

IPI TASK FORCES ON STRENGTHENING MULTILATERAL SECURITY CAPACITY
TASK FORCE ONE: Transnational Security Challenges

Small Arms & Light Weapons

Non-paper for Opening Plenary Meeting

- The challenge of Small Arms and Light Weapons (SALW) proliferation was first recognized on the world stage in the 1990s. Since then, international discussions have progressed through five partly overlapping stages:
 - 1) Defining the problem and awareness raising (mid 1990s);
 - 2) Nascent multilateral negotiations (at the turn of the last decade);
 - 3) Deadlocked process of UN multilateral diplomacy (2006);
 - 4) Multilateralism beyond the UN (post 2006);
 - 5) Issue diversification within a global public policy framework (since 2000).
- Research into the scope and nature of the proliferation and misuse of SALW, particularly by NGOs, now describes a range of features of the problem:
 - Direct Effects: death, injuries, disabilities, intimidation and other psychological effects, particular vulnerabilities of women and children, human rights abuses and violation of International Humanitarian Law, outbreak of intergroup violence.
 - Indirect Effects: the negative impact on development and on post-conflict reconstruction, governance.
 - Technical and Descriptive Features: weapons supply, availability, transfers, stocks, the definition of civilian or military-style weapons, the economics of production and trade, the legal aspects of licensing of production and transfers, the importance of the grey and black market.
- Two UN expert groups on SALW reported to the Secretary General and the General Assembly in 1997 and 1999. These two reports were instrumental in setting some of the parameters of governmental responsibility for SALW proliferation:
 - The distinction between illicit and licit transfers.
 - The emphasis on security of state stockpiles and the importance of record keeping.
 - The need to destroy surplus or post-conflict weapons.
 - Marking and tracing of weapons to help identify the route of illicit transfers.

1. What are the current policy and institutional shortcomings in multilateral security capacity on SALW?

Programme of Action (2001) and First Generation Control Measures

- The efforts of the two UN reports led to the UN “Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in SALW in all its Aspects” (PoA) agreed by governments in 2001. The PoA consisted of *first generation* of control measures which were designed and oriented towards the supply-side:

- Export, Import and Transfer Controls: focused on implementing rigorous controls to regulate the legal (government sanctioned) transfers and prevent diversion into the illicit market, including adequate licensing and end-use certificates.
- Stockpile Management: focused on (1) security of stockpiles, (2) transparency of official holdings and record keeping, (3) surplus weapons destruction and (4) assistance to countries in need for stockpile management.
- Ammunition: focused on controlling ammunition supply, especially into areas of conflict.
- Marking and Tracing: focused on clearly identifying the origin of a weapon in order to trace it during its entire life cycle.
- Brokering: focused on controlling the activities of private dealers.
- The PoA established an international framework that is relatively comprehensive in scope, including almost the full range of issues related to the illicit trade in SALW. Thus it contains substantial agreed norms, namely on stricter licensing and transparency systems (i.e. included in the UN Firearms Protocol).
- At the operational level, UN sanctions and mandatory weapon embargoes became an important feature. Although the effectiveness of embargoes is often questioned, empirical evidence illustrates that in the area of SALW, embargoes did have positive effects.
- However some norms presented in the PoA were not put in practice:
 - The International Tracing Instrument has not been seriously tested.
 - The existing 146 national points of contact for the implementation of the PoA are not being used to their full potential.
 - Annual reports are not systematically forwarded to the UN.
- Other areas where norms could have been established were completely unaddressed or vague because these issues were deeply divisive:
 - no mentioning of the need to regulate small arms in civilian possession.
 - no monitoring system for ammunition.
 - no harmonized international agreement on arms brokering.
 - no agreement on the treatment of armed non-state actors.
 - no mentioning of human rights.
 - no mentioning of the misuse of guns by state officials.
 - vagueness in the definition of 'adequate laws and regulations' and 'existing responsibilities under relevant international law'.

Second Generation Control Measures

- Dissatisfaction with the universal UN process led to an increase in activity by a group of Member States, international organizations and NGOs outside the UN. Many of their activities were oriented towards the demand-side of SALW.
- These second generation control measures take into account the negative human, social and economic effects and addressed violence reduction, DDR (in post-conflict situations), security sector reform (in transition countries), regulation of civilian possession of arms, prosecution of transnational crime, and other measures.
- The concept is based on global public policy rather than UN-based diplomatic solutions.

Other Initiatives

- A majority of UN Member States voted to begin a process that could lead to a legally binding Arms Trade Treaty (ATT). Preliminary negotiations for this treaty are now under way.
 - The US government was the lone vote against working towards this treaty in the General Assembly.
 - Major arms exporters (China, India and Russia) abstained, together with many Arab League states.
- The UK initiated a “Transfer Control Initiative” (TCI).
- Minilateralism: A number of Member States and regional groupings made worthwhile progress in implementing parts of the PoA, for example, national small arms plan, updating national legislation and regional cooperation (Nairobi Protocol, OSCE, SADC, Andean Community, Pacific Island Forum).

2. Why have previous attempts to address these shortcomings failed?

- UN consensus-based diplomacy has not been able to bridge the disagreements and contrasting views of member states on a number of important issues.
 - When the PoA was negotiated in 2001, one group of states wanted to discuss not only illicit transfers of SALW but also government licensed production and transfers – most weapons which end up on the grey and black market are originally government authorized weapons. The other group wanted to restrict the debate only to illicit weapons (among them many Arab countries, China, Pakistan and Russia).
 - The term “in all its aspects” in the title of the PoA allows both groups to stick to their positions – to the detriment of effective norm setting and policy implementation.
- The compartmentalization or “silo” nature of the UN does not facilitate effective tackling of multi-faceted problems.
 - The control of SALW is more than one problem: it is not just an arms control issue but a cluster of related issues affecting a range of public sectors (from security, to health, to economics and development), each dealt with by a different institution inside and outside the UN system.

Programme of Action (2001) and First Generation Control Measures

- The ambitious PoA turned out to be a programme of limited action – especially at the global level.
- Full implementation of the PoA would have had a fundamental impact on SALW control. However, the UN Review Conference in 2006 failed.
- Reluctant Member States blocked any progress. Particularly the US government would not accept legal manufacturing or trade controls, prohibitions on civilian possession, restrictions on transfers to governments, legally binding instruments, and a mandatory review process.
- The strict position of the U.S. allowed other countries to hide behind the U.S. position.
- The NGO community which had promoted the issue in the 1990s did not fit into the high-level diplomacy and was marginalized.
- Multilateral efforts to deal with the human, social and economic costs of SALW and armed violence were controversial during the negotiations.
- The 10 actions mentioned for the global level (operative paragraphs 32-41 of the PoA) were of limited relevance in recent years, possibly with the exception of embargoes.

- Examples include the widespread failures of reintegration within DDR programmes and the lack of common understanding on brokering.
- This failure to resolve contestation of some norms and to move towards implementation of those already agreed was partly due to the continued existence of unresolved questions on SALW.
- The failure of the 2006 Review Conference was also reflected the broader crisis in multilateralism and multilateral arms control.

Second Generation Control Measures

- While the UN was for some time had been the leading standard setter at the global level, the increase of activity from Track I and Track II networks (regional and sub-regional organizations, international organizations and NGOs) in humanitarian and development concerns came at the expense of fragmentation.
- Agreed norms, standards and measures below the global level carry the risk of inconsistency as well as neglecting the globally oriented PoA.
 - At the same time they may have exacerbated opposition from those who disagreed with the PoA from the beginning.
- The UN has tried to engage more actively in this process over the last decade with **CASA** (Coordinating Action on Small Arms Mechanism), involving 16 UN Departments and other Organizations.
 - However, inter-agency rivalries have emerged with numerous organizations wanting to coordinate under their own terms. Everyone is keen to see coordination, but no one wants to be coordinated.
- It is important to also consider the nature of Second Generation control measures. In contrast to many supply-side measures which can possibly be quickly implemented, demand-side measures are by nature medium-term and long-term. Health issues, development programs, transformation and reintegration programs in the security sector, and post-conflict reconstruction cannot be expected to work as “quick fixes” or “fire brigade” operations. Their effects will address and remove – if the programmes work well – the root causes of armed violence.

3. What policies and institutional renovations, including legal frameworks and financial arrangements, are needed?

- Norms need to be re-examined – they still fall short of what is required (e.g. the distinction between illicit and licit transfers; marking and tracing of weapons to create weapon biographies; civilian possession of arms; brokering).
- SALW control suffers from the absence of a strong mechanism for norm diffusion and policy implementation at a global scale (e.g. there is little continuing emphasis on security of state stockpiles and the importance of record keeping; there is no international supervision of the destruction of surplus or post-conflict weapons).
- SALW negotiations are stalled at the UN level. Institutional renovations are necessary to overcome this deadlock which has deeper causes than disagreement on SALW control.
- Although multilateral processes of like-minded states, international and regional organizations, as well as NGOs, are promising alternatives to the UN processes, they bear the risk of fragmentation and selectivity and the loss of a unified programme. Therefore they must be balanced with the UN agenda.
- UN Member States must bear responsibility for much of the transfers into the illicit market since states are the primary licensing authority for the bulk of production and transfers.

- There is a need for improved understanding of SALW and its effects: violence is strikingly heterogeneous and influenced by multiple risks, making it difficult to design and implement action programmes for violence reduction which work at the intra-state, inter-state and domestic level.
- Control mechanisms must be designed to strengthen state control on private actors to prevent misuse.
- Civilian ownership is a particular problem in a number of countries which must be directly addressed, for example through efforts to ensure owners of SALW: 1) bear the costs of use and misuse of SALW (e.g. through changes to liability and insurance arrangements); 2) are educated in the proper use of SALW prior to ownership or licensed possession; 3) have restricted access to SALW through technological innovation (e.g. through personalization of access to SALW).

4. What strategy is needed to achieve these renovations?

General Principles

- Increased understanding, prevention and reduction must be pursued in parallel processes.
- Since SALW control and the prevention of violence are complex and multi-faceted problems, diversified strategies are required: first and second generation measures (issue-diversification of supply-side and demand-side) must be developed and implemented in tandem.
- Accountability for both actions taken and actions not taken can assist in promoting responsible government policy (and would allow for naming and shaming where necessary).
 - So long as no legally-enforceable instruments are in place emphasis should be placed on transparency (monitoring mechanisms could include insistence on annual national reports and NGO reporting similar to Landmine Monitor).

Institutional Strategies

- Create a new model for developing global policy which gives a greater voice to civil society.
 - If there is no room for NGOs (as in the PoA review conference) external promotion control might be an effective path.
- Even if multilateral policy-making remains restricted to states, consideration should be given to arrangements that do not rely on consensus based decision-making (the 2006 Review Process was partly stalled by the need to achieve consensus).
- Where the UN negotiation process is stalled, initiatives at the regional, cross-regional and national level can help in reducing violence.
- Promote a continued review process during biennial meetings to review the PoA.
- Ensure active high-level coordination of SALW control programmes within the UN.

Global Multilateralism: Norms and Implementation

- To effectively implement the PoA, additional norms must be established, important gaps in norms must be closed, existing norms must be implemented and the vagueness of some norms need to be clarified.
- There is a need to implement rigorous controls of state arms holdings given the regular supply to the grey and black market by the armed forces and the police.
 - This may also necessitate efforts by the international community to encourage states to control and destroy surplus weapons and ammunition.
 - The MANPADS control mechanism under the Wassenaar Arrangement could serve as a model for other types of SALW – especially for licensed production.

- The movement towards international analysis, monitoring and supervision of arms flows (through sanctions and embargoes imposed by the Security Council) in conflict situations could be reinforced.
 - Existing sanctions mechanisms are often poorly resourced, receive little field support and remain poorly connected to each other and other relevant international mechanisms.
- Thought should also be given to improving the capacity of the international community to directly intervene in black market transfers and misuse of SALW, both through economic intervention and through other regulatory mechanisms – such as confiscation of SALW by peace operations.

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Further reading

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<http://www.acronym.org.uk/dd/dd84/84ng.htm>

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<http://disarmament.un.org/cab/poa.html>

Small Arms Survey 2007: Guns and the City, Oxford: Oxford University Press, 2007, esp. chap. 1-4

- Chapter 1: Multiplying the Sources: Licensed and Unlicensed Military Production
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- Chapter 2: Completing the Count: Civilian Firearms
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- Chapter 3: Probing the Grey Area: Irresponsible Small Arms Transfers
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- Chapter 4: Back to Basics: Transfer Controls in Global Perspective
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