

## 4: ANALYSIS AND ASSESSMENT

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### 4.1 INTRODUCTION

This section assesses progress towards implementing the PoA up to May 2005. Whereas Section 3 of this report reviews and examines activities contributing to the implementation of the PoA, Section 4 aims to analyse and assess what has been achieved since the PoA was established in 2001. Further, it discusses the implications of the analysis, not least for the Review Conference on the PoA due to take place in 2006.

The information examined in this Report demonstrates that there have been substantial implementation efforts in some countries over the last four years, building on the progress achieved in some regions prior to the UN Conference in July 2001. Moreover, since the previous BtB Report was published in June 2003, substantial implementation activities have continued and developed in several respects and in some regions. The PoA clearly remains an important framework for promoting co-operation to prevent and combat illicit trafficking and uncontrolled proliferation of SALW at all levels – local, national, regional and international.

However, it is similarly clear that the international community is still far from having prevented or eradicated the illicit trade in SALW in all its aspects. Indeed, overall it seems that the problem remains as serious and damaging as it was four years ago. Although there has been progress in efforts to control the availability and flows of SALW especially at the regional level, and in reducing their damaging impacts, in some countries and sub-regions, there is little evidence to suggest any overall success so far. The problems remain intense in many parts of the world, contributing to great suffering and insecurity.

In the 2003 BtB Report it was emphasised that it was unrealistic to expect substantial progress in actually reducing the scale of the problems of illicit trafficking and proliferation of SALW within two years of the PoA being agreed. It was always recognised that this is a medium and long-term problem. Determined and comprehensive international efforts are required over a number of years before we can realistically expect this complex problem to be substantially reduced.

Up to a point, this remains true in 2005. An additional two years is not, after all, a long time. It is unrealistic to expect to see measurable overall impacts on the scale of the problem, though we should be able to begin to see impact on the ground in some countries. Thus the criteria in this 2005 Report for assessing progress towards implementing the PoA remain much the same as we used in 2003. They focus on the extent to which governments, together with relevant international and regional organisations and civil society groups, have:

- taken steps to implement their PoA commitments
- improved their understandings of the problems, issues and dynamics
- learned lessons from experience about how best to implement PoA commitments and measures
- developed the necessary partnerships for effective action
- taken initiatives to further develop shared international understandings and co-operation on important issues relating to the trafficking, proliferation and misuse of SALW.

However, it is certainly reasonable to expect, after four years, that governments and other key actors have made substantial progress according to the above criteria. In 2003 the Report looked positively at any evidence that governments and others had taken at least some steps to begin to implement the PoA. In 2005, it is reasonable to expect much more. States and others have now had time to put in place all of the key legal, procedural and programmatic commitments contained in the PoA, and to begin to see

results, learn-lessons and plan next steps. Similarly, there has now been time to assess the extent to which initiatives to develop international co-operation on key issues (such as SALW transfer controls or tracing lines of supply of illicit arms) are proving successful.

Most of this section thus aims systematically to analyse and assess progress toward implementing the PoA according to the above criteria. Section 4.2 focuses on states' progress in establishing the basic policy and procedural frameworks, partnerships and programmes required to implement the PoA. Section 4.3 examines progress in the main thematic areas covered by the PoA. Section 4.4 discusses progress towards developing the partnerships required for effective actions to prevent, combat and reduce trafficking and proliferation of SALW, specifically: partnerships between governments, international and regional organisations and civil society groups; regional co-operation; and international assistance. Section 4.5 discusses the development of actions or shared understandings on some issues on which there are no specific commitments in the PoA but which are widely recognised to be important.

The final Section (4.6) discusses the implications of the findings for the 2006 Review Conference. What are the factors contributing to inadequate or patchy implementation? To what extent do the emerging problems and challenges with implementing the PoA stem from inadequacies in the PoA itself? It is important that such issues begin to be discussed at the 2005 BMS, in order to prepare to take the opportunities in 2006 to strengthen or enhance the PoA.

## 4.2 STARTING POINTS FOR IMPLEMENTING THE POA

There are a number of basic but important measures that states can take relatively quickly to start implementing the PoA. These include:

- establishing national SALW contact points and national co-ordination agencies or mechanisms
- establishing appropriate partnerships, including with civil society
- developing National Action Plans for implementing the PoA
- preparing and submitting national reports on implementation
- reviewing the adequacy of existing laws, regulations, procedures and institutions in the light of PoA commitments.

Progress in these areas provides a minimum indication of governments' commitment to the implementation process.

As discussed in the first part of Section 3.3.1 (see also Baseline Data Table I), by May 2005 143 states had established a national contact point, the great majority of which had been notified to the UN. At least 79 states had designated or established national co-ordination bodies or agencies of some sort or had other national co-ordination mechanisms. Moreover, some 120 governments from across the world have submitted at least one national report to the UN DDA. At least 54 states have implemented reviews or changes to legislation relating to SALW transfers and other relevant areas since 2001.

However, this summary also implies that large numbers of states have apparently not yet even implemented all of these modest steps towards active implementation of the PoA. In 2003, numerous states were prompted into remedial action, particularly the production of a national report, by the prospects of embarrassment at the July 2003 BMS. Hopefully, a similar process will take place in the lead-up to the second BMS in July 2005.

Despite this, unfortunately, the picture is not as positive as the above summary might imply. Questions can especially be raised about the quality of these initial steps in many countries.

At present, the majority of states report only irregularly, and some national reports contain only modest or old information on implementation activities. Moreover, some of the national contact points on the UN lists are out of date. Since the UN regularly up-dates these lists, this is mainly due to lack of up-to-date information being supplied by governments.

### **National Focal Points and national co-ordination bodies**

Importantly, many so-called National Focal Points (NFP) do not, and sometimes apparently cannot, really function as national focal points. It appears that many such focal points are not able to respond to the full range of issues covered by the PoA, and are really simply official contact points for international bodies. The key issue is not whether such national SALW focal points or commissions are formally established, but how well they function. In order to function effectively, experience shows that a national contact point and focal point need to be embedded within a functioning national SALW commission or co-ordination agency, and this practice is still the exception rather than the rule.

There is also an issue regarding the terminology used in different regions which can cause confusion. An example of this is that in East Africa inter-ministerial committees are typically termed National Focal Points, when in most countries this applies to a responsible person/department within a relevant ministry. The seniority of the NFPs can also be an issue. Often the official is relatively junior, and lacks the authority to stimulate timely decisions or to ensure co-ordination. Further, in some countries there are several contact points especially in regions where there are multiple SALW agreements which have reporting requirements such as in Europe where the EU Code of Conduct and the OSCE SALW Document as well as the PoA have a reporting requirement. This can make co-ordination very difficult and may also imply unnecessary duplication.

On national SALW co-ordination bodies, experience over the last two years has reinforced our conclusions in our 2003 Report: the effective operation of national commissions or similar national co-ordination agencies is very important for the prospects for implementation of the PoA and of associated similar regional agreements. SALW-related issues are cross-cutting and a range of national ministries and agencies need to co-operate in addressing them, with appropriate involvement of professional bodies and civil society groups. This is the case in some states that already have many SALW controls in place. It is even more true in severely affected countries with relatively weak existing controls.

This is not to suggest a formulaic approach. Countries with relatively well-developed systems for controlling SALW may prefer to use more than one mechanism for co-ordinating their actions relating to the PoA, according to different spheres of policy. For example, a number of governments that are relatively active in preventing and controlling SALW proliferation and misuse have separate co-ordination mechanisms or agencies for: controlling SALW within their own territory; ensuring effective SALW transfer controls; and for co-ordinating provision of international co-operation and assistance relating to the PoA. This is fine, so long as there are also systems for overall co-ordination and information-exchange within the country.

However, countries that presently lack such relatively well-developed systems and co-ordination mechanisms, or which perceive serious weaknesses in their present arrangements, appear well-advised to focus on establishing a specific inter-agency national commission on SALW and related matters.

An important conclusion of the analysis of states' implementation of the PoA in Section 3 is that progress is most marked in the countries where effective inter-agency National Commissions or National Focal Points have been established. An effective national commission is a focal point for national efforts to tackle the complex challenges posed by SALW trafficking, availability and misuse. It needs to be a combination of custodian, developer and implementer of a National Action Plan to tackle these challenges. It should facilitate appropriate local initiatives and regional co-operation, while acting to ensure the integrity and effectiveness of the national plan.

A body of good practice is emerging that should inform the creation of these bodies in countries where none exists and the operationalisation of them in countries where little has yet happened in practice. These lessons include:

- **The need to include a broad range of agencies.** A wide range of government departments and agencies have a key role to play in small arms control. However in a number of countries, NC/NFP membership is limited to security and law enforcement agencies. This significantly limits the scope of co-ordinated government action on small arms control. A comprehensive NC/NFP should include all security and law enforcement agencies as well as other relevant ministries, often for example including ministries of health, education, finance and planning.
- **The importance of a nation-wide approach.** In order to effectively tackle the problem of small arms proliferation in local communities it is important that the NCs/NFPs are able to coordinate practical action across the country. In Kenya, Tanzania and Uganda, for example, Provincial Task Forces of law enforcement agencies, government officials and NGOs have been established that have undertaken a wide range of activities including weapons collection and public awareness-raising.
- **The benefits of including civil society.** If they are to be successful, national commissions and focal points need to involve civil society in a substantial way, to represent gun-affected communities and provide ambitious goals. However, research shows that this is not the case in most countries. Positive examples include Uganda, where four NGOs nominated by the Uganda National Action Network on Small Arms sit on the NFP, and Sri Lanka, where civil society organisations from different provinces came together to nominate four members to the National Commission. Some governments may prefer to avoid including civil society representatives as official members of a national co-ordination body which has the authority and capacity to take decisions on behalf of the government. In such cases, emerging good practice indicates that there should at least be specific mechanisms for ensuring that this body has regular and systematic engagement with interested groups and citizens outside government. Further, in some cases where there have been well functioning NFPs and National Commissions there has been the formal inclusion of civil society groups.
- **Importance of regional co-ordination.** Progress in the establishment of National Commissions or effective National Focal Points has been greatest in regions where there are effective sub-regional small arms agreements and co-ordinating agencies. For example, in the Great Lakes region and the Horn of Africa, all of the 11 signatories to the Nairobi Protocol have either established national focal points or are in the process of doing so (although the effectiveness of these varies dramatically). By contrast in South Asia, for example, where there is no sub-regional agreement in place, only Sri Lanka has established a co-ordinating agency.

Overall, the key factor is government commitment to a co-ordinated and inclusive process which can mobilise political authority, resources and enthusiasm.

#### **Importance of Reviewing Laws and Procedures**

Some countries have conducted a thorough review of the adequacy of their existing SALW legislation, controls and programmes in the light of the PoA or associated regional agreements, and developed a

National SALW Action Plan to address weaknesses or opportunities. However, this is still far from the norm. On the contrary, the implementation of the PoA in many countries still appears to be incremental and ad hoc and, in some cases, non-existent. Further, many governments seem to be under the impression that they have met their commitments to control simply because they have laws, regulations and administrative procedures relating to SALW control that, regardless of their adequacy, cover these issues. This is far from being true.

This highlights the importance of carrying out systematic reviews of the adequacy of existing laws, regulations, procedures and institutions in the light of national, regional and PoA commitments. Where they have been conducted, such systematic reviews have highlighted surprising as well as predictable weaknesses, and changed understandings of priorities. Many laws, regulations and procedures are out-of-date, incomplete in their coverage, hard to enforce, or have become otherwise inadequate. It is disappointing that, four years after the PoA, only a minority of states appear to have seriously conducted such a review.

In view of the relatively comprehensive scope of PoA commitments, all countries with a functioning government are likely to have taken a number of relevant measures in response to specific issues during the four years since 2001, and thus have something to report. At a minimum, the PoA provides a framework of minimum standards and good practices for such measures. But the scale of the challenges of SALW trafficking and proliferation is such that virtually all countries need to take proactive measures across a range of PoA issue areas, according to an up-to-date National Action Plan.

Not surprisingly, there appears to be a strong correlation between substantial implementation of the PoA and the existence of explicit national programmes of action on SALW. Similarly, countries with active and appropriately designed national SALW co-ordination bodies appear to be relatively likely to develop a comprehensive SALW strategy or National Action Plan.

As in our 2003 Report, the evidence from around the world makes it clear that the process by which a National Action Plan for SALW is developed can have a major impact on its contents and success in implementation. Governments that have so far developed a national plan have differed in the ways in which they have developed their plan. Some appear to have focused on consultations within government on the basis of existing knowledge and policy. However, information and understanding of SALW issues is poor in most countries, and responsible officials and 'experts' will tend to have partial or distorted understandings. Research and wide consultation across society therefore has an important role to play.

Drawing on the experiences of several countries in Sub-Saharan Africa and South Eastern Europe (see Section 3), a systematic 'mapping' or surveying of the issues and problems relating to SALW for the country concerned appears to be particularly useful as a basis for developing an appropriate National Action Plan. Similarly, much may be learned from the recent use of national surveys in countries of South East Europe since it is important to know about the perceptions and attitudes relating to SALW of different sectors of the public before framing national regulations and programmes. Understandings of priorities amongst policy-making elites may differ substantially from what is actually happening or from perceptions of other sections of society.

#### **4.3 PROGRESS IN THEMATIC AREAS OF THE POA**

Section 3.3.1 reviewed progress in implementation the PoA in key thematic areas. This Section analyses and assesses such progress.

### 4.3.1 ENSURING ADEQUATE CONTROLS ON MANUFACTURING AND TRANSFERS OF SALW

In contrast to the situation with major conventional weapons systems, virtually all states in the world are potential exporters of SALW – not least of surplus SALW stocks from existing stockpiles. Moreover, the capacity to manufacture SALW and/or associated ammunition is relatively widespread, existing in about 100 countries. The PoA commitments in this area are directly relevant for all states.

Nearly all states have at least some laws and regulations to control the manufacture, export, import or transit of SALW (see Baseline Data Table 2). In nearly all such countries, these laws and regulations are part of a wider system for controlling manufacture and transfer of all categories of military goods and sensitive technologies.

However, on the basis of available evidence available, it appears that many (approximately half) of the member states of the UN still do not have regulations and systems enabling them effectively and comprehensively to control manufacture and transfer of SALW. In this respect, there has only been modest progress since 2003. This should be a source of major concern.

### 4.3.2 MANUFACTURING AND PRODUCTION

In practice, governments generally have laws mechanisms and procedures enabling them to exert control when they choose over facilities that produce SALW, parts and components, or ammunition, on an industrial scale. However, the government regulations and systems required to ensure regular and comprehensive reporting, monitoring and oversight over such facilities and the goods that they produce, often have gaps and weaknesses, or rely excessively on voluntary codes of conduct.

Equally problematic in many countries are controls on small-scale ‘craft’ production of firearms or ammunition. Laws, regulations and oversight procedures over such small scale production are often subject to out-of date regulations, developed in relation only to ‘traditional’ production of ceremonial, hunting or collector’s firearms with little capability. However, in many countries now, there is a substantial and growing problem of small-scale arms production for illicit trafficking and use. As access to modern machine technology becomes widespread, small-scale producers are becoming increasingly capable of producing significant quantities of highly capable and sensitive firearms, including semi- and fully-automatic weapons. The issue of ‘craft’ production also cannot be dismissed as a small or peripheral issue: in Ghana for instance it was recently estimated by the Interior Minister that approximately 100,000 small arms are produced annually by local gunsmiths. Therefore it is important that practical alternatives are supported such as alternative livelihood projects or alternatively the industry is regulated and controlled.

There is a depth of experience and widely-acknowledged good practice relating to national systems to controls SALW production. The OSCE, for example, established useful ‘Best Practice Guidelines’ in this and other issue areas in 2003-4 (see Section 3). But, since the PoA was agreed, little consistent attention appears to have been focused in most regions on strengthening legal and administrative controls on SALW manufacturing. It is true that inadequate controls on production are not generally a primary source of SALW problems, except with regard to licensed production which is an emerging issue of concern, in view of the existence of large stocks of SALW, and the continuing large scale of authorised, licensed, SALW production. However, it is worthy of attention, in the context of associated measures (discussed below) to ensure effective stockpile security, transfer controls, controls on civilian possession, and marking and record-keeping requirements. Experience shows that the significance of local production as a source of illicit SALW increases as transfer controls and restrictions on civilian possession become more stringent.

It is important therefore that the control of manufacturing and production of SALW be regularly reviewed and, where necessary, strengthened in all countries. This is important, as increasing controls in traditional arms producing countries have stimulated the growth of production capacity outside of the traditional arms producing states. Craft production capacities are also spreading. Therefore even countries that have not traditionally seen themselves as manufacturing states may find that they have become one.

### 4.3.3 CONTROLS ON SALW TRANSFERS

Substantial national, regional and international attention has continued to be devoted to issues relating to controls on SALW transfers, as reviewed in the relevant parts of Section 3.3.1. Numerous countries and regions, particularly in Europe, the Americas and Sub-Saharan Africa, have embarked on programmes to strengthen their national laws, regulations and systems to control SALW transfers, generally in the context of regional SALW agreements.

In this respect, the situation has improved since 2003. Many countries can legitimately report that they have recently engaged in a systematic review and strengthening of their laws and systems for controlling SALW transfers.

However, progress in this area remains patchy. There remain many countries with inadequate capability to implement effective and consistent controls on SALW, and dozens of countries have not reviewed or strengthened such controls since the PoA was agreed. Progress appears to be particularly poor in areas where there is no substantial regional agreement or programme on SALW, such as in the Middle East and North Africa or much of Asia, or (for more obvious reasons) in regions of conflict (such as the DRC).

In general, in most regions SALW export control systems appear to be receiving more attention than import or transit controls. This appears to be due to a combination of reasons. For example, as the members of the EU, OSCE and Wassenaar Arrangement have progressively developed their guidelines and programmes on controls on SALW exports from their members, they have similarly enhanced their 'outreach' programmes to promote similar controls amongst other SALW manufacturing states. By contrast, relatively few states, including members of the EU and OSCE, have well-developed and coherent transit controls that are in line with effective and responsible export controls.

Nevertheless, there remain a large number of developing and transitional countries which, lacking substantial production capacity, do not perceive themselves to be potential arms exporters, and thus do not appear to regard national SALW transfer controls to be a priority.

This misperception needs to be addressed, since virtually all states are potential and actual exporters of surplus or second-hand weapons. Regional and sub-regional programmes associated for example, with the EU Code of Conduct and EU Joint Action, OSCE Best Practice Guidelines, and the Nairobi Protocol, have contributed to such awareness raising in the last 2- 3 years. So have the regional workshops associated with a range of initiatives supported by governments (for example, the Transfers Control Initiative (TCI) sponsored by the UK and other governments, UN agencies and NGOs). However, these lack global reach, and this further efforts in area of activity remain a priority.

Most of the discussion above relates to implementation of states' commitments under Paragraph 2 of section II of the PoA, on ensuring that adequate laws, regulations and administrative procedures to exercise effective control of SALW production and transfers. However, as noted in Section 3.3.1, the PoA commitments in Paragraph 11, Section II, of the PoA also require systematic attention. These relate to the guidelines applied by national authorities in deciding whether to authorise SALW exports.

At least some governments are apparently still authorising transfers which are not ‘consistent with their existing responsibilities under relevant international law’, and are not ‘taking into account in particular the risks of diversion of these weapons into the illegal trade’. This much is clear, since there are continuing supplies of SALW to states and regions where there are: high risks of gross violations of human right or humanitarian law; persistent efforts to circumvent UN and other arms embargoes and; continued large scale diversion of SALW from legal to illicit lines of supply.

A few governments are probably deliberately engaged in activities contrary to their commitments under Paragraph 11, Section II of the PoA. However, a much larger number may be failing to implement this commitment properly due to lack of clarity about the implications of the commitments, or due to lack of systematic national principles or guidelines to enable relevant national licensing authorities to systematically and consistently apply SALW transfer controls.

In this respect, the PoA is not helpful: there is no elaboration of the specific meaning or implications of what constitutes states existing responsibilities under international law. Indeed, it is likely that different countries have different understandings of the status and implications of existing relevant international law. Similarly, different countries probably have widely varying approaches to determining whether there are substantial risks of diversion. This situation leads to inadequate or inconsistent national standards, suspicions of bad faith, and obstacles to international co-operation and co-ordination of transfer controls.

In this context, the significance becomes clear of the three main international initiatives to develop shared understandings of the principles or guidelines to be applied by national authorities when deciding whether to authorise an SALW transfer. These are: the Transfers Control Initiative sponsored by the UK and other governments; the informal Small Arms Consultative Group Process supported by the Biting the Bullet Project partners; and the Arms Trade Treaty supported by a wide range of governments and NGOs. Each, in their different ways, focus on developing shared understandings of how to elaborate or strengthen these PoA commitments. All involve a range of governments from all parts of the world, together with experts from regional and international organisations and independent institutes and NGOs.

Recent attention and growing international support for the development of an International Arms Trade Treaty is noteworthy and welcome. Initiated by a group of Nobel Peace Laureates and concerned NGOs, it has now attracted support in principle from a number of states, as described in Section 3.3.1. This initiative is still at the early stages of its development, however, it seems set increasingly to be an important reference point and complementary initiative in discussions about how to promote implementation and development of a number of crucial aspects of the PoA

International meetings have taken place in 2004 and 2005 at which states have discussed the agreement of a set of global principles for international arms transfers and the Arms Trade Treaty. These have taken place in Helsinki, Dar es Salaam and London with the leadership of the governments of Finland, Tanzania and UK respectively with the input of a range of international and local NGOs. Chair’s reports from the meetings in Tanzania (at which representatives from 31 countries participated) and in London (where 22 states, including the world’s major arms producers) discussed the need to develop effective international controls based on states existing responsibilities under international human rights and humanitarian law.

Some of the emerging results of the TCI and Small Arms Consultative Group Processes are particularly noteworthy.<sup>174</sup> Above all, both emphasise the importance of focusing on all aspects of SALW transfers – exports, imports or transit – rather than simply on export controls. This serves to emphasise the shared

<sup>174</sup> See, for example, Chair’s Interim Report, Small Arms Consultative Process, Biting the Bullet Project, 2004.

responsibilities of exporting, importing and transit states in determining whether to authorise a transfer, and also the importance of developing co-operation between all states directly involved in the authorisation process. Similarly, both processes indicate that most governments are broadly in agreement about the types of factors that should be taken into account.

The challenge remains to develop and articulate specific international understandings on the criteria or factors to be taken into account, and on the consultation processes that should be involved. At its last meeting, in Rio de Janeiro in April 2005, the government representatives and other members of the Small Arms Consultative Group Process reached provisional consensus on the contents of a 'food for thought' paper on these issues which will be published in 2005. Hopefully, this indicates that progress may be possible in relation to this issue area at the 2006 Review Conference.

If this process moves forward, it is important that states agree to a set of principles consistent with existing state responsibilities under international law at the Conference. Further, states should consider launching an international initiative to establish a legal instrument, or forming a group of sympathetic states to take such an initiative forward.

#### 4.3.4. CONTROLS ON ARMS BROKERS

Since 2003 there has been significant progress on developing common understandings of the basic issues and problems associated with illicit brokering of SALW, and of ways to control SALW brokering activities, as outlined in Section 3. At an international level, the Netherlands-Norway initiative to develop common approaches and agreed elements of a model regulation on SALW brokering was launched in April 2003 (complete with proposals for such elements of model regulations) and followed up with a series of international and regional consultation meetings. The OSCE and other regional organisations have made progress in elaborating Best Practice Guidelines, and the EU has arrived at a Common Position. The UN Secretary-General's High Level Panel called for the development of a legally-binding agreement on brokering in its report, supported by the UN Secretary General in his response 'In Larger Freedom'.<sup>175</sup>

However, only about 32 states have actually put in place laws, regulations or administrative procedures to actually regulate and control arms brokering activities. Without a legal framework for controls, the distinction between 'licit' and 'illicit' SALW brokering is unclear. As understanding of the issue and regulatory approaches increases, it can be expected that more countries will establish controls on arms brokers soon. However, since dubious arms brokers take full advantage of gaps or inconsistencies in different states' national controls, international co-ordination and harmonisation of approaches towards controlling arms brokering activities is a priority.

In this context, it is important to assess the best way to progress towards an international agreement in this area. UN General Assembly Resolution 59/86, December 2004, requests the establishment, after 2006, of a second UN Group of Experts to consider 'further steps towards international co-operation' on this issue. In many ways, this planned exercise appears to be redundant. There has already been a UN Group of Experts on arms brokering, which reported in 2001. It is not clear how a follow-up UN Group of Experts will add value.

In practice, it is widely known that efforts to establish a commitment in the UN General Assembly resolution to launch negotiations for an international instrument on controlling arms brokers were frustrated by the objections of a few states. The undesirable compromise to establish a second UN

<sup>175</sup> <http://www.un.org/largerfreedom/>

Group of Experts was agreed in order to 'keep the issue alive' at the UN. As such it may be best regarded as a stop-gap proposal, hopefully to be revised and strengthened before 2006.

The core of any international agreement on arms brokering would probably include provisions whereby States' Parties to agree to:

- establish national controls on arms brokering activities
- goods to be covered – including prohibited transfers
- model regulations and definitions ensuring a reasonably consistent approach to the design and terms of national controls on brokering activities (including for example commitments to licence each transaction and for brokers to register), with options on relatively controversial issues such as degrees of extra-territorial controls
- establish information exchange and consultation arrangements
- minimum penalties and/or other sanctions
- establish mechanisms for co-operation in enforcement.

#### **4.3.5 MARKING, RECORD-KEEPING AND TRACING**

The PoA contains relatively strong sets of commitments relating to marking, record-keeping and tracing of SALW. As discussed in the relevant part of Section 3.1.1, it is also an area where substantial progress has been made toward establishing an international instrument. The UN Firearms Protocol, which contains substantial obligations relating to marking, record-keeping and tracing of firearms associated with transnational crime, had received sufficient ratifications by May 2005 to enter into force at the end of July 2005. On SALW more generally, on the basis of the PoA commitments and the momentum generated by the French-Swiss initiative between 1999 and 2001, a UN Group of Governmental Experts worked from 2002 – 2003, followed by the establishment of the Open Ended Working Group on Tracing Illicit SALW in December 2003. At the third meeting of the OEWG, due to take place in June 2005, it is hoped that agreement will be achieved on the text of an effective international instrument, in time for consideration and endorsement by the UN General Assembly in autumn of 2005 and for adoption at or around the 2006 UN Review Conference.

At the time of writing, the outcome of the third session of the OEWG remains unclear. The OEWG Chair's third draft text (dated 20 March, 2005) was widely welcomed as a basis for final negotiations. Although it had a number of weaknesses, overall this text provided the basis for a relatively strong and useful international agreement to enable the timely and reliable identification and tracing of illicit SALW. However, it was not clear at the time of writing (May 2005) that the weaknesses in the draft text would be effectively addressed in the negotiations in June 2005. Moreover, efforts by some states to further weaken or narrow the agreement were anticipated. The following paragraphs briefly examine some of the outstanding issues in the final phase of negotiations and assess possible scenarios for the future establishment of international standards in this issue area.

The importance of this new proposed instrument is that it aims to enable states to identify and trace, in a timely and reliable manner, illicit SALW in both conflict and crime situations. The fact that it explicitly covers illicit SALW in conflict as well as crime situations is important, since it expands and complements the focus of the UN Firearms Protocol, which is on firearms implicated in crimes or transnational criminal networks. The scope of the Chair's draft text explicitly includes SALW ammunition, as well as the weapons themselves, which is another important strength.

International standards for SALW marking and record-keeping in this instrument appear unlikely to move much beyond those established for firearms in the UN Firearms Protocol, though there may be some

significant improvements (such as extending the minimum period for which records must be kept, probably to 30 years). It is the mechanisms for co-operation in timely and reliable tracing of illicit SALW that are of greatest importance. The Chair's draft text sets out the necessary rights, obligations and procedures for states, initiating and responding to tracing requests. It also establishes provisions relating to implementation, international co-operation and assistance, and follow-on measures.

As noted, negotiations continue. Key factors to take into account when assessing the result of these negotiations include:

- the quality of the obligations relating to marking and record-keeping
- the scope of the agreement – does it cover all SALW (military and civilian)? is SALW ammunition explicitly included?
- the specificity of the rights and obligations relating to tracing co-operation: for example, are there annexes specifying the form and content of requests and responses? Are there major loopholes (such as an unqualified right to withhold information on grounds of national security)? Are there problem-solving follow-up procedures if problems in co-operation are experienced?
- the existence of provisions for early implementation of the agreement – for example parties agreeing as far as possible to start to co-operate in tracing immediately after signing
- does the agreement provide scope for international information exchange about diversion points identified as a result of tracing investigations, to ensure that they are addressed?
- does the instrument provide effective follow-on mechanisms, enabling Meetings of the Parties to be sovereign and flexibly to establish problem-solving mechanisms as required and to develop, elaborate or strengthen the provisions of the agreement over time? Will it require the establishment of national tracing infrastructure?
- is the agreement legally or politically-binding?

The establishment of follow-on mechanisms and scope for flexible further development of the instrument are particularly important. International understandings and technical possibilities for marking, record-keeping and tracing SALW are bound to develop rapidly over time. It is important that Meetings of the Parties have clear authority and scope to decide to revise or develop international standards (for example, by amending annexes), and also to establish working committees as they see fit, for example to review and advise on developments, address emerging implementation problems, or promote co-operation and implementation. If such follow-on mechanisms exist, there is scope for addressing weaknesses in the initial agreement.

The issue of whether the agreement is legally or politically-binding has been a key focus for negotiation. In our view, a legally-binding agreement is most desirable, provided that achieving this does not imply substantial weakening of the content of the agreement and that there are provisions encouraging early implementation (even before the agreement comes into force).

#### **4.3.6 STOCKPILE MANAGEMENT AND SECURITY**

Commitments to ensure effective and secure management of SALW in official and authorised stocks are amongst the most important in the PoA. The great majority of SALW in the illicit trade or associated with destabilising flows and holdings are sourced from legal stocks.

As discussed in Section 3.3.1, there have been significant and welcome national, regional and international measures in recent years to elaborate and promote effective norms and programmes for SALW stockpile management and security. Several states have taken explicit steps to improve the security of the SALW held by their armed forces, police and other agencies of the State, often benefiting

from international assistance programmes. Similarly, some states have taken welcome steps to reduce the risks of loss of SALW from authorised stocks held by civilians, through strengthening required storage standards and improved monitoring and enforcement.

Overall, however, the measures taken so far since 2001 are tiny compared with the scale of the problems of insecure or inadequately managed SALW stocks in most regions of the world. They remain focused primarily on a few relatively small countries, often ones that have transparently appalling problems with maintaining secure storage of SALW. Tens, perhaps hundreds, of millions of SALW are still kept in insecure or inadequately managed circumstances. Military or police authorities within many states still generally regard such issues to be within their professional domain, and are resistant to suggestions from elsewhere in government or internationally that they need thoroughly to review and tighten their stockpile management and security procedures. In practice, large quantities of surplus arms are kept in reserve rather than destroyed, without adequate resources to maintain and secure them. In many countries, stockpile management issues remain politically sensitive and relevant information is hard to obtain. Assistance programmes for stockpile management improvements are lacking in many but the most afflicted countries.

A partial exception to this tendency can be found in Europe, where NATO standards in stockpile management and security appear to have been an important influence amongst countries that have been working to achieve NATO membership. Similarly, the OSCE best practice guide on the issue, established in 2003-4, provides an important reference point for improving standards, and in South East Europe the UNDP SEESAC Programme has actively promoted adoption on useful international standards. Best practice guidelines are also currently being developed by signatories to the Nairobi Protocol and will be considered by Ministers from Horn and Great Lakes in latter part of June 2005. In other regions, only Latin America and to a lesser extent Southern Africa have made progress towards establishing regional programmes.

Global stocks of SALW ammunition are several orders of magnitude more numerous than those of small arms and light weapons. Many countries have accumulated enormous stocks of ammunition over the years, and since the end of the Cold War stocks of surplus ammunition have increased dramatically as armed forces have been downsized. Stocks of hundreds or thousands of tonnes of ammunition that are well-beyond their shelf-life are not uncommon.

Stocks of ammunition pose a number of distinctive challenges.<sup>176</sup> Ammunition contains explosive materials, and thus stocks pose safety as well as security problems. Around the world, accidental explosions at ammunition and munitions stores occur frequently, often with substantial loss of life. Technical requirements for safe and secure storage for ammunition can be more demanding than for weapons. Destruction or other responsible disposal of surplus ammunition is similarly more technically challenging. Yet it is equally if not more urgent than small arms and light weapons systems, on the grounds of both security and safety.

Overall, one way of assessing activities in this issue area since 2001 is to look upon this as a preparatory phase before serious efforts start to address the overall problem of securing and managing SALW and associated ammunition. There has been significant progress in parts of the world on establishing and raising awareness of required standards for management and security of SALW stockpiles, and useful lessons have been learned about the opportunities and challenges for programmes to improve the situation. What is urgently needed now is a dramatic scaling-up of efforts at all levels to ensure adequate security and responsible management of SALW, held by state agencies and authorised civilians alike.

<sup>176</sup> See, For example, O. Greene, S. Holt and A. Wilkinson, Biting the Bullet Briefing No 18, 'Ammunition Stocks: Promoting Safe and Secure Storage and Disposal', London: February 2005.

Only in that way are there any realistic prospects of substantially reducing the problems of inadequate SALW stockpile security in the foreseeable future.

How could such a substantial increase in action of SALW management and security be achieved? On the basis of evidence so far, it certainly will not be achieved on the basis of existing PoA commitments and measures. More concerted international programmes need to be launched, to disseminate, promote and implement effective standards and mobilise the resources required. In practice, this must be associated with major increases in the rate of destruction of surplus SALW and associated ammunition, since security management requires substantial resources and also because large amounts of international aid are unlikely to be mobilised to safeguard surplus stocks for more than a short time, pending disposal. The design and priorities for such international programmes are important foci for debate in the lead-up to the 2006 Review Conference.

#### **4.3.7 DISARMAMENT AND WEAPONS COLLECTION**

Programmes to collect SALW from civilians and to promote disarmament of ex-combatants as conflicts come to an end have been prominent since 2001, as discussed in the relevant part of Section 3.3.1. Disarmament, Demobilisation and Reintegration (DDR) has become an integral element of all UN or other multilateral post-conflict stabilisation and reconstruction programmes. Similarly, the number of internationally-supported programmes to promote SALW weapons hand-in by civilians in conflict-prone developing countries has continued to increase.

Thus, experience with SALW collection and disarmament programmes is now quite extensive. Lessons have been identified from completed programmes (such as those noted in Section 3.3.1 above), and are becoming relatively widely disseminated. In these respects, our assessments of implementation of the PoA commitments in this area are quite positive.

However, there are substantial weaknesses. Although lessons are being regularly identified, they are not rapidly being learned and the same mistakes are being repeated over and over again. There is an unfortunate tendency for governments and donors to design and implement weapon collection programmes on the basis of partial or distorted understandings of a few past experiences, rather than on the basis of accumulated experience from a relatively wide range of programmes around the world. This is partly because inadequate resources are still being devoted systematically to analysing, identifying and disseminating lessons from SALW related programmes in this and other areas. There is also a failure to properly investigate some of the underlying motivations for SALW ownership or what might motivate different segments of the population to give up weapons. This underlines need for comprehensive survey of attitudes, perceptions and motivations of safety and security.

It also seems to be due to structural or institutional weaknesses. Thus, for example, it continues to be rare that DDR and SALW collection programmes from civilians are appropriately co-ordinated in countries emerging from conflict. Similarly, disarmament or weapons collection programmes in neighbouring countries are still generally unco-ordinated, in spite of the transnational flows of arms and movement of armed groups that are characteristic of conflict-prone regions. Too often, SALW collection programmes are still not appropriately embedded in more comprehensive programmes to engage communities, police, governments and other key stakeholders in efforts to control arms, enhance security and build mutual confidence.

Further, weapons collection programmes are too often conceived as short-term programmes. In fact, experience shows how important it is to approach weapons collection as an on-going process. The first phase may only collect 'spare' weapons, while people retain others for their security. As the process

develops, confidence and partnerships develop that enable more arms to be collected from the same community and this means that disarmament needs to be factored in to DDR strategies and continue through the post conflict reconstruction phase of any peace process. These weaknesses are now well-known, but it is proving hard to identify or implement the institutional changes required to address them.

Overall, disarmament programmes are closely associated with post-conflict stabilisation and implementation of a peace agreement. There is much to be done to address the weaknesses of such programmes, but by their nature they are bound to be relatively short-term and confined to a limited number of countries emerging from conflict. However, it is important that donors and implementing agencies recognise the need to follow up these short term projects with longer term community disarmament processes.

In contrast, weapons collection programmes from civilians have much wider geographical relevance and scope. They are particularly important in conflict-prone or war-torn societies, or in stable countries or localities suffering from high levels of violence and insecurity from gun crime but are also relevant throughout the world. In this context, the number and range of weapons collection and reduction programmes remains very limited in relation to potential need. Moreover, the similarities and distinctions between effective SALW collection programmes in different contexts have yet to be systematically examined. Evidence appears to indicate that their success or failure depends sensitively on the local conditions and needs, and on the target groups for the programme. There are certainly no reliable standard formulae. However, more systematic international information exchange, research and co-operation across the range of different weapons collection programmes appear to be a priority. In order to be sustainable, weapons collection initiatives also need to be embedded in other supporting programmes e.g. relating to establishment of stringent laws governing civilian possession of SALW, and DDR and SSR programmes as well as being tailored to local needs and approaches.

This implies the establishment or further development of international programmatic activities in this area. The 2006 Review Conference provides an important opportunity for launching such initiatives, and the character and design of useful initiatives in this area is a priority for debate in the lead-up to this conference.

#### **4.3.8 DESTRUCTION OF SALW, INCLUDING AMMUNITION**

The PoA encourages destruction of confiscated, collected and surplus SALW, as do most relevant regional agreements. On the basis of the evidence discussed in Section 3.3.1, it seems reasonable to conclude that destruction is increasingly accepted to be the appropriate norm for all or most collected SALW. Moreover, a significant and increasing number of governments have established policies, procedures and programmes to destroy surplus SALW in official stockpiles and also arms confiscated during criminal investigations (subject to evidential requirements of courts).

This is a substantial advance over the situation in the 1990s. Moreover, techniques for safe ensured destruction of SALW are now widely recognised and disseminated. There are a range of well-proven destruction techniques, of which several are cheap and involve low-technology. Where commercial smelters exist, for example, they can readily be used for SALW destruction. Where they do not, arms can be destroyed through a variety of methods, including cutting, crushing, burning, and explosive destruction. Technical and financial assistance for developing and transitional states for SALW destruction programmes is relatively widely available, particularly in the context of voluntary weapons collection or disarmament programmes.

The technical challenges associated with destruction of ammunition and munitions are significantly greater, and require involvement of specialists. Nevertheless, there are established regional or

international standards and procedures for safe, secure and reliable destruction on ammunition, as expressed for example in NATO, OSCE, SEESAC and SADC guidelines. Moreover, the experience and expertise for destroying SALW ammunition is available in many states around the world.

However, there is a continuing problem that ammunition issues are not adequately taken into account when designing or implementing SALW weapons collection programmes. Often large quantities of ammunition, some of it potentially unstable, are handed in, yet inadequate preparations have been made to safely receive and dispose of this. The overall scale of destruction of collected, confiscated or surplus SALW and associated ammunition is much lower than it needs to be to substantially reduce the risks of loss, misuse or accidents.

As noted in the previous sub-section, there are immense stocks of surplus or inadequately secure SALW and ammunition around the world. At the current rate of progress, arms and ammunition destruction programmes will scarcely impact on the problem. They need substantially to be scaled-up, through greatly strengthened national, regional and international destruction programmes. They also need to be more consistently prioritised, so that the greatest risks can be addressed at an earlier stage. Ways and means of mobilising and co-ordinating enhanced rates of safe destruction of SALW should be a focus for international debate in the lead-up to the 2006 Review Conference.

#### **4.3.9 TRANSPARENCY AND INFORMATION EXCHANGE**

The PoA encourages voluntary regional and international information exchange on SALW relevant to facilitating co-operation and promoting implementation of the PoA. As noted in section 3.3.1, there has been at best modest progress in this respect since 2001. As discussed in the 2003 Report, there has been progress in implementing the OSCE and OAS information exchange mechanisms relating to SALW transfers that were established prior to the 2001 Conference. More recently, the SADC and Nairobi Protocols have provisions for information exchange between parties; and the members of the Wassenaar Arrangement have established detailed information-exchange arrangement between themselves relating to their SALW transfers.

These developments are welcome, but most of these exchanges are confidential to the states parties concerned, and are generally quite modest. They are also confined to a few regions or sub-regions with relatively developed regional agreements.

Otherwise, increasing amounts of information relating to SALW are becoming available from independent institutes or experts, and from various governments on a largely ad hoc basis as co-operation on SALW issues gradually intensifies.

This lack of real progress towards transparency and information exchange is probably resulting in many missed opportunities, for co-operation, lesson-learning, and implementation in general. For example, better and more systematic exchange of relevant information would contribute significantly to implementation of the PoA in all of the issue areas discussed so far.

Experience shows that regional and international information exchange does not systematically take place without specific arrangements being put into place. At the 2005 BMS, participants could usefully consider possible voluntary formats for national reports to the UN on PoA implementation, to elicit and facilitate more comprehensive information. Similarly, the design and development of information exchange and consultation mechanisms, for example relating to enhanced international programmes relating to stockpile security, weapons collection, or destruction.

Governments in some regions appear to appreciate the value of transparency less than in others. But it is clear that progress on substantive implementation of the PoA can best take place in an environment of openness and accountability. Those regions that have made most progress in tackling SALW have typically been those with greatest transparency – this two way process is one which needs to be more explicitly recognised by states.

## 4.4 DEVELOPING PARTNERSHIPS

The primary responsibility for preventing and reducing illicit trafficking and proliferation of SALW, and for implementing the PoA, continues to lie with states. Nevertheless, the problems of SALW trafficking and proliferation are complex, cross-cutting and difficult. They cannot effectively be tackled without developing partnerships not only within government but also between governments, international and regional organisations, and civil society groups.

### 4.4.1 REGIONAL CO-OPERATION

The PoA encourages regional and sub-regional initiatives and agreements to complement and reinforce global efforts to prevent, combat and reduce SALW trafficking, proliferation and misuse. As discussed in Section 3, there are a number of important regional initiatives and agreements relating to SALW. Most of these were already established prior to July 2001, though they have been subsequently strengthened. The most significant events at the regional level have been the entry into force of the SADC Protocol and the creation of the Nairobi Protocol, both in 2004.

The 2003 Report on PoA implementation, emphasised that regional co-operation on SALW was very patchy. It was substantially developed in some areas, but scarcely existed in practice in several geographical regions. This overall assessment remains valid in 2005, and if anything the contrast has become even more sharp. In much of Europe/OSCE, the Americas, South Pacific, and Sub-Saharan Africa, regional and sub-regional co-operation relevant to the PoA has continued to develop, and is linked with effective national progress in PoA implementation. In contrast, there is little substantial co-operation or consultation on these issues amongst the countries of North Africa, Middle East/Persian Gulf, or in South or East Asia, with the consequence that implementation of the PoA at the national level is less evident.

The evidence now clearly indicates that there is a correlation between state's progress in implementing the PoA and participation in substantial regional agreements relating to SALW. On average, there is more evidence of serious and sustained measures to implement PoA commitments amongst states that participate in the EU, OSCE, OAS, SADC and Nairobi Protocols, ECOWAS Moratorium, and the Nadi Framework (Pacific), than there is amongst states in other regions.

Obviously, this is a tendency rather than an absolute phenomenon. There are states within the above regions or sub-regions where there is little evidence of serious efforts to implement the PoA. Similarly there are several states in regions lacking substantial regional SALW mechanisms which have nevertheless demonstrated commitment to implementing the PoA, such as Japan. The categorisation of ASEAN, and ASEAN Regional Forum, is ambiguous in this context. Whilst there is evidence of strengthening regional co-operation on issues such as illicit arms trafficking, it remains modest and only a few member states have recently taken substantial or comprehensive measures to implement the PoA.

The reasons for this correlation appear complex. However, the existence of functioning and substantial regional agreements and initiatives to address SALW problems appears usefully to stimulate and

reinforce national efforts to develop and implement National Action Plans on SALW. For example, a substantial regional agreement provides a political framework within which government ministries and agencies can legitimately take initiatives and develop programmes without continual reference to high-level political authorities. It also enables existing regional organisations to use their convening power or capacity to develop active programmes on SALW. Further, regional agreements and mechanisms provide a framework for mobilising international support for regional and national programmes, and for exerting pressures on governments to implement their regional commitments. Moreover, the existence of a substantial agreement probably reflects high political interest in action amongst one or more leading states in the sub-region, or amongst the international community including donors, which in turn generates incentives for neighbouring states to join in.

UN agencies and other international and regional organisations find it relatively efficient and easy to develop co-operation with regional organisations, and the advantages of such co-operation has been demonstrated in many ways over the last 2-4 years. The same applies to the major bilateral donors in this issue area. For example, the UNDP and other multilateral and bilateral donor agencies have usefully supported regional efforts in the Stability Pact countries of South Eastern Europe (particularly through support for the SEESAC regional 'Clearing House' for SALW programmes). Similarly, EU, UN and bilateral donors have been attracted to opportunities to establish co-operation with SADC, ECOWAS, IGAD, Nairobi Protocol states, and OAS, on SALW issues.

In contrast, lack of functioning regional co-operation on small arms generally not only reflects broader obstacles to regional co-operation on a range of security and other matters, but also lack of trust, political will or interest in the PoA amongst leading states in the region. Even if there is a willingness in principle to co-operate, in the absence of specific regional programmes, agreements, and institutions concerned with SALW, regional co-operation remains limited and ad hoc.

Experience so far with regional co-operation on tackling SALW trafficking and proliferation indicates the importance of good partnerships between governments, regional secretariats, civil society organisations and international organisations. The direct relationships between NGOs and regional initiatives continues to be strikingly close in several regions, particularly in South Eastern Europe and Sub-Saharan Africa, and they have brought real benefits. A number of international NGOs have played important supporting roles in the development and implementation of regional agreements and action programmes on SALW, including the wider facilitation of engagement with relevant regional and national civil society groups. They have also helped to facilitate inter-regional co-operation on SALW problems, such as the co-operation between EU and SADC.

#### **4.4.2 PARTNERSHIPS BETWEEN GOVERNMENTS AND CIVIL SOCIETY**

The PoA encourages partnerships, as appropriate, between governments and civil society. The evidence presented in Section 3 demonstrates that there are many good examples across the world of fruitful co-operation between governments and civil society groups on SALW issues. Moreover, it confirms the civil society groups can contribute across the whole range of measures envisaged in the PoA, not just through public awareness campaigns.

It appears that wherever governments have been open to co-operation on tackling SALW issues, at least some local or international NGOs and other civil society groups (such as professional bodies, women's groups, or community representatives), have proved interested and capable as co-operating partners. Members of IANSA have actively sought such co-operation.

Many countries lack traditions of close co-operation and partnerships between governments, local authorities and civil society groups, particularly NGOs. This is particularly true in relation to the control

of arms and combating illicit trafficking, which are still regarded in some quarters as sensitive issues where private citizens and NGOs have a limited role to play. Relationships between governments and some NGOs can be mutually suspicious and even adversarial. However, there is evidence that these barriers to government-civil society co-operation are gradually being overcome (see Section 3).

Overall, it is possible broadly to categorise the status of government-civil society co-operation into four types. These are countries with:

- a) virtually no substantial engagement between government and independent civil society organisations
- b) modest, ad hoc, engagement and co-operation of government with a limited number of relatively trusted independent civil society organisations
- c) extensive and active, but nevertheless unstructured and ad hoc, co-operation of government with a relatively wide range of independent civil society organisations
- d) extensive, active and systematic government-civil society engagement and co-operation across a range of issue areas.

The great majority of countries fit into categories b) and c) and these would achieve real benefits by moving to establish specific structures to ensure systematic information exchange and engagement across the full range of issue areas. As noted in sub-section 4.2, a well-functioning national commission or national co-ordinating body with systematic civil society representation or engagement has proved to be a key institution in efforts to develop and implement effective national plans to implement the PoA and similar regional agreements. However, even in countries with wide civil society engagement with government, there are important gaps or distortions in the patterns of engagement. For example, 'grass-roots' organisations are often relatively unrepresented in national commissions compared to policy research institutes or single-issue lobbying organisations. Systems need to be established to provide wide range of access points according to organisations' capacities and experience taking in successful examples of engagement with community groups such as in Sri Lanka.

There are inevitable tensions between government and independent civil society groups, but if these are recognised and responsibly managed they are quite consistent with developing useful co-operation and mutual benefit. For example, civil society campaigns can draw attention to problems with government policies and programmes. Although the criticism is sometimes uncomfortable, the overall impact is generally to help to mobilise political will and help to overcome bureaucratic obstacles and develop more sustainable initiatives. Similarly, some NGOs have the well-developed international networks that enable them to facilitate contacts between donors, international institutions and government agencies in severely affected countries, thus contributing to the development of international co-operation and assistance, as well as to the wider dissemination of lessons learned from experience. Their international networks and experience have contributed to lessons-learned processes

Obviously, substantial NGO co-operation and engagement with government is generally limited where the institutions of democratic governance are poorly developed or non-existent, or where society is highly polarised. In this context, quasi-official NGOs can also play a useful role, to facilitate two-way communication between government and citizens who otherwise lack mechanisms for engagement. Co-operation is easier where both government and NGOs enter into the relationship with some confidence and expertise, and where there are good precedents from partnerships in other areas.

Experience with partnerships between government and civil society on issues relating to the PoA is now sufficiently broad and established that the time is ripe for international elaboration of useful mechanisms and principles to facilitate them with a view to developing an appropriate annex to the PoA at the 2006 Review Conference.

## 4.5 INTERNATIONAL CO-OPERATION AND ASSISTANCE

International assistance is an essential aspect of progress towards implementing the PoA. Section III of the PoA includes important commitments to provide such assistance. A number of donors have now contributed to efforts to prevent and reduce SALW trafficking, proliferation and misuse for a decade or more. The key issue is the extent to which the scale and effectiveness of such international assistance is improving.

International assistance is no panacea. It is generally ineffective unless there is not only strong local commitment to the programme goals but also effective mobilisation of the substantial human and social resources that exist in even poor and conflict prone countries. However, where these are in place, international assistance has a key role to play in helping to stimulate, facilitate and support effective use of these national (and regional) resources. Financial and technical assistance is needed to build capacity and to directly support implementation programmes.

As discussed in Section 3, the availability of international assistance to support PoA implementation has continued to grow over the last two years, and is now substantial although now is possibly beginning to decline. However, the issues and problems identified in our 2003 Report for the BMS continue to be important.

First, issues of local ownership and determination of priorities for support continue to be prominent. In principle, each country and region should develop its own programmes of work to implement the PoA, and then identify those areas where it needs assistance and establish priorities. In practice however, recipient countries often continue to lack the capacity to develop their own programmes and priorities, and often feel vulnerable to donor pressure on priorities and policy approaches. In this context, the continued development of donor programmes to assist countries with the process of developing their national plans and programmes of work for implementing the PoA is very important and welcome. Provided that these national programmes are well-developed and have involved wide consultation and support from relevant stakeholders, including civil society groups, donors should be willing to follow-up with assistance according to the priorities and programmes set in the national or regional programme.

Second, bilateral donor agencies, and relevant international and regional donor organisations, need to address problems with their own capacity to provide appropriate assistance for all key aspects of the PoA. This is partly a matter of establishing cadres of staff with appropriate expertise and experience with SALW related programming. It is also a matter of enabling aid budgets to be allocated according to priority needs, not according to donor institution traditions. Although it is inevitable that specific budget lines and aid programmes have restricted scope, many donor countries and agencies are remarkably constrained and inflexible about the types of programme that they are able or willing to assist. This leads to frustration, less effective programmes, and major transaction costs as programme leaders struggle to piece together the resources they require from different sources. Some donors, such as the UNDP and the UK, are relatively well-advanced in this respect, and have established appropriately flexible or complementary sets of mechanisms for providing assistance. Many others still have a long way to go.

Third, and related, the 'donor community' needs to take measures to 'mainstream' SALW dimensions into more established (and well-funded) dimensions of international assistance, concerned for example with governance, security sector reform or poverty alleviation. There is mounting evidence that measures to address armed violence and associated insecurity can contribute substantially to development and the achievement of Millennium Development Goal targets, and that projects to tackle SALW problems can provide useful entry points for wider efforts to contribute to community development, peace-building, police reform or good governance. However, SALW assistance programmes continue to be relatively compartmentalised and vulnerable.

Addressing this is a challenging task for donor development agencies. However, it also implies responsibilities for recipient countries. Unless countries affected by SALW problems actually make it clear that they regard tackling such problems to be an integral part of their development needs, development agencies cannot effectively respond. Yet SALW and related conflict and security issues are rarely prominent, or even mentioned, in key documents such as Poverty Reduction Strategy Papers produced by severely affected states. Although there has been some recent progress in this respect, much more needs to be done. It is also important to ensure that the need to control SALW and to support national and regional efforts is incorporated into significant international development initiatives, such as the Millennium + 5 Summit in September.

Fourth, there is a continuing problem with matching needs with available assistance and with donor co-ordination. The immediate priority continues to be at least to ensure effective information exchange and consultation amongst donors and their partners. Recent experience shows that donors continue to find even this to be a very challenging task. Although there are a number of examples of good practice, no single co-ordination mechanism or system can achieve this reliably. The main principle should therefore be to ensure multiple channels for information exchange and consultation to facilitate co-ordination of assistance, including: transparency by all donors; international and regional information exchange mechanisms, including regular co-ordination meetings; co-ordination mechanism at country level; and co-ordinated international programmes.

#### **4.6. IMPLICATIONS OF ASSESSMENT OF PROGRESS TOWARDS IMPLEMENTING THE POA**

The preceding analysis indicates that, although there is substantial progress towards implementing the PoA in a number of countries and regions, and in relation to certain issue areas, this progress remains inconsistent and uneven. Moreover, the experience of the last four years indicates that although there is significant political momentum towards implementation, this momentum does not appear to be increasing at the required pace in more than a few geographical areas and issue areas.

States' quality of performance in implementing the PoA, as for any international agreement, depends on a combination of many factors. These relate for example to: perceived national interests; levels of awareness and concern about the issues amongst relevant government officials, political leaders, and the public; capacity to develop and implement policy; availability of relevant expertise and resources; general commitment in principle to implement international agreements; external political or financial pressures and incentives; and so on.

In practice, states seem to divide into a number of categories in this context.

- 1) relatively stable and capable states with substantial concern and commitment to implement the PoA
- 2) relatively stable and capable states that are broadly sympathetic to the goals and commitments of the PoA that have taken some relatively ad hoc measures in line with the PoA, but which have yet to establish, resource and implement appropriate national SALW strategies
- 3) relatively stable and capable states with little interest in addressing SALW issues (except in the context of domestic law and order), and which remain reluctant to do more than the diplomatic minimum in relation to the PoA
- 4) developing or severely affected states that are relatively committed to implementing key aspects of the PoA, but which require assistance in order to carry this out
- 5) weak or fragile states that lack the governance capacity or systems to develop and implement coherent national measures to implement the PoA

- 6) countries emerging from conflict with a strong UN or other multilateral presence
- 7) countries in conflict.

Within each of these groups, states that are located within a geographical region with substantial regional SALW agreements tend to have more interest and capacity to implement relevant aspects of the PoA than those that are not.

The priorities for enhancing progress of states towards implementation of the PoA will vary according to which of the above categories they fall within. Between them, states in groups 1, 4 and 6 have by now established significant programmes and measures to implement the PoA, and are probably ready to further strengthen it at the 2006 Review Conference.

The large numbers of states in group 2 will probably not greatly improve their progress towards implementation unless PoA commitments are and least clarified or elaborated at the 2006 Review conference, in order to specify their implications and facilitate implementation through middle-level official action. They are similarly likely to be particularly influenced by the establishment of more fully developed international or regional programmes of action in key PoA issue areas (including, for example, the elaboration of guidelines relating to the thematic discussions). Weak or fragile states (group 5) cannot realistically be expected to implement the PoA without international assistance and well-developed international norms and programmes.

Performance by sceptical (group 3) countries can either be enhanced through the strengthening of minimum international standards, with which they may feel obliged to comply, or through persuasion through enhanced engagement. Countries in conflict cannot be expected to implement the PoA in more than a rudimentary way.

The implication is that it is not sufficient at the 2006 Review Conference to leave the PoA unchanged until implementation is further advanced at a future stage. This would be a lost opportunity to enhance performance by states in most categories, and might even hold back enhanced co-operation and performance amongst states in groups 1, 4 and 6. It is also an important priority to look at how best to encourage those states that have been reluctant to take action in groups 3 and 5.

It is clear that it will not be easy to achieve agreement to significantly develop the PoA at the 2006 Review Conference. However, there are a range of relatively flexible ways of doing so. These include:

- establish or reinforce international mechanisms or programmes to promote and support more effective implementation of existing commitments
- establish or launch negotiations for new international agreements or instruments
- develop annexes or other such documents associated with to the existing PoA
- revise and elaborate on existing commitments in the main body of the text.

Recommendations on how to approach these options are developed in Section 5 below.