, with the Biennial Meetings of States as instruments to exchange information and review progress at national and regional levels.[69]

BtB is clear on the need for concrete, measurable mechanisms to control and monitor SALW being agreed in the coming years, with progress reviews at the Biennial Meetings of States. In the first BtB briefing, issues were identified where it was judged there was greater potential for agreement by the time of a Review Conference. Whilst commitments in all of these areas fall short of what the BtB project recommended, individual States or groups of States must take the lead in ensuring that progress is made in developing and implementing the provisions of the PoAin each of these areas. The Biennial Meetings and Review Conference represent crucial opportunities to assess progress in addressing these issues and for encouraging action on the part of more reluctant States that are falling or lagging behind.

Additional measures, such as regulating ammunition and explosives or addressing the factors underlying the demand for weapons, were seen as more complex problems, requiring greater debate and consideration. Debate on these issues, however, should be part of the international discourse on SALW in the coming years with a view to including them in a strengthened PoA in 2006.

Section 3: Funding and Resourcing the Implementation of the Programme of Action and Promoting International Assistance

In recent years, at the UN and elsewhere, governments have made commitments to cooperate and assist each other in preventing and combating illicit arms trafficking and the associated problems. However, the commitments have often been vague and involved little real policy and institutional change, and most importantly have often lacked adequate funding and resourcing. As a result political will and capacity, as well as practical cooperation, have generally been inadequate.

Similarly the UN Small Arms Conference PoAmakes only minimal provision for funding of activities for its implementation. The UN is required to fund the feasibility study on tracing and to use available resources to circulate information provided by States on implementation of the PoA on an annual basis. Beyond these sparse provisions, the implementation of the PoA rests on voluntary funding, either through the UN and its agencies, for example the United Nations Development Programme (UNDP), or through individual countries or regional organisations.

In view of the myriad of challenges facing governments seeking to control the proliferation of and illicit trade in SALW at national, regional and global levels, a major increase in available funding will be required from all States and organisations in a position to contribute. Whilst many governments have modest budget lines dedicated to addressing small arms proliferation, the scale of the SALW problem will undoubtedly require accessing the more substantial funds located within security, defence and development budgets of more affluent States. There have been positive developments in this regard. The governments of Japan and the United Kingdom made public their plans to support the implementation of the PoA during the UN Small Arms Conference and other key donor countries plan also to direct funding for SALW activities in support of the implementation of the PoAeither directly or indirectly.

In this context, BtB believes that there are three main tasks in enhancing international assistance in implementing the PoA:

- identifying the needs and priorities for assistance;
- mobilising resources for effective international assistance; and
- matching identified needs with resources available for assistance.

Identifying needs and priorities for assistance

Each country and region needs to develop its own programmes of work to implement the PoA, and to identify those areas where it requires assistance. Whilst there are many areas where assistance would be useful, priorities need to be established in order to help direct assistance to the most critical efforts.

In practice some countries, including some of those most severely affected by small arms proliferation, will need assistance in the process of preparing their plans and programmes of work, and in arranging the consultations required to identify priorities and needs. The processes of developing programmes of action, and identifying needs, should in many areas take place at a regional and sub-regional as well as national and provincial level. Experiences in Europe, Central and South America, sub-Saharan Africa have already begun to demonstrate the value of such approaches.

Section 3: Funding and Resourcing the Implementation of the Programme of Action and Promoting International Assistance

Mobilising resources for effective international assistance

Donor governments, and relevant international and regional donor organisations and agencies, have to ensure they develop the capacity to provide appropriate assistance to help promote implementation of the PoA. This remains a major challenge. It means ensuring that they have the budget lines to provide such assistance, and the institutional capacity to provide such assistance in a timely and flexible way.

Nationally, in donor countries, development agencies typically have programme guidelines and institutional constraints that need to be reformed or expanded if they are to provide appropriate assistance in implementing the PoA on small arms. Development budgets have often been considered the most appropriate source of funding. However, the scope and complexity of the small arms problem, as well as the PoA, requires other budgets to be examined and accessed. For example, in many cases defence or national security budgets may also be more appropriate, especially in relation to technical cooperation, weapons destruction and security sector reform.

Similarly there is still a long way to go in developing the capacity of international and regional donor organisations to assist in the implementation of the PoA. Whilst UNDP has recently made substantial progress in this respect, and is now developing a useful and comprehensive programme of assistance in this area, this cannot yet be said of other organisations such as the World Bank. Government representatives on the governing boards of organisations such as the World Bank need to take measures to ensure that these institutions reform and develop programmes that provide appropriate assistance to governments intent on implementing the PoA.

One key issue in developing capacity to provide assistance in this area is to ensure that donor institutions have the capacity to provide flexible and timely funding across a substantial range of the areas addressed in the Programme of Action. There has been a tendency in some agencies to develop narrow and constrained budget lines, making them relatively incapable of actually meeting the appropriate needs of the recipient countries and communities. This may require further examination possibly with NGOs working in this field.

Matching needs with assistance

Experience shows that it is no easy task to achieve necessary matching of needs with resources available for assistance, and the effective coordination of donor assistance. In principle, it is best for the recipient government or region to coordinate donor assistance, particularly when funds are emanating from a number of different sources. In practice, however, this is often difficult, and the donor community itself also has a major responsibility to ensure appropriate coordination. The immediate priority, in itself a challenging task, is to ensure at least effective information exchange and consultation amongst donors and their partners. No single mechanism or organisation can do it reliably. The main principle should therefore be to ensure multiple channels for information exchange and consultation to facilitate coordination of assistance.

Section 3: Funding and Resourcing the Implementation of the Programme of Action and Promoting International Assistance

Matching needs with assistance

Firstly, international and regional information exchange and consultation mechanisms need to be developed. The Organisation for Economic Cooperation and Development/Development Co-operation Directorate (OECD DAC) could play an important role here. The UN Department of Disarmament Affairs and the UN Coordinating Action on Small Arms mechanism [CASA] also have important roles to play, not least in helping to gather and disseminate information on assistance activities and plans of the various UN agencies, and to assist in the dissemination of relevant information on wider assistance programmes. The Group of Interested States has already played a useful role in this respect, and ways should be found to enhance this role. Regional mechanisms will also be essential, with regional organisations having a responsibility to allocate resources to this effort.

Secondly, coordination and information exchange of assistance should be organised in the recipient country or at the regional level. There is ample precedent for this in other issue areas, but experience shows that it does not take place automatically, but requires active effort. Interregional cooperation, and meetings such as the meeting of the OECD and African States planned for March 2002, also make a valuable contribution in this context.

Thirdly, there is scope for developing consultation and cooperation in assistance through specific thematic international programmes. Issue areas that are prime candidates for the development of such programmes include arms stockpile security, weapons collection, weapons destruction and enhancing customs and border controls. Athematic programme could include specific mechanisms to exchange experiences and resources for assistance in that specific area. Some pooling of resources, through international resource centres, could make a major contribution.

Finally, all countries and organisations providing assistance have a responsibility to be sufficiently transparent and open to cooperation to facilitate appropriate coordination. This applies to governments and international and regional organisations but also to NGOs and other civil society contributors. This may require further examination possibly with NGOs working in this field.

Section 4: Outcomes and the Way Forward

Regional initiatives

The PoAagreed at the UN Small Arms Conference provides a key set of agreed principles, commitments and programmes that all participating States should implement. Clearly different States and regional groupings will implement these according to their own situations and capabilities. However, even in the months since the conclusion of the UN Small Arms Conference a number of regional initiatives to tackle SALW proliferation and misuse have begun to develop.

EU Region

The European Union Code of Conduct on Arms Exports was adopted on 25th May 1998. The Code was drawn upon during the UN Small Arms Conference, in particular, for efforts to control brokering. At the start of the UN Small Arms Conference, the Belgian Foreign Minister, on behalf of the EU, declared: “Brokering is a major problem in the context of illicit trade in small arms. For this reason we consider a legally binding instrument to be necessary here as well. Nor should transport and financing be forgotten.”[70] In November 2001, the Third EU Code Annual Report suggested provisions for the regulation of arms brokering activities.[71] These included:

- the requirement of a government license for arms brokering and mediation activities. All such applications to be assessed on a case-by-case basis against the criteria of the EU Code; and
- that Member States seriously consider registering brokers or requiring them to obtain a written authorization from the Member States where they are resident or established.

Whilst such controls are not legally binding, all EU states are expected to implement them and therefore, these guidelines are an important step towards the development and harmonisation of such controls within the EU region. It is to be hoped, moreover, that the lessons learned from the EU deliberations on the brokering issue can be spread internationally through the Biennial Meeting and Review Conference process leading to the eventual realisation of the goal of an international legally binding instrument.

OSCE Region

The Forum for Security Co-operation (FSC) of the OSCE adopted the OSCE Document on Small Arms and Light Weapons on the 24th November 2000. While the Document is a statement of political commitment, rather than a legally binding instrument, it has considerable importance. The 56 OSCE participating States account for just over half of the world’s legal exporters of small arms including three of the four biggest exporters – the US, the Russian Federation, and Germany. Many OSCE countries – especially in Central Asia, the Caucasus, and South Eastern Europe – are also affected by the problem of small arms proliferation, availability and misuse.

Much of the importance of the Document relates to its comprehensive nature, which aims to combat illicit SALW trafficking in all its aspects. There is a strong focus on improving controls over legal manufacture and transfer, with provision made for marking, record keeping, and the harmonisation of import, export and in-transit procedures and documentation. The Document also contains provisions for the regulation of international arms brokers and recommended criteria to be used in determining export licence applications.

Furthermore, in adopting the OSCE Document on Small Arms and Light Weapons, OSCE States agreed to provide assistance for stockpile management, weapons collection, and border control, and to incorporate small arms related measures into future OSCE missions and peacekeeping operations. They also agreed to exchange information on various aspects of their policies and procedures related to SALW. These exchanges of information took place on 30th June 2001 but further submissions have been received through January 2002.

Section 4: Outcomes and the Way Forward

Regional initiatives

An overview of the first OSCE information exchange on SALW was published on 23rd January 2002 by the Conflict Prevention Centre of the OSCE Secretariat. It covered national marking systems, national procedures for the control of manufacture, national legislation and current practice on export policy, control over international arms brokering, and techniques for the destruction of SALW.

South Eastern Europe and the Stability Pact

The publication of the comprehensive OSCE Document on Small Arms in November 2000, and a series of government and NGO-sponsored seminar events in the Balkan sub-region linked to the UN Small Arms Conference and Prep Com process together provided the catalyst for substantive progress on the small arms problem in the Balkan region. These efforts crystallised when, in August 2001, the Office of the Coordinator of the Stability Pact produced a draft Regional Implementation Plan (RIP) for South Eastern Europe. The RIP provides for action across a range of small arms related concerns, including action to:

- prevent and combat illicit trafficking;
- support the disarmament, demobilisation and reintegration of combatants;
- enhance the role of the security sector in tackling small arms proliferation;
- promote transparency and accountability;
- enhance public awareness;
- improve legislative capacity; and
- support the collection and disposal of small arms.

Other important components include provision for the establishment of a Regional Clearing House for SALW reduction in Belgrade, under UNDP auspices, that will provide advice on formulating proposals and implementing small arms projects and facilitate the sharing of information. Also envisaged is a Regional Steering Group consisting of national focal points from each country which will be charged with monitoring the implementation of the RIP and reviewing priorities for action. In order to support these processes, a special fund will be established to which donors will be encouraged to contribute.

In practical terms, the RIP seeks to enhance regional co-operation on small arms and light weapons, and to create a framework within which donors can work closely with countries in South Eastern Europe on joint programmes to implement the OSCE Document, UN PoA and other relevant commitments. In recognition of the valuable role of the partnership with civil society in its implementation, it was agreed with the Office of the Co-ordinator of the Stability Pact that the Plan would be presented to participants at a seminar in Szeged, Hungary, in September 2001 as part of an ongoing consultation process.

At the seminar it was agreed that the civil society-led Szeged Small Arms Process should play a ‘complimentary and reinforcing role’ in assisting the effective implementation of the plan and that this should include:

- reviewing and monitoring implementation;
- raising public awareness;
- mobilising political will in support of the Plan; and
- developing supplementary initiatives such as youth projects and police-community dialogue.

Section 4: Outcomes and the Way Forward

Regional initiatives

OAS Region

During the UN Small Arms Conference, the parties to the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials took advantage of the conference to bolster support for the Convention and its implementation. On 11 July 2001 the representative of the Government of Mexico, as chair of the Convention's Consultative Committee, made a presentation to the UN Small Arms Conference on behalf of the Rio Group. In the days following this presentation, the chair met with the UN Under Secretary-General for Disarmament Affairs, the Director of the UN Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean (UN-LiREC) and representatives of the EU to discuss future modes of cooperation.

These meetings and the apparent political will to move forward in a collaborative fashion builds on the Memorandum of Understanding (MOU) signed between UN DDAand the OAS on 26 January 2001, which set out a legal framework for cooperation with regard to measures to reduce illegal trafficking in firearms in the region. UN-LiREC and CICAD, which were already established as the respective implementing institutions of this agreement prior to the UN Small Arms Conference, have already begun to develop multilateral technical cooperation in relation to the CICAD Model Regulations. In 2000 and 2001 UN-LiREC, in cooperation with CIDAD, held Model Regulation awareness-building workshops in Peru, Martinique and Trinidad and Tobago open to all UN Member States in Latin America, including Cuba, which remains excluded from participation in the OAS. These seminars are scheduled to continue into 2002.

Following the UN Small Arms Conference, in November 2001, the Government of Chile and UN-LiREC held a regional follow-up seminar for the Latin American and Caribbean States together with selected NGOs. There was widespread participation in the seminar which explored further the OAS Inter-American Convention and CICAD/OAS Model Regulations as well as issues as varied as arms cultures, police and customs capacity, and the role of civil society in addressing arms proliferation, availability and misuse. From February 2002, the EU, together with the Governments of the Netherlands and Sweden, have agreed to finance related training activities on a sub-regional level for police and customs officers involving UN-LiREC, CICAD and potentially INTERPOL and the World Customs Organization, thereby facilitating implementation of important PoAcommitments relating to cooperation and information and resource-sharing between such offices and officials.

These activities represent important progress in the implementation of commitments in the UN PoA for the establishment of adequate laws, regulations and administrative procedures to control the production, export, import, transit or retransfer of SALW.

ECOWAS Region

On 31 October 1998, the 16 Heads of State in the Economic Community of West Africa (ECOWAS) declared a three-year Moratorium on the Importation, Exportation and Manufacture of Small Arms and Light Weapons. The Moratorium, which was agreed in order to reduce the proliferation, circulation and misuse of these weapons in West Africa, led to the adoption of a plan of action and code of conduct. A *Program for Coordination and Assistance on Security and Development* (PCASED) is currently being implemented in the region to address the security and development problems associated with the proliferation and misuse of these weapons and to help reinforce the politically-binding Moratorium commitments.

Section 4: Outcomes and the Way Forward

Regional initiatives

At the start of the UN Small Arms Conference, the permanent representative of Mali informed the President of the UN Security Council, in a letter dated 9th July 2001, that the Heads of State of ECOWAS had decided to renew the Moratorium for a second three-year period with effect from 5 July 2001. While the Moratorium is an important mechanism for addressing the problems associated with these weapons, for this initiative to be fully translated into effective action on the ground, the international community and especially donor governments need to coordinate supporting measures for the ECOWAS Moratorium and PCASED process. Furthermore, it is imperative that greater monitoring of the Moratorium is undertaken and that it be fully respected by all States within and outside the region.

Great Lakes region and the Horn of Africa

In Eastern Africa, progress has continued since the UN Small Arms Conference to implement the Nairobi Declaration on the Problem of the Proliferation of Illicit Small Arms and Light Weapons in the Great Lakes region and the Horn of Africa, which was signed in March 2000 by Foreign Ministers from 10 countries. Alegal protocol on small arms control that seeks to strengthen and harmonise national legislation across the region has been agreed by the legal sub-committee of the Eastern African Police Chiefs Committee (EAPCCO) and was presented to the annual meeting of police chiefs in September 2001. It now awaits final approval by national governments. Further to this a regional seminar of senior government officials and police experts was held in Djibouti in December 2001. Participants agreed a series of practical steps to support the implementation of the Nairobi Declaration in the following specific areas:

- establishing national focal points (NFPs – inter-agency bodies to coordinate the work of different government departments on small arms control);
- adopting the legal protocol on small arms control; and
- responsibility in managing stockpiles of small arms and in collecting and destroying surplus small arms.

Progress has been made at the national level with the establishment of NFPs in Kenya, Tanzania and Uganda. The first task for these bodies is to develop a national implementation plan on SALW. Tanzania has been the first country to have successfully completed a comprehensive national mapping exercise and a five-year plan to tackle the proliferation of small arms for which funds are being sought. In Kenya, a UN assessment team led by the UN DDA has visited the country to assess the nature and extent of the small arms problem. This made a number of recommendations for national and regional steps that could be taken and the UN is now planning to hold a regional meeting
for the heads of NFPs.

It is clearly important that such regional initiatives, which have been and will likely remain one of the main mechanisms whereby the PoA is implemented at national and regional level, are nurtured, assisted and reinforced by the international community where this is possible and appropriate. To facilitate this, an international engagement framework is required to ensure that these divergent activities are developed in complementary and synergistic ways. Such a framework should also ensure that the limited national and international resources available, from governments, NGOs and the international donor community, are targeted in the most effective manner possible. This will help promote sustainable solutions and prevent wasteful duplication.

Section 4: Outcomes and the Way Forward

Related multilateral issues

The diverse problems associated with small arms ensure that any effective solution requires a multi-sectoral approach. Therefore, while the national and regional initiatives outlined above are key to tackling the problems of these weapons, there are other cross cutting issues and processes that will affect or be affected by the implementation of the PoA.

UN Special Session on Children

The UN Special Session on Children, originally scheduled to take place in September 2001 but now postponed until May 2002, will be an important opportunity to highlight the impacts of small arms on children as well as to develop a strong international response that builds upon the outcomes of the UN Small Arms Conference. In this regard, it is important that governments consider the effects of small arms not only in the context of discussions on armed conflict, but also recognise the impact of these weapons on children living in non-conflict situations. BtB recommended a framework that united the priorities of those working on children and those working on small arms to enable the development of common approaches for reducing the negative impact of small arms on children. Some of these recommendations found their way into the UN Small Arms PoA. However, the current draft outcome document for the UN Special Session, "A World Fit for Children", contains only one reference to the dangers of small arms proliferation and misuse. It is vital that the effects of SALW in all contexts are included throughout the document and that the international community uses this opportunity to build appropriate responses to address small arms proliferation, availability and misuse as it affects children.

UN Firearms Protocol

While multilateral efforts to curb small arms proliferation and misuse are still relatively new and untested, the law enforcement approach to the problem with its focus on combating illicit weapons trafficking has garnered widespread support by governments, culminating in the negotiation of the UN Protocol against the Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. The Protocol, supplementary to the UN Convention on Trans-national Organised Crime, was adopted by the UN General Assembly on 31 May 2001. The Protocol is a legally binding treaty that commits States to *inter alia:*

- promote common international standards for the import, export and in-transit international movement of firearms, their parts and components and ammunition;
- encourage cooperation and information exchange at the national, regional and global levels, including on firearms identification, tracking and tracing; and
- further international cooperation on firearms, their parts and components, and ammunition by developing an international regime for the management of commercial shipments.

Governments should now ratify this Protocol at the earliest possible opportunity and work to ensure that it is fully implemented. Encouragingly, a number of sub-regions – including Southern and Eastern Africa – have been working to develop their own specific Protocols on Firearms and Ammunition, which in many respects go further than the UN agreement. These efforts should be supported by the international community and, whenever possible, replicated in other regions.

Section 4: Outcomes and the Way Forward

Related multilateral issues

Events and Attitudes post-11 September 2001

A factor that must now be considered is the shift in the SALW control paradigm following the 11 September 2001 terrorist attacks and the subsequent initiation of a "war on terrorism". The full effects of this shift cannot yet be determined. Following the attacks, government leaders publicly acknowledged the importance of combating the illicit trade in small arms in the broader fight against terrorism. This acceptance may allow for a re-visiting of issue areas, such as international controls on arms brokers and a norm prohibiting the supply of SALW to non-governmental entities, that proved too controversial for consensus at the UN Small Arms Conference but which are crucial for combating the supply of SALW to terrorist groups.

Conversely, there are also concerns that the political compromises and the necessities of *realpolitik* caused by the establishment of a broad based governmental "coalition against terrorism" could potentially lead to the weakening of State to State SALW export controls in particular, and in general, a greater willingness to turn a blind eye to violations of other aspects of international law – such as international human rights standards and international humanitarian law – on the part of those States who are seen to be proactive in combating terrorism. It is crucial, however, that international legal standards relating to the transfer and use of SALW are upheld at all costs.

Providing a framework for information exchange and policy development

Acrucial element in effective implementation of the UN Small Arms PoAis the establishment of a mechanism (or mechanisms) for systematic exchange of information and experience between regional, sub-regional and international bodies involved in efforts to prevent and reduce SALW proliferation and misuse. As mentioned above, one forum for such exchange and development of best practice would be the Biennial Meetings of States/Review Conference process. Another focus for such progress could be the established sub-regional, regional and multilateral organisations, which should be encouraged to include SALW control issues on their agenda.

An alternative methodology would be the establishment of broad-based international expert groups focused on the development of specific SALW policy areas. In this regard, BtB is investigating the possibility of convening independent groups of government, UN and NGO experts to develop policy proposals for implementing and developing key commitments in the PoA and to identify new areas for action. Akey function of these groups would be to bring real practical expertise into policy discussions so as to ensure that outcomes are based on best practice and, at the same time, reflective of the realities on the ground. It is envisaged that these expert groups would also utilise military, security and other technical experts, as well as leading local practitioners and regional experts, who would have a primary role to play.

There are a number of key issue areas where such a process could be of benefit and be the catalyst for a quantum jump in the development and implementation of international policy and action. Such issue areas include:

- controlling arms brokering;
- international transparency mechanisms for small arms;
- developing and elaborating on what constitute States "existing responsibilities under relevant international law" relating to small arms transfers; and
- stockpile management techniques and how to build capacity in this area in affected countries.

Section 4: Outcomes and the Way Forward

Providing a framework for information exchange and policy development

The exact focus of such expert groups would be defined in consultation with members of the target audience, whilst the specific aims of each would depend on the issue under discussion. The conclusions and recommendations of such expert groups would be tailored to feed into the UN debate, as well as that of other relevant multilateral organisations, however, it is anticipated that each group will recommend a process for promoting adoption and implementation of their conclusions.

Monitoring national, regional and international implementation

The importance of developing a process of thorough monitoring of the PoAimplementation is three-fold. Firstly, it will show where and how progress is being made on implementing the PoA– nationally, regionally and internationally – so that this experience can be used to inform and support efforts in other national and regional contexts. Secondly, it will review the extent to which relevant expertise and assistance is being provided in order to identify possible gaps and to facilitate the implementation of commitments at national, regional and international levels. Thirdly, it will assess progress on the development of international measures to control SALW in order to highlight those areas which merit increased attention. Whilst such monitoring needs to be undertaken primarily by governments, civil society can play an important role by feeding into and complimenting such ongoing governmental evaluation.

In this regard the BtB project is seeking to work with a wide variety of partners to develop substantial *Biennial and Review Conference Reports* on progress made by States in the implementation of key elements of the PoA. These reports will be published in advance, respectively, of the Biennial Meetings of States and the Review Conference. The reports will be the result of a qualitative and analytic process involving surveys of particular regional and national progress towards the implementation of the PoA. Although the reports will not seek to address the implementation of the PoA in all countries and regions, it is anticipated that over the three reports, all regions and at least 20 countries will be covered. Such monitoring and evaluation must occur at the local, national, regional as well as the international levels. Furthermore, it is important that a mechanism be found to integrate such NGO monitoring into that undertaken by governments.

Developing roles for civil society

The primary responsibility for implementing the PoAand ensuring human security lies with States. But the UN PoA cannot be effective without the active involvement of all actors for progressive change and all sections of society. Civil society, particularly the NGO community, has a crucial role to play. Many governments have already recognised the important role of NGOs and other sections of civil society. However, in those countries where such mutually beneficial relationships are inadequate or non-existent, governments should allow space and take initiatives to develop them. This may require changes of attitude and the development of habits of openness, consultation and co-operation. The creation of national consultative mechanisms and procedures may be a means to facilitate this.

There are a number of key areas where NGOs and civil society can make a vital contribution towards successful implementation of the PoA and in combating SALW proliferation and misuse more broadly.

Section 4: Outcomes and the Way Forward

Developing roles for civil society

Awareness raising

Alerting the public to the devastation wrought by the proliferation and misuse of SALW worldwide and consequently mobilising support for government initiatives and the PoA implementation is a crucial NGO activity. Aprimary aim of this awareness-raising work must be to ensure that the implementation of the PoA is seen as an ongoing long-term process and to ensure that the public recognises the relevance of this issue to themselves and their communities. In this regard it is vital that the NGO community ensure that media and wider public interest in this issue is sustained over the next five years until the 2006 Review Conference. In this regard, the International Action Network on Small Arms (IANSA) has a crucial role to play (see below).

Acting as catalysts and intermediaries

NGOs and other civil society organisations (such as faith leaders, trade unions, women's groups and indigenous peoples' leaders) can play intermediary or bridge-building roles between the government and certain sectors of society, which may be indifferent or potentially antagonistic to the government itself, but vital for effective implementation of the PoAat the local or national levels. The role of the Brazilian NGO, Vivo Rio, working in the *barrios* of Rio de Janeiro to build trust between the State and Federal Police and the local communities is a very good working example which has lead to the development of cooperative projects to combat small arms proliferation and misuse.

Providing a pool of expertise

Civil society has been intimately involved on the ground in the fight against SALW proliferation and misuse for many years. Over this period the multitude of diverse grass roots NGO and civil society organisations have built up a huge store of institutional and individual staff and activist expertise and skill on successful methodologies required to tackle this complex problem – ranging from practical micro-disarmament activities, collection and destruction programmes, public/community education projects against gun violence, DDR initiatives in post conflict situations to the provision of health care to the victims of gun violence and the counselling of child soldiers and their victims. Such expertise and human resources are potentially available to governments to strengthen their ongoing initiatives. Many NGOs would be willing to work with officials in training and advise to States, if requested.

Provision of primary research and development of policy

In the run up to and throughout the UN Small Arms Conference process one of the major contributions provided by civil society was in the research and documentation of the reality of SALW proliferation, availability and misuse. Arms control/research institutes and NGOs have detailed all aspects of the illicit SALW cycle from manufacture to transfer and misuse. Similarly human rights organisations, aid and relief bodies, medical associations, women's, trade union, church, indigenous peoples and other civil society groups have chronicled the multifaceted deleterious effects of small arms on communities and individuals. In this regard, the Small Arms Survey, in particular, has played an important role in collating, synthesising, analysing and presenting such research data. Closely linked, is the work of analytical and policy orientated NGOs, which have sought to provide new approaches and strategies for combating SALW proliferation and misuse. By extending public and governmental understanding of the issue, civil society has played a vital role in alerting the international community to the problem and enabled it to develop the appropriate response. Now civil society can use these experiences and skills to promote implementation of the UN PoA.

Section 4: Outcomes and the Way Forward

Developing roles for civil society

The role of IANSA

In all of these activities the International Action Network on Small Arms (IANSA) is in a position to play a pivotal coordinating role. IANSAnow encompasses over 340 NGOs from over 71 countries across the world working to prevent the proliferation and misuse of SALW. The network helps co-ordinate activities and campaigning by bringing together a wide range of organisations such as human rights monitors, relief and development agencies, security and gun control groups, religious and public health groups. IANSAalso provides an invaluable framework within which organisations can support and learn from each other. IANSA played a crucial role in coordinating NGO and civil society action in the run up to the UN Small Arms Conference. Following on from this success, IANSA is embarking upon a multi-year plan of action that will focus both on developing and strengthening regional NGO networks, and encouraging international action on SALW. Those governments which recognise the importance of civil society in combating SALW proliferation, availability and misuse should consider how best to strengthen and support IANSA, as IANSA in turn seeks to strengthen and support government programmes to implement the PoA. In this regard the UK government's substantial funding of IANSAis to be warmly welcomed.

Conclusion

BtB urged that the UN Small Arms Conference develop a set of mutually reinforcing agreements, programmes and measures at all levels – national, regional and international – with five critical components. Although the PoAdoes not embody all of these components, it does, to varying degrees, recognise their importance. The first element – clarification and establishment of common definitions and understandings – was addressed, for example, in the context of brokering and marking and tracing. The second element – developing, coordinating and harmonising national laws policies and practices – is partially addressed in the context of production, export and transit or retransfer of SALW. However, the importance of harmonisation is not recognised in important areas such as export authorisation and marking. The third element – establishing or enhancing information exchange, consultation and assistance – is an important theme throughout the PoA. It is to be hoped, however, that the continual emphasis on “voluntary” information exchange does not represent a dilution of States’ commitment to this process. Fourthly - the development of systems to identify and respond to problems with implementation and compliance - is not a prominent feature of the PoA. It is to be hoped that the Biennial Meetings of States and the Review Conference process will, however, bridge this gap and facilitate monitoring of the implementation of the PoA. Finally - the establishment of follow-on mechanisms to facilitate further development of international cooperation - has been explicitly provided for in the fields of SALW brokering (a commitment to consider further steps to enhance international co-operation) and tracing (a commitment to undertake a UN study to examine the feasibility of developing an international instrument). However, these are minimal provisions and it is to be hoped that the overall commitments and process for following up the PoA will ensure further development of international action to address the proliferation, availability and misuse of SALW.

Endnotes

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