III. Control measures on small arms and light weapons

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United Nations Programme of Action on Small Arms and Light Weapons

In 2001 states adopted the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (UN POA), which outlines the steps that should be taken at the international, regional and national levels to counter the illicit trade in small arms and light weapons (SALW).[1] In 2005 states adopted the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (the International Tracing Instrument, ITI), which outlines the steps states should take in the fields of weapons marking and record-keeping. The UN POA and the ITI are politically binding instruments administered by the UN Office for Disarmament Affairs (UNODA) that were negotiated on the basis of consensus under the auspices of the First Committee of the UN General Assembly. They combine to form a set of normative standards that details the steps states need to take in order to combat diversion at all stages of the life cycle of SALW.[2] The UN POA and the ITI lack effective verification measures, but states are encouraged to report on their implementation of the UN POA and the ITI every two years using an online reporting template developed by UNODA. States also meet at a Biennial Meeting of States (BMS) to 'consider' implementation of both instruments and at six-yearly review conferences (RevCons) that allow for a more in-depth assessment of the 'progress made' on implementation.

Key developments in 2018

The third review conference of the UN POA was held in New York on 18–29 June 2018 under the presidency of Ambassador Jean-Claude Brunet of France. There were concerns in the run-up to the 2018 RevCon that broader geopolitical tensions might lead to a repeat of the 2006 RevCon. In 2006 disagreements over whether—and, if so, how—to include language on civilian possession of SALW and transfers to non-state actors (NSAs) led to states

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[1] United Nations, General Assembly, Draft Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects, A/CONF.192/L.5/Rev.1, 20 July 2001.

[2] Among these steps are: (*a*) creating legislation, regulations and administrative procedures to control the production and transfer of SALW; (*b*) keeping records in all of these areas; (*c*) criminalizing the illegal manufacture, possession, stockpiling and trade of SALW; (*d*) marking SALW and keeping records; (*e*) improving the tracing of SALW; (*f*) seizing and collecting illegally possessed SALW; and (*g*) destroying surplus SALW.

Table 9.2. Number of national reports submitted on POA implementation

Year	Number of national reports
2002	16
2003[a]	99
2004	41
2005[a]	103
2006[b]	62
2007	36
2008[a]	111
2009	9
2010[a]	107
2011	12
2012	84
2013	3
2014[a]	76
2015	7
2016[a]	89
2017	0
2018[b]	119

POA = UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects.

[a]A biennial meeting of states took place in these years.
[b]A review conference took place in these years.

being unable to agree an outcome document.[3] In the event, states were able to reach agreement at the 2018 RevCon but only after some hard-fought battles on the final day that saw proceedings extended until 4.00 a.m. and—for the first time—voting on the language to be used in two key paragraphs and a final vote on the adoption of the report as a whole.[4] Throughout their lifetimes, the UN POA and the ITI have operated on the basis of consensus. This has provided the documents produced with political importance but also allowed small groups of states to block the inclusion of language supported by the majority. The three most contentious issues in New York were the inclusion of language referencing the sustainable development goals (SDGs), ammunition and arms transfers to NSAs. The latter two issues have generated substantial division and discord throughout the lifetime of the UN POA. In the case of the SDGs and ammunition, the outcome document built on advances made at the 2016 BMS and included language that increases the scope and relevance

[3] Taylor, M. E., 'UN small arms conference deadlocks', *Arms Control Today*, 1 Sep. 2006, pp. 46–47.
[4] Pytlak, A., 'Editorial: Inside the theatre of the absurd, the final day of RevCon3', *Small Arms Monitor*, vol. 10, no. 6 (3 July 2018).

of the UN POA. With regard to transfers to NSAs, the persistence of previous divisions prevented the adoption of new language.

The 2030 Agenda for Sustainable Development and the accompanying SDGs were adopted in 2015. The 17 SDGs succeeded the work of the Millennium Development Goals (MDGs) and created a roadmap for the world's agenda for development for the next 15 years.[5] SDG 16 focuses on peace and security issues and target 16.4 commits states to reduce illicit arms flows. In order to measure its attainment, the UN Statistics Commission has adopted Indicator 16.4.2, which the Inter-Agency Expert Group on SDGs (IAEG-SDG) has defined as the 'proportion of seized, found or surrendered arms whose illicit origin or context has been traced or established by a competent authority in line with international instruments'.[6] Creating a link between SDG 16.4 and the UN POA has been relatively uncontroversial, given the mutual focus on illicit arms flows. Together with the UN Office on Drugs and Crime (UNODC), UNODA has been named custodian agency of Indicator 16.4.2. In addition, states agreed at the 2016 BMS to use the process of reporting on their implementation of the UN POA to collect data for the measurement of Indicator 16.4.2.[7] In response, UNODA amended the reporting template states use by adding an expanded set of questions on SALW seizures.

However, the results achieved by linking these processes together have been disappointing. In 2018, 119 states reported on their implementation of the UN POA. This is higher than the previous record year of 2008, when 111 states submitted reports (see table 9.2). Of the 119 states, 73 reported that they had collected SALW in 2016 or 2017 and 47 provided data on the numbers involved. This also represents an increase on 2016, when 41 states reported that they had collected SALW and 21 provided data on the numbers involved. However, only 11 states provided data on the number of tracing requests initiated, the figure needed for indicator 16.4.2. Six states (Australia, Burundi, Chile, the Democratic Republic of the Congo, Estonia and Kenya) stated that no tracing requests had been initiated while Botswana reported 11, Jamaica reported 1509, Peru reported 5, Serbia reported 25 291 and the United Kingdom reported 2277. The limited amount of data submitted that speaks directly to Indicator 16.4.2 highlights the challenges states face as they seek to collect data on illicit SALW and raises questions about the extent to which the indicator—as it is currently framed—can act as an effective tool for measuring the achievement of SDG 16.4.

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[5] On the SDGs, see Jang, S. and Milante, G., 'Development in dangerous places', *SIPRI Yearbook 2016*, pp. 345–63.

[6] United Nations, Economic and Social Council, Report of the Inter-agency and Expert Group on Sustainable Development Goal Indicators, Note by the Secretary-General, 15 Dec. 2016.

[7] United Nations, General Assembly, Outcome of the Sixth Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects, A/CONF.192/BMS/2016/WP.1/Rev.3, 10 June 2016.

More controversial in New York were attempts to link other aspects of the SDGs to the UN POA. A number of states pushed for the inclusion of a broader range of references to other SDGs in the outcome document, and particularly SDG 5 which focuses on gender equality and the empowerment of women and girls. At the insistence of a number of states—particularly in the Global South—explicit reference to any SDG besides 16.4 was removed from the outcome document, although it still refers to the broader SDG agenda, noting 'that the illicit trade in small arms and light weapons has implications for the realization of several Sustainable Development Goals, including those relating to peace, justice and strong institutions, poverty reduction, economic growth, health, gender equality, and safe cities and communities'.[8] Moreover, although it does not mention SDG 5, the outcome document includes ambitious language on gender, expanding on text in this area that was included in the 2012 RevCon and the 2016 BMS outcome documents. The 2018 RevCon outcome document references the need to combat gender-based violence, build gender-awareness into SALW programmes, collect gender-disaggregated data and increase the participation of women in decision-making processes. It also reflects language that several NGOs have been calling for in recent years.[9]

Many states and NGOs have long sought to include ammunition in the scope of the UN POA and the ITI but have faced stiff opposition—particularly from the United States. After hard-fought debates, the 2016 BMS outcome document included an indirect reference to ammunition, noting that some states apply relevant provisions of the UN POA to material in addition to that mentioned in the ITI definition of SALW, whereas others do not—a clear reference to ammunition.[10] At the time, some states argued that highlighting differences in national interpretation of the UN POA and the ITI risked setting a dangerous precedent and could affect the universality of the instruments.[11] The 2018 RevCon outcome document makes two references to ammunition. The first is uncontroversial and welcomes the creation of a UN process in December 2017 to consider the problems arising 'from the accumulation of conventional ammunition stockpiles in surplus'.[12] The second is far more contentious and explicitly notes that some states view ammunition as falling within the purview of the UN POA. It also notes that these states 'can exchange and, as appropriate, apply relevant experiences, lessons learned and best practices acquired within the framework of other relevant instruments

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[8] United Nations, General Assembly, Report of the third United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects, A/CONF.192/2018/RC/3, 6 July 2018.

[9] See IANSA Women's Network, 'Small arms, big harms: A call to action by civil society on gender and small arms control', IANSA [n.d.].

[10] United Nations, General Assembly (note 7).

[11] Davis, I. et al., 'Conventional arms control', *SIPRI Yearbook 2017*, pp. 543–79

[12] United Nations, General Assembly, 'Problems arising from the accumulation of conventional ammunition stockpiles in surplus', A/RES/72/55, 4 Dec. 2017.

to which a State is a party'.[13] The USA called for a vote on the inclusion of this paragraph but only it and Israel voted against, while 62 states voted in favour.

While the debate on ammunition moved forward, the discussion on transfers to NSAs repeated patterns seen at previous RevCons and BMSs. As in previous meetings, a number of states called for the inclusion of language that would explicitly ban transfers of arms that had not been approved by both the exporting and the importing state. However, others—and particularly the USA—blocked the inclusion of this definition. As in previous years, there is an assumption that the US position is based on its wish to retain the option of supplying arms to sympathetic non-state actors.[14] The language of the 2018 RevCon repeats that used in previous UN POA documents and refers to the need to prevent transfers to 'unauthorized end users' but without making reference to who is doing the authorizing.[15]

While the normative scope of the UN POA may have expanded as a result of the 2018 RevCon there are concerns that the ability of the instrument to act as an effective tool for codifying agreed aspects of SALW controls at the international level may have taken a step backwards. There are a number of areas in which states' practices on the marking of SALW continue to differ, and these are likely to increase in the light of ongoing developments in the techniques used in the production of arms.[16] Nonetheless, despite several years of discussions and considerable effort on the part of many states to add a technical annex to the ITI that would seek to establish common practices in key areas, this was blocked by a small group of states. These states also prevented the creation of a process that would lead to the drafting of a guidance document, opting instead for a less ambitious request that the UN Secretary-General produce a report on the subject.[17] Also removed from the final outcome document was any reference to 3D printing and its potential role in the production of illicit firearms, due to concerns states voiced about creating justifications for preventing the sharing of this rapidly evolving technology. Finally, states that remain outside the ATT and are unhappy about its adoption by a vote at the UN General Assembly blocked any reference to the treaty in the outcome document. Any reference to the UN Firearms Protocol was also blocked, which means that despite their common focus on tackling different aspects of SALW controls, these three instruments remain largely separate and lacking in connections.

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[13] United Nations, General Assembly (note 8).

[14] See Holtom, P., 'Prohibiting arms transfers to non-state actors and the Arms Trade Treaty', UNIDIR Resources, 2012.

[15] United Nations, General Assembly (note 8).

[16] See United Nations, General Assembly, Working paper submitted by Belgium towards an effective marking, record-keeping and tracing of modular and polymer firearms, A/CONF.192/2018/PC/WP.1, 5 Mar. 2018.

[17] Pytlak (note 4).