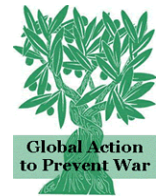


MGE Monitor
NGO reporting and analysis on the
Meeting of Government Experts on the
UN Programme of Action on small arms
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Bridging the gap between international and national legal frameworks

Katherine Prizeman | Global Action to Prevent War

As part of the discussion on national frameworks and what is required for successful implementation of the UNPoA, a thorough and pragmatic presentation from the UN Office on Drugs and Crime (UNODC) offered member states an important legal and criminal justice perspective on controlling the illicit trafficking of SALWs. The presenter described the Model Law against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition. The Model Law has been developed in response to the request for legislative assistance and legal drafting advice by member states to implement the provisions contained in the Protocol of the Model Law, which supplements the UN Convention against Transnational Organized Crime. Additionally, the Model Law springs forth from the mandate of the Conference of the Parties to the Convention against Transnational Organized Crime to develop technical assistance tools to assist Member States in strengthening their domestic legislation to be consistent with the Protocol. The Model Law, entirely voluntary, seeks to facilitate the review and amendment of existing legislation as well as the

adoption of new legislation on firearms. Perhaps most useful, the Law provides an opportunity for self-assessment that allows states to identify their specific needs and, therefore, best formulate national legislation that addresses their domestic issues in an international context.

The support available from the UNODC is an excellent example of resources that are valuable to states that otherwise would not have the capacity to strengthen, or in some instances formulate, national legal frameworks within which the UNPoA can successfully and effectively be implemented. As has been discussed over the last four days at the MGE, the international legal framework is fundamentally in place with the existence of the UNPoA, the ITI, and the Firearms Protocol among others. The international commitments have largely been achieved, but the work is far from complete. The essential purpose of this week's discussions among experts implementing these instruments in their respective capitals is how to improve national mechanisms and structures so that effective implementation is feasible in all states towards the eradication of the illicit trade in SALWs globally.

The MGE Monitor is produced by Global Action to Prevent War, Reaching Critical Will of the Women's International League for Peace and Freedom, Oxfam International, and the International Action Network on Small Arms and Light Weapons. More reporting and analysis can be found on their joint blog at <http://attmonitor.posterous.com> and on Twitter at #armstreaty.

The three pillars of implementation—marking, recordkeeping, and tracing—are matters first and foremost of national responsibility, a point that has been repeatedly made by many delegations throughout the week. Some member states have called for separate national action plans as a supplement to the internationally-agreed UNPoA on small arms. To make good on these national responsibilities, member states must take advantage of the resources available to bridge the gap between the existing international legal framework and their respective national legislation regarding small arms and light weapons.

While this week is providing a robust opportunity for a free exchange of best practices regarding the technicalities of implementation, the issue of national legislation is also critical to long-term success. Bilateral and regional technical support is one excellent option for member states that require it. For example, the DRC requested technical assistance from the US

delegation for tracing. However, the formulation of national legal frameworks requires deep understanding of national laws, customs, and politics. As such, the resources provided by the UNODC provide the opportunity for states to self-assess and identify what is needed to best implement a national legal framework consistent with international law, but also adaptable to the state's national legal system. As pointed out by the representative of the UNODC, national legislation must be consistent with international law—meaning that it cannot contradict the law, though it does not necessarily have to replicate it.

We encourage member states to look carefully at their national legal frameworks and seek out the support that is being offered to help implement legislation that is consistent with the international treaties and agreements on small arms while being sensitive to what is best and most appropriate for the national legal system and, ultimately, the security needs of its people.

National frameworks

Ray Acheson | Reaching Critical Will of the Women's International League for Peace and Freedom

Discussions on Wednesday afternoon and Thursday morning focused on the frameworks individual states use to implement their commitments under the International Tracing Instrument (ITI) and the UN Programme of Action (UNPoA) on small arms and light weapons (SALW).

The Institute for Security Studies (ISS) in South Africa led the discussion by presenting, among other things, gaps and challenges that they have found in national frameworks. Some of these include outdated policy and legislation not in line with ITI; that marking and record keeping is not prioritized by law enforcement in some states; that SALW national action plans contain minimal details on marking and tracing; inadequate marking and recordkeeping administration systems; and insufficient sharing of information between law enforcement and military on SALW issues. ISS also highlighted that its research shows a dissonance between national frameworks and reporting and communication on ITI implementation. The

representative noted that when they look at state reports on the ITI it does not appear as if much is being done, but when they investigate specific countries they actually find substantial action has been undertaken on these issues.

ISS included this in the “good news” portion of the presentation, along with indications that regional approaches and initiatives appear to have strengthened national frameworks and improved communication, even though it's not reflected in ITI reporting at the moment. ISS also noted that generally, states are increasingly adopting more robust marking and record-keeping technologies and systems and that INTERPOL's national and regional bureaus are complementing and supporting national frameworks.

Regarding the reporting issue, the Japanese delegation noted that it would be helpful to find out why states do not report on their ITI implementation and more importantly, to decipher what benefits reporting actually has on implementation.

Most delegations gave brief overviews of their national frameworks, citing specific pieces of legislation, cooperative arrangements between agencies in their countries, and particular programmes they have implemented to comply with their commitments under the ITI and UNPoA.

Several delegations noted that they are undergoing a process to ensure their national legislation is in line with such international commitments. Peru's delegation highlighted its efforts to make its domestic legislation more effective by improving its requirements for marking firearms. Namibia's delegation reported that its police force has prepared an amendment bill to its national arms and ammunition act, which is ready to be tabled in Parliament, to make it on par with the UNPoA. Jamaica's representative noted that it is currently overhauling its legislative and administrative structures to facilitate its commitments. To this end, he explained, the government has identified gaps and devised a course of action, which includes developing a national small arms policy and a national small arms commission and replacing its national firearms act with new legislation.

Some delegations highlighted the importance of bring a variety of constituents together to develop national frameworks. Peru's delegation noted the importance of "organizational culture," explaining that its public servants require training in order to develop the skills necessary for national coordinator. Guatemala's delegation explained

that its frameworks bring not just government agencies together but also intergovernmental organizations, non-governmental organizations, and civil society, which has made it easier for the government to channel cooperation from other countries. Sudan's delegation also highlighted the need to involve citizens in developing programmes and policies on arms control, such as through awareness raising programmes, arguing, "effective disarmament involves taking these weapons out of our hearts and minds as well as our hands."

The Sudanese delegate outlined his government's comprehensive framework for addressing the control of weapons, which also depends on combined programmes for development, the provision of basic services, peacebuilding, and reducing armed violence. Jamaica's delegation also noted that its national framework is aimed at reducing levels of armed violence.

A few delegations specified areas where development of national frameworks is challenged by international agreements and tools. Canada's delegation highlighted that it is not opposed to optional provisions in international agreements but that such provisions should be flagged in order to ensure that states understand that not all governments are necessarily signed onto these provisions. Venezuela's delegation highlighted the importance of availability of information, especially information that is translated into national languages.

Implementation of the PoA—still a long way to go

Sarah Parker | consultant and researcher Small Arms Survey

Since the adoption of the UN Program of Action (PoA) in 2001, a total of 584 national reports have been submitted by 158 UN member states, providing information on how they have implemented the commitments in the instrument. 34 states have never submitted a national report on PoA implementation.

In my latest publication for Small Arms Survey, *Analysis of National Reports:*

Implementation of the UN Programme of Action on Small Arms and the International Tracing Instrument in 2009–10, I analyze information provided by states on the PoA implementation themes selected for BMS4. These themes are: border controls; international cooperation and assistance; strengthening of the follow-up mechanism; and implementation of the International Tracing Instrument (ITI).

The report presents information that raises serious questions about the breadth and depth of PoA implementation. For example, it provides the results of a pilot study undertaken to verify the existence of national points of contact (NPC). Of the 151 NPCs listed on the PoA-ISS website, the existence and identity of NPCs could only be confirmed in 53 cases; in 30 cases, contact was made but the existence and identity of NPCs could not be confirmed; and in 69 cases, no successful contact was made.

This exercise, though small, highlights one of the weaknesses in the PoA reporting system: in the absence of a mechanism to monitor and verify states' implementation efforts, information in national reports must be taken at face value.

In the context of the International Tracing Instrument (ITI), the report's findings suggest that reporting on ITI implementation (and possibly ITI implementation itself) has been disappointing. Of the 107 states that reported in 2010, only 33 states (31%) submitted a separate report on the ITI; 12 states (11%)

submitted a joint report on the PoA and the ITI; a further 21 states (20%); and the remaining 41 states (38%) do not even mention the ITI in their national reports.

Within the reports that do include information on ITI implementation, the number of states that appear to have implemented specific ITI commitments is low. For example, only 16 states report that they mark small arms at the time of manufacture with all three pieces of information required under the ITI: manufacturer, country of manufacture and serial number. And most of those that provide information on the length of time records on manufacture are maintained, fall short of the requirement to maintain manufacturing records for at least 30 years, if not indefinitely.

Although national reports on PoA implementation do not provide a complete or, in many instances, even a satisfactory picture of implementation, they remain the most important and, in some instances, the only source of information on states' implementation efforts with respect to the PoA and the ITI.

Regional cooperation: problems and solutions

Jessica Erdman | Global Action to Prevent War

The fourth day of the Open-ended Meeting of Governmental Experts (MGE) focused on the topic of regional cooperation. Chair Jim McLay opened the discussions with an overview of the thematic paper, which poses introspective questions for member states about regional processes with regard to the 2001 UN Programme of Action (UNPoA). Member states and organizations reflected on the shortcomings, as well as successes of regional cooperation.

At the regional level, the 2001 UNPoA specifically calls for:

- (24) the establishment of a point of contact
- (25) negotiations with the goal of adopting legally binding instruments
- (26) strengthening and establishing initiatives for regions affected by the transfer and manufacture of Small Arms and Light Weapons (SALWs)
- (27) trans-border agreements and cooperation

with information-sharing,
 (28) to introduce or implement relevant laws
 (29) safe stockpile management for SALWs
 (30) support for disarmament, demobilization, and reintegration programmes
 (31) regions to voluntarily develop "measures" to enhance transparency
[\[http://www.poa-iss.org/poa/poahtml.aspx\]](http://www.poa-iss.org/poa/poahtml.aspx)

Overall, states and organizations agreed that regional and sub-regional initiatives served as *complementary* functions to domestic implementation and legislation. However, the effectiveness of regional organizations varied, often troubled by lack of funding and resources. The International Conference on the Great Lakes Region echoed these shortcomings, also noting that the lack of public awareness of the dangers of SALWs was a problem. Apart from funding issues for regional organizations, the importance of sovereignty was brought up by the delegation

of Cuba, who pointed out that with such assistance on the part of regional organizations come without conditionality for states. The delegation of the Democratic Republic of the Congo cautioned of regional and sub-regional organizations becoming *too* large, to a point where they are nearly international, which would defeat the purpose of such organizations.

As in previous discussions this week, the themes of poor marking, tracing, and inconsistent record keeping were addressed by states and organizations, but on the regional level. The Caribbean Community (CARICOM) noted that poor quality of reporting, due to lack of a coordinated computer system for information sharing, has led to a limited implementation of the UNPoA. Furthermore, Brazil stressed organizational and capacity building on a regional level as a way for successful implementation of the UNPoA. Coordination between regional and national actors was believed to be a complicated dance, with the obstacles of different legislation among states, lack of information-sharing, and unclear point of contacts. Offering a solution to regional coordination problems, India suggested the UN Regional Centres should play a greater role in combating illicit arms trade.

Solutions to implementation issues included a range of ideas, from the national level to external actors. Both Iran and the Central American Integration System suggested taking a holistic vision of the supply and demand system of the illicit arms trade, and to understand the root causes associated with such activities. On the other hand, Guinea and other delegations believed that using regional organizations to strengthen states' national commissions could be a solution to the implementation gap. Australia,

Benin, and CARICOM demonstrated specific examples of successful initiatives that included civil society and external actors working in tandem with states.

There was not a clear, single answer on how best to approach and solve regional coordination problems, but rather, a multitude of examples of past practices that have been successful in small parts. Demonstrating this point, the Organization of American States gave the example of their program to strengthen national capacity to mark firearms through the Inter-American Convention against the Illicit Manufacturing and Trafficking in Firearms, Ammunitions, Explosives, and Other Related Materials (CIFTA). Thus, CIFTA demonstrates a convergence of legal, regional, and national measures to combat illicit arms trade through increased capacity to mark arms.

Judging by the UNPoA 2001 criteria, regional efforts have been varied and inconsistent. Key parts of the UNPoA, such as transparency, have not yet been adequately addressed. Although examples showed successful cooperation between states, as well as regional organizations, there are still unanswered questions about the extent to which regional cooperation has been truly attempted. Examples of trans-border agreements provide positive examples of implementation of the UNPoA, but there are still a great number of capacity gaps, specifically for states that are disproportionately affected by the illicit arms trade. Without adequate funding and resources for states and organizations, as well as more coordination on the part of states through regional organizations, attempts to combat the illicit arms trade will continue to spotty at best.

**A final edition of the MGE Monitor covering Friday's events
will be available online at www.reachingcriticalwill.org
as of Monday, 16 May 2011.**