

This picture, brought back from a Mount Everest expedition, allegedly shows the footprints of the Abominable Snowman or Yeti, circa 1961. © Popperfoto/Getty Images



Fact or Fiction?

THE UN SMALL ARMS PROCESS

INTRODUCTION

In a continuing saga, 2010 saw the UN small arms process struggling with its future. On the positive side, the Fourth Biennial Meeting of States produced a substantive outcome document on the implementation of the UN Small Arms Programme of Action (PoA) (UNGA, 2001), including detailed text on process issues. The year also witnessed a successful start to UN negotiations on an Arms Trade Treaty (ATT).

Yet some of the failures were striking. Exceptionally low rates of reporting and information exchange in 2010 suggest that UN member states were largely indifferent to the International Tracing Instrument (ITI), five years after its adoption by the UN General Assembly (UNGA, 2005). A decade after the finalization of the PoA, UN member states continued to balk at any form of independent assessment of implementation. They may have something to hide; the Small Arms Survey's examination of the national points of contact (NPCs), which states are supposed to establish under the PoA, indicates that just over one-quarter of the UN membership has functioning NPCs in place.

The UN small arms calendar for 2011 features a new type of meeting for the PoA, an Open-ended Meeting of Governmental Experts (MGE). The UN General Assembly's broad ('omnibus') resolution on small arms now runs to 31 operative paragraphs. But do all these words—spoken and written—really amount to anything? This chapter reviews the latest developments in the UN small arms process and situates them against the broader canvas of UN discussions on this issue over the past decade. It identifies some of the achievements of that process, while also highlighting several causes for concern. Its principal conclusions include the following:

- UN member states have begun to translate the relatively vague language of the PoA into more specific prescriptions for action.
- The UN small arms process has become increasingly structured, with biennial meetings, expert meetings, and review conferences now scheduled for the PoA.
- A lack of commitment to the PoA and ITI on the part of many states is clear, underlined, in particular, by the continued inability to agree on any type of formal, independent evaluation of implementation.
- To their credit, UN member states have finally agreed to begin negotiations on legally binding principles designed to underpin the international transfer of conventional arms.
- The ATT negotiations may be facing the same resistance to effective international arms control that the PoA has encountered to date.

The first part of the chapter ('2010 Update') reviews the key developments in the UN small arms process for 2010. These concern both the PoA and the ITI, and also the first phase of the ATT negotiations. Although the future ATT is supposed to cover the full range of conventional arms, not just small arms and light weapons, an effective ATT would

give more detailed expression to the PoA's general norms on transfer controls and, in this sense, related negotiations form part of the UN small arms process. The chapter's second part ('A bird's-eye view') steps back from the developments of 2010 to consider what progress has been made—on paper and on the ground—in translating the PoA's broad principles into concrete action. It highlights, in particular, the need for independent scrutiny of PoA implementation. The chapter concludes by taking stock of the UN small arms process a decade after the July 2001 adoption of the PoA.

2010 UPDATE

This section reviews three key developments in the UN small arms process that took shape in 2010: the outcome of the Fourth Biennial Meeting of States; the General Assembly's omnibus resolution on small arms; and the start of ATT negotiations. The chapter's evaluation of these results, both positive and negative, lays the groundwork for the more analytical section that follows ('A bird's-eye view').

The Fourth Biennial Meeting of States

The BMS4 discussion of border controls proved more controversial than expected. The Fourth Biennial Meeting of States to Consider the Implementation of the UN Programme of Action (BMS4)¹ followed the most successful in the series, BMS3,² held in July 2008, and preceded important PoA meetings in 2011 and 2012 (see Box 2.1). Key elements of the preparatory process that had contributed to the BMS3 success were retained for BMS4. They included the early designation of the chair (Ambassador Pablo Macedo of Mexico), focusing the meeting on a limited number of themes, and the use of facilitators (called 'Friends of the Chair' in this case) to allow for more in-depth work on these topics, both during the preparatory phase and at the meeting itself.

BMS4 took up three themes from BMS3, namely international cooperation and assistance, consideration of the implementation of the International Tracing Instrument, and an 'other issues' session that, as at BMS3, allowed states to call attention to any topic they felt 'important for the implementation of the Programme of Action' (UNGA, 2010c, para. 51). The other meeting themes drawn from the PoA were border controls and 'follow-up', meaning the meetings and mechanisms designed to give practical effect to the PoA.

Based on consultations with delegations in the margins of the plenary sessions, the Friends of the Chair³ transformed earlier discussion papers⁴ into the raw components of the BMS4 outcome document. The final day of the meeting, 18 June, saw protracted discussions about whether to open the draft outcome that had been distributed the previous evening to line-by-line amendments. In the event, after a few changes were squeezed in,⁵ the outcome document was adopted by consensus late in the afternoon, but with a note that reflected the displeasure of some delegations with the procedure (UNGA, 2010b, para. 23).⁶

Border controls

The discussion of border controls at BMS4 proved more controversial than many had expected given the clear interest all states have in ensuring effective control over their air, sea, and land borders. This was partly the result of the issue's incomplete incorporation into the PoA,⁷ partly the consequence of discussions focusing on the question of responsibility for border control between neighbouring states. As is the case elsewhere in the BMS4 outcome, the border controls section is divided into a narrative part and a more prescriptive 'way forward' part. Overall, the section covers the key elements of effective border control:

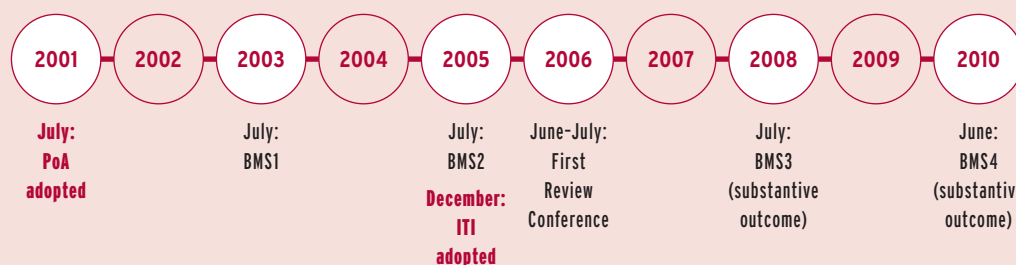
Box 2.1 The UN small arms process: a thumbnail sketch

The UN Programme of Action does not ignore follow-up. Neither does it accord it pride of place. The instrument's 'follow-up' section envisages biennial meetings of states 'to consider the national, regional and global implementation of the Programme of Action' (UNGA, 2001, para. IV.1.b), as well as a conference, held in 2006 'to review progress made in [its] implementation' (para. IV.1.a). There is no formal mechanism for the monitoring and evaluation of implementation; the PoA simply provides for voluntary national reporting, with the UN Office for Disarmament Affairs disseminating whatever information states make available (para. II.33). Although not mentioned in the PoA, the UN General Assembly's annual 'omnibus' resolution on small arms, drafted by its First Committee (Disarmament and International Security), is another core element of Programme follow-up—helping to tie the various meetings together and set the general direction on substance and process.⁸

While they produced no substantive outcome, the first two biennial meetings, held in July 2003 and July 2005, helped keep international attention on the small arms issue in the period following the September 2001 terrorist attacks on the United States. Many states and other stakeholders hoped the 2006 Review Conference would do significantly better. Yet four weeks of meeting time⁹ yielded nothing but a procedural report devoid of substance. Conflicting interpretations of the Review Conference mandate pitted states that sought a focus on implementation against those that aimed to bring new issues into the PoA framework.¹⁰ Among the Review Conference casualties was agreement, of any kind, on further PoA meetings. Subsequent sessions of the General Assembly First Committee filled this gap, however, with decisions to convene a third biennial meeting by 2008 and a second review conference by 2012 (UNGA, 2006a, para. 4; 2008d, para. 14).

Preparations for BMS3 got under way early, with the designation of the chair in December 2007 and the identification of three topics for focused consideration in early 2008. The selection of specific meeting themes contrasted with the wide-ranging—and ultimately unproductive—discussion format favoured by BMS1 and BMS2.¹¹ BMS3 also distinguished itself from its predecessors by reaching agreement on a substantive outcome that fleshes out skeletal PoA text on international cooperation and assistance, brokering, and stockpile management and surplus disposal (UNGA, 2008b).¹² In the more divisive climate prevailing after the 2006 Review Conference, the outcome was adopted by vote.¹³

Consensus-based decision-making, which had characterized the initial phase of UN small arms deliberations, made its return to the process in 2009 with the General Assembly's unanimous adoption of that year's omnibus resolution on small arms. It included agreement on the convening of BMS4 in June 2010, an MGE by 2011, and a Second Review Conference by 2012 (UNGA, 2009e, paras. 6, 15-16).



- cooperation *between* states, including at the regional level and comprising such activities as the exchange of information and experiences; the harmonization of legislation, practices, and tools; and joint action (UNGA, 2010c, paras. 4, 7, 11–12, 15);
- cooperation and coordination among different authorities responsible for border control *within* a state (paras. 7, 11, 13, 16);
- capacity building (paras. 8, 13–14); and
- the need to take into account related activities, including trafficking in drugs and precious minerals, organized crime, and terrorism (paras. 5, 8).



At the Mariposa border crossing in Nogales, Arizona, US customs and border protection agents search for cash and weapons in the back of a vehicle headed for Mexico, May 2009. © Matt York/AP Photo

The ‘way forward’ section also encourages states to ensure that the prevention of small arms trafficking figures among their priorities for national border management (para. 13). As customs authorities around the world tend to place arms smuggling relatively low on their list of concerns (Wurche, 2010), implementation of this recommendation could make a considerable difference to small arms control efforts worldwide. Yet such advances also presuppose stronger linkages between the UN small arms process and other relevant actors, such as the World Customs Organization.

Although the border control section covers the bases, its language, even in the ‘way forward’ part, is entirely non-prescriptive. The section presents a series of options and best practices for border control; it does not require—or even push—states to do anything about their borders. Other ‘way forward’ sections of the BMS4 outcome, such as those in the BMS3 document, are also largely cast as recommendations (‘States are encouraged to . . .’), rather than firm commitments. Yet, in contrast to this other text, the lack of specificity, even clarity,¹⁴ in much of the border controls language leaves the impression that UN member states are entirely ‘off the hook’ in this area.

International cooperation and assistance

International cooperation and assistance was a theme at the Third Biennial Meeting of States, with language in the BMS3 outcome covering, in some detail, the matching of needs and resources, needs assessment by recipient states, and national reporting.¹⁵ The challenge at BMS4 was to build upon—rather than simply repeat—this text.

The BMS4 section on international cooperation and assistance recaps many of the BMS3 priorities, including those mentioned above,¹⁶ but in each case there are one or more new elements. In relation to the matching of needs and resources, the BMS4 outcome makes a link to regional efforts, citing a potential role for the UN regional disarmament centres (UNGA, 2010c, paras. 30j–k). It also references recent initiatives undertaken by the UN Institute for Disarmament Research (UNIDIR) and the UN Office for Disarmament Affairs (UNODA), including the new template for PoA and ITI reporting (paras. 22, 30i).¹⁷

Yet the key value added in the BMS4 international cooperation and assistance section lies elsewhere. First, the BMS4 section puts greater emphasis on cooperation, ‘including joint or coordinated action’, than does its BMS3 counterpart (UNGA, 2010c, para. 30a).¹⁸ This could help rebalance discussions of PoA Section III,¹⁹ since the issue of cooperation, despite its critical importance to Programme implementation,²⁰ has often been eclipsed at UN small arms meetings by its more appealing twin (‘assistance’). Second, the BMS4 outcome, building on text agreed at BMS3 (UNGA, 2008b, outcome, para. 7c), highlights the need to assess the effectiveness of cooperation and assistance (UNGA, 2010c, para. 30e).²¹ This emphasis on effectiveness is the logical follow-up to BMS3 discussions that focused on improved identification, communication, and matching of needs and resources. Strengthening the delivery of assistance is one challenge; ensuring that states measurably benefit from such assistance is another. Finally, the adoption of the BMS4 outcome by consensus, including its affirmation of the BMS3 text on international cooperation and assistance (UNGA, 2010c, para. 29), means that states that had balked at the latter²² are now bound by both BMS3 and BMS4 outcomes.

Follow-up

While the BMS3 outcome addresses the question of PoA follow-up, much of the relevant text is tucked away in the document’s ‘other issues’ section and thus lacks the normative strength found elsewhere, in particular in its ‘way forward’ sections.²³ The UN General Assembly’s 2008 omnibus resolution incorporated several elements of the BMS3 outcome’s ‘forward-looking implementation agenda for the Programme of Action’ (UNGA, 2008b, outcome, para. 29), especially in the area of national reporting,²⁴ but it is the BMS4 outcome that does most to elaborate upon the PoA’s basic provisions for follow-up (see Box 2.1). This was the first PoA meeting with a dedicated session on follow-up.²⁵

The BMS4 outcome elaborates upon the PoA’s basic provisions for follow-up.

The BMS4 outcome sets out the following parameters for PoA follow-up:

- a six-year cycle for biennial meetings of states and review conferences (UNGA, 2010c, para. 44);²⁶
- no agreement on whether MGEs should be part of the six-year cycle, following the first in May 2011, but an acknowledgement that they ‘had a potential role to play in [the PoA] implementation architecture’ if adequately prepared and ‘action-oriented’ (para. 32);
- early designation of the chair of a PoA meeting—if possible, one year in advance (paras. 34, 45);
- ‘[i]n order to ensure continuity among meetings,’ collaboration between the chair of a PoA meeting and the chair and chair-designate of the previous and following meetings (para. 45);
- early development of PoA meeting agendas (paras. 34, 46);
- agreement to clearly define and distinguish the mandates of the different kinds of PoA meeting, but no indication as to what this means, in concrete terms, for any BMS, MGE, or review conference (paras. 34, 48);²⁷
- agreement to link, and ensure the complementarity of, different PoA meetings and, to that end, a recommendation to include in national reports information on progress made in the implementation of measures set out in preceding PoA meeting outcomes (paras. 34, 39);
- use of a new reporting template, developed by UNODA, to increase comparability among national reports, facilitate the matching of needs and resources, and simplify the provision of updated information on implementation (paras. 35, 41);
- shifting the reporting schedule to a biennial basis, timed to coincide with BMSs and review conferences, with a view to increasing the number and quality of reports (paras. 35, 38);

- analysis of national reporting, including a comprehensive, ten-year assessment of progress made in the implementation of the Programme of Action as an input for the 2012 Review Conference (paras. 36, 40); and
- possible establishment of a voluntary sponsorship fund benefitting states that would otherwise be unable to participate in PoA meetings (paras. 37, 43).

The BMS4 discussion of follow-up included consideration of preparations for the May 2011 MGE and the 2012 Review Conference. As noted above, there was some scepticism regarding the formal incorporation of MGEs into the PoA meeting cycle. States therefore recommended that the 2012 Review Conference address the question of additional MGEs (UNGA, 2010c, para. 44). In relation to the May 2011 meeting, previously scheduled by the General Assembly, states emphasized the need to limit the number of issues under discussion, presumably in order to foster a 'pragmatic, action-oriented' exchange (paras. 32, 47). BMS4 did not have much to say about the 2012 Review Conference, although states did recommend that it 'assess and, as necessary, strengthen the follow-up mechanism of the Programme of Action' (para. 49). BMS4 was not to be the last word on PoA follow-up.

The International Tracing Instrument

The International Tracing Instrument, adopted by the UN General Assembly in December 2005, and since then applicable to all UN member states, provides for biennial meetings and reports on the implementation of the



A Colombian police officer holds a weapon whose markings indicate it belongs to the armed forces of Venezuela, September 2008. The gun was seized from a criminal gang that allegedly works for drug traffickers in Medellín, Colombia. © Luis Benavides/AP Photo

Instrument (UNGA, 2005, paras. 36–37). The first such meeting was held within the framework of BMS3 in July 2008. BMS4 was therefore the second time UN member states could take stock of progress made in implementing the ITI's weapons marking, record-keeping, and tracing provisions.

The outcome on the ITI, annexed to the BMS4 report, is not a carbon copy of the BMS3 text, but neither does it offer much value added. Most importantly, it encourages states to use the UNODA reporting template—redesigned in 2010 with both the PoA and ITI in mind—emphasizing its utility to the comparison of implementation reports and the evaluation of ITI effectiveness (UNGA, 2010d, para. 10d).²⁸ In line with evolving practice for PoA reporting, the 2010 outcome also encourages states 'to submit their reports well in advance of biennial meetings and review conferences' (para. 10d). In addition, the outcome recognizes, in veiled terms, the value of converting paper-based records into electronic form (para. 4b); encourages the development of legislation providing for the mutual exchange of information and intelligence, which is useful for tracing (para. 10g); and underlines, somewhat more forcefully than its BMS3 predecessor, 'the important role that civil society plays in promoting the full implementation of the International Instrument' (para. 10i).²⁹

Fundamentally, however, the 2010 ITI outcome is enfeebled by omission. Four-and-a-half years after the Instrument's adoption by—and simultaneous application to—UN member states, the draft outcome's end-of-year deadline for the submission of point of contact information (UNGA, 2010a, para. 10c) proved too much for some states and was removed from the final version. Nor is there any commitment to exchange information on national marking practices.³⁰ All this despite the firm commitment states have made under the ITI to exchange both types of information 'as soon as possible after the adoption' of the Instrument (UNGA, 2005, para. 31). In this light, text in the 2010 ITI outcome encouraging 'States that had not yet done so [. . .] to exert every effort to designate national points of contact' (UNGA, 2010d, para. 10c) falls rather flat.

Also noteworthy by its absence in the 2010 ITI outcome is the 2008 outcome's mention of the importance of import marking to weapons tracing (UNGA, 2008b, ITI outcome, para. 3a).³¹ Last, but not least, in contrast to the 2008 ITI outcome and other BMS3 and BMS4 sections, the 2010 text replaces the word 'measures' with the softer term 'understandings' in the paragraph introducing the 'way forward' text (UNGA, 2010d, para. 10 chapeau).³² The reference in paragraph 5 of the 2010 outcome to an analysis of ITI reporting, conducted by the Small Arms Survey in 2010, hints at the fact that there may, in fact, be even less to the 2010 text than meets the eye.³³

In contrast to the PoA's voluntary reporting, states have undertaken, without qualification, to report on their implementation of the ITI every two years (UNGA, 2001, para. II.33; 2005, para. 36). In 2008, the first year of ITI reporting, 62 of 192 UN member states reported on their implementation of the Instrument (Cattaneo and Parker, 2008, p. 97). Not a huge number, yet one month before BMS4, during the second round of ITI reporting, this number had dropped further, to 43 (Parker, 2010, p. 52).³⁴ The low ITI reporting rates possibly stem from the use of an older reporting template, developed before the adoption of the ITI in late 2005.³⁵ If so, the template finalized by UNODA in 2010, integrating ITI and PoA provisions on marking, record-keeping, and tracing (UNODA, 2010), should boost ITI reporting in future. Nonetheless, the fact that many of the states that submit PoA reports have not yet reported on the ITI³⁶ may reflect a deeper problem, namely a lack of familiarity with, or even knowledge of, the ITI—or perhaps a simple lack of interest in the Instrument.

Whatever the specific reasons, it appears that many UN member states were indifferent to the International Tracing Instrument in 2010. There are no comprehensive studies of ITI implementation,³⁷ but there are other indicators of the extent to which states are taking their ITI commitments seriously. Reporting is one, communication of

Many UN member states appeared indifferent to the ITI in 2010.



A police officer holds a seized gun in Tijuana, Mexico, after a presentation to the media, August 2009. © Guillermo Arias/AP Photo

national point of contact information another. Here, too, the commitment is firm; the ITI *requires* states to ‘designate one or more national points of contact’ and, as noted above, communicate this information to the UN (UNGA, 2005, paras. 25, 31a). The weak 2010 outcome on the ITI is mirrored in the failure of many UN members to take such basic steps for implementation. As of mid-January 2011, the UNODA website listed ITI-specific point of contact information for only 18 of 192 UN member states—just under ten per cent of the UN membership (UNODA, 2011).³⁸

The 2010 omnibus resolution

The 2010 session of the UN General Assembly’s First Committee (Disarmament and International Security) provided an opportunity to consolidate the progress made at BMS⁴ and prepare for important PoA meetings in 2011 (the MGE) and 2012 (the Second Review Conference). As it turned out, the Committee’s general (‘omnibus’) resolution on small arms accomplished something in each area, although it also yielded a setback in the area of PoA follow-up.



Elements from BMS4

The small arms omnibus resolution duly endorses the BMS4 report, including the outcome, and ‘encourages all States to implement, as appropriate, the measures highlighted’ in the ‘way forward’ sections of the report. It also contains, in a footnote, a reference to paragraph 23 of the main BMS4 report,³⁹ which, as noted earlier, reflects the dissatisfaction of some delegations with the lack of line-by-line discussion on the draft outcome (UNGA, 2010g, para. 4).

The omnibus resolution includes several paragraphs on international cooperation and assistance, some of which emphasize, in line with the BMS4 outcome, the need to ensure their effectiveness (UNGA, 2010g, paras. 15, 26). Other First Committee resolutions focus to a greater extent on the question of assistance.⁴⁰ Following up one of the key themes of the BMS3 outcome, the 2010 resolution on ‘practical disarmament measures’ emphasizes the contributions of the Group of Interested States⁴¹ and UNODA (its Programme of Action Implementation Support System) to the matching of needs and resources for PoA implementation (UNGA, 2010h, paras. 5–6).

The omnibus resolution leaves independent analysis of PoA implementation off the agenda. The omnibus resolution includes a vague reference to the border controls question (UNGA, 2010g, para. 16). The resolution also mentions the International Tracing Instrument, but without borrowing from the 2010 ITI outcome;⁴² it makes greater use of the BMS4 outcome on follow-up. National reporting on the PoA, including use of the ODA reporting template, is the subject of three paragraphs (paras. 11–13), while another cites the BMS4 proposal to create a voluntary sponsorship fund for enhanced PoA meeting participation (para. 21). There are several omissions from the BMS4 follow-up text,⁴³ although, as with the lack of specific reference to many other parts of the BMS4 text, they are not important given the resolution's endorsement of the BMS4 report (and outcome) as a whole (para. 4).

The real problem with the omnibus resolution lies in its handling of the BMS4 text on the assessment of progress in PoA implementation. The issue is raised, in general terms, in paragraph 36 of the BMS4 outcome and given more concrete expression in paragraph 40, with its recognition of:

the need for a comprehensive assessment of progress in the implementation of the Programme of Action, 10 years following its adoption, as an input for the 2012 Review Conference (UNGA, 2010c).

The omnibus resolution transforms this provision into a somewhat confusing exercise in self-assessment. The General Assembly:

Invites Member States to communicate to the Secretary-General their views on the progress made on the implementation of the Programme of Action, ten years following its adoption, and requests the Secretary-General to present a report containing that information as an input to the 2012 review conference (UNGA, 2010g, para. 29).

Strictly speaking, states are invited not merely to report on the progress they have made in implementing the PoA, but on progress made in general ('the progress') since the instrument's adoption in July 2001. It is highly unlikely that many (any?) states will want to report on a lack of progress by other countries. In practice, it appears that states are being asked to indicate the progress they have made in implementing the PoA over the full period of its existence in the national reports they submit in advance of the 2012 Review Conference. Critical, independent analysis of PoA implementation is not yet on the UN agenda, it seems.

Future meetings

The 2010 omnibus resolution also devotes significant space to the post-BMS4 schedule of PoA meetings. It sets the dates for the MGE (9–13 May 2011) and, echoing the BMS4 outcome, underlines the importance of 'pragmatic, action-oriented [. . .] agendas for the meeting' (UNGA, 2010g, para. 8).⁴⁴ In essence, the MGE should involve an exchange of information and experience among small arms experts, not a political debate of the kind that has featured in many BMSs, and that dominated the 2006 Review Conference. To this end, the omnibus resolution '*ffurther encourages States to contribute relevant national expertise*' to the MGE (para. 9).

Like the BMS4 outcome, the resolution leaves open the question of additional MGEs, beyond that scheduled for May 2011, although its reference to 'a further [. . .] meeting', in place of the BMS4 outcome's use of the plural ('meetings'), suggests additional scepticism regarding future MGEs (UNGA, 2010g, para. 20; 2010c, para. 44).⁴⁵ The omnibus resolution also advances planning for the 2012 Review Conference, scheduling a one-week preparatory committee session for early 2012 (UNGA, 2010g, para. 18) and calling for the 'designation of *one* Chair for both the preparatory committee and the review conference' by May 2011 (the time of the MGE) (para. 19; emphasis added).⁴⁶

The ATT strand

If agreed and reasonably strong, an arms trade treaty would complement the PoA. The PoA addresses small arms transfer control in three paragraphs,⁴⁷ but the language is open-ended. While the commitments UN member states make on transfer controls in the PoA tend to be firm,⁴⁸ the nature of the required action is not usually specified in any detail.⁴⁹ Assuming it is minimally effective, an ATT would provide much clearer guidance on arms export licensing and post-shipment follow-up. It is still too early to know if such an instrument will see the light of day, but in July 2010, after years of hesitation, the UN membership finally began negotiations on an ATT.

The ATT project has its roots in civil society efforts, dating back to the mid-1990s, to promote more responsible arms export practices. The concept found traction with a number of governments in the early 2000s and with the bulk of the UN membership, in December 2006, when the General Assembly adopted its first ATT resolution (UNGA, 2006b).⁵⁰ A subsequent report by a UN Group of Governmental Experts (GGE), although short on substance, paved the way for the creation of an Open-ended Working Group (OEWG) (UNGA, 2008c).⁵¹

Unlike the GGE, the OEWG was open to participation by all UN member states. According to the mandate it received from the General Assembly, the OEWG, in 2009, was to:

further consider those elements in the report of the Group of Governmental Experts where consensus could be developed for their inclusion in an eventual legally binding treaty on the import, export and transfer of conventional arms (UNGA, 2008e, para. 5).

ATT PrepCom Chair Roberto García Moritán of Argentina briefs the media on the coming ATT meeting, New York, July 2010. © Devra Berkowitz/UN Photo



The OEWG held two substantive sessions in 2009⁵² and produced a report in which it indicated that it had fulfilled its mandate, stressing, in particular, the ‘inclusive’ nature of its discussions (UNGA, 2009c, para. 24).⁵³

In many ways, the 2009 OEWG sessions were a repeat of the 2008 GGE exercise, this time involving the entire UN membership. Grouped under four substantive headings,⁵⁴ the discussions mostly involved a general exchange of views on the principal issues relating to an ATT; only exceptionally did they approach the level of detail needed for any future treaty.⁵⁵ At the OEWG’s second session, in July 2009, several delegations reiterated previously voiced doubts about the ‘feasibility’ of an ATT and the need for a legally binding instrument. Only one state was openly sceptical at the end of the session, however. Many of the states that gave closing statements called for an accelerated pace of work—in essence, a shift towards a negotiating mandate or something close to it.⁵⁶

**The 2010 PrepCom
successfully
highlighted many
critical issues
for the ATT
negotiations.**

In the event, the General Assembly opted for formal negotiations in its December 2009 ATT resolution. It converted the OEWG sessions that had been planned for 2010 and 2011 into a Preparatory Committee (PrepCom), designed to pave the way for a ‘United Nations Conference on the Arms Trade Treaty’ that it scheduled for ‘four consecutive weeks in 2012’ (UNGA, 2009d, paras. 4, 6). Reflecting a debate among UN member states on the rules of Conference decision-making, the General Assembly further specified that the Conference was to ‘be undertaken [. . .] on the basis of consensus’ (para. 5). What this means, exactly, may only become clear at the time of the Conference, in 2012.⁵⁷

In 2010, there was a need to shift the discussions, however modestly, towards focused consideration of the elements of a treaty text. The PrepCom held its first session on 12–23 July 2010 at UN headquarters in New York. By the middle of the first week, the meeting chair, Ambassador Roberto García Moritán of Argentina,⁵⁸ offered an initial draft of the future treaty’s structure and preamble (Argentina, 2010a; 2010b). The following meetings, convened by several Friends of the Chair,⁵⁹ were devoted to informal (that is, closed)⁶⁰ consideration of possible treaty elements in three substantive areas:

- scope;
- common standards or criteria for the import, export, and transfer of conventional arms; and
- implementation and application.

On 22 July, the second-to-last day of the 2010 session, the chair issued an expanded, consolidated version of his earlier draft texts. This *Draft Paper* contains a detailed list of the topics that states had proposed for inclusion in the ATT (‘Elements’ section), along with draft text for the treaty preamble (‘Principles’ section) and for a possible ‘Goals and Objectives’ section (Argentina, 2010c). At the same time, the three Friends issued papers summarizing the discussions in their sessions (Australia, 2010; Egypt, 2010; Trinidad and Tobago, 2010).

The first PrepCom session was generally welcomed as a successful start to the ATT negotiations.⁶¹ After two years of unspecific, often repetitive discussions in the GGE and OEWG, the PrepCom’s focus on the nuts and bolts of treaty-making was heralded, in some quarters, as an indication that the ATT had finally gained universal acceptance.⁶² Yet while the 2010 PrepCom was certainly successful in highlighting many of the critical issues for the negotiations, there was no convergence of views—let alone specific agreement—on any of these issues.⁶³

From statements made throughout the first PrepCom session, it is clear that several countries remain opposed to any ATT that would constrain the decision-making of exporting states or the ability of importing states to secure continued supplies of conventional arms. The tactics have changed—there was minimal outright opposition to an ATT at the 2010 session—but the objective has not. Despite the fact that the papers produced by the Friends are

simply compilations of the national positions and proposals made at the session, several countries took issue with them during their closing statements. In some cases, this appeared to signal an intention to hinder progress at the next stage of the negotiations.⁶⁴

The disagreements go beyond questions of principle (such as constraints on national decision-making)⁶⁵ to many matters of critical substance (such as the UN Register of Conventional Arms as a basis for treaty scope). Even points that seemed to have been generally accepted at earlier stages of the process—such as the inclusion of small arms and light weapons in any ATT—were called into question during the 2010 session. The incorporation of ammunition in the ATT remains hotly contested, despite its centrality to arms control.⁶⁶

In short, the first PrepCom session was successful in nudging the process, however gently, towards formal treaty negotiations; yet the real work is still to come. As of January 2011, despite attempts to reconcile differences following the 2010 session,⁶⁷ there were no signs of convergence on key aspects of the treaty, including the desirability of an effective ATT. The negotiations promise to be exceptionally complex, but there is relatively little time. The July 2010 session accounted for half of the PrepCom's allotted four weeks.⁶⁸ The four-week 2012 Conference is unlikely to produce anything of value unless existing gaps between countries are substantially narrowed beforehand.



NGO activists hold placards during a peace march in support of ATT negotiations, New Delhi, India, February 2010.
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A BIRD'S-EYE VIEW

In July 2011, the UN Programme of Action celebrates its tenth anniversary. What is the significance of the developments described in the last section to the longer-term UN small arms process? This section seeks to place the events of 2010 in the broader context of PoA-related activity over the past decade. It first examines the process of translating the PoA's general norms into more specific prescriptions for action, then considers the extent to which the PoA (and ITI) are in fact spurring any 'action'.

Unpacking the PoA

The PoA does not substitute for detailed regulation.

While the PoA provides a general framework for the regulation of small arms and light weapons, it does not substitute for detailed regulation. More specialized instruments, such as the ITI or a future ATT, fulfil this function. Many PoA commitments are vague. For example, its use of the words 'adequate' or 'effective' to condition prescribed tasks leaves open the question of what—exactly—states must do in order to meet the relevant standards. There is, in short, a need to 'unpack' the PoA, to provide states with the operational guidance that will help them translate the instrument into concrete action.

As of January 2011, the ATT remained more aspiration than reality; yet several recent initiatives, led by UN member states, have yielded detailed guidance for PoA implementation in a range of areas. In chronological order, they are:

- the International Tracing Instrument (UNGA, 2005);
- the report of the 2007 GGE on brokering (UNGA, 2007);
- the report of the 2008 GGE on surplus ammunition (UNGA, 2008a);
- the BMS3 outcome (UNGA, 2008b); and
- the BMS4 outcome (UNGA, 2010c).

These documents cover the following areas:

- marking, record-keeping, and tracing (ITI, BMS3 and BMS4 outcomes);
- brokering controls (2007 brokering report, BMS3 outcome);
- stockpile management and surplus disposal for weapons and ammunition (BMS3 outcome, 2008 ammunition report);
- border controls (BMS4 outcome); and
- international cooperation, assistance, and national capacity building (BMS3 and BMS4 outcomes).

The chapter briefly examines each of these areas.

Marking, record-keeping, and tracing

The issue of tracing was fast-tracked in the PoA⁶⁹ as most states felt the subject required more detailed treatment than what the Programme offered.⁷⁰ A GGE, convened in 2002–03,⁷¹ paved the way for an OEWG, which finalized the text of the International Tracing Instrument in June 2005 (UNGA, 2005). Since its adoption by the UN General Assembly, in December 2005, the ITI, a politically binding instrument, applies to all UN member states.

The ITI consolidates and further develops key standards on weapons marking, specifying, with varying levels of detail, the content, placement, and characteristics of marks at different points in the small arms life cycle (UNGA, 2005, sec. III). The section on record-keeping commits states to 'accurate and comprehensive' record-keeping—framed in general terms to take account of constitutional differences between states. It also prescribes minimum time limits for

the conservation of weapons records (paras. 11–12). In its section V, the ITI establishes detailed modalities for tracing cooperation that have no parallel in other international agreements. In contrast to the PoA, it also includes a definition of small arms and light weapons (sec. II)—but not ammunition, which is excluded from the Instrument. The BMS3 outcome usefully emphasizes some of the initial steps states need to take in implementing the ITI, but it does not really elaborate upon its provisions. The BMS4 outcome, as noted above, is even more timid in its treatment of the ITI and ITI implementation.

Brokering controls

Brokering was the second issue, along with tracing, which was singled out for priority attention in the PoA.⁷² The main PoA paragraph on brokering mentions several of the elements needed for effective regulation—such as registration of brokers, licensing of brokering transactions, and penalties—but in relatively vague, non-prescriptive language (UNGA, 2001, para. II.14). The August 2007 report of the brokering GGE goes further. It provides a definition of brokering, presents the ‘recurring elements’ of existing national regulatory systems, and offers a series of recommendations designed to strengthen national, regional, and global efforts to tackle illicit brokering (UNGA, 2007, secs. I.B, III, V).

The BMS3 outcome reiterated several key points from the 2007 brokering report, such as the need for ‘a comprehensive approach’ and ‘the crucial importance of international cooperation’ to these efforts (UNGA, 2008b, outcome, paras. 11, 16c). Above all, it ‘acknowledged the importance’ of the report’s recommendations and other findings (paras. 11, 16b), a conclusion reinforced by the General Assembly’s repeated call for states to implement the GGE recommendations.⁷³

Stockpile management and surplus disposal

While the PoA’s provisions on stockpile management and surplus disposal are more detailed than most, articulating key principles and elements for regulation in this area (UNGA, 2001, paras. II.17–19), they nevertheless leave many questions unanswered. When are stockpile management standards and procedures ‘adequate’ (UNGA, 2001, para. II.17)?



Suspected Russian arms dealer Viktor Bout is escorted by US Drug Enforcement Administration officers after arriving at a New York State airport, November 2010. After months of legal wrangling, he was extradited from Thailand to face US terrorism charges.
© US Department of Justice/Reuters

How do states go about clearly identifying stocks that are surplus to national requirements (para. II.18)? What do they need to consider when responsibly disposing of their surpluses (para. II.18)? What are the resource implications of such measures? The BMS3 outcome document provides useful answers to each of these questions,⁷⁴ while highlighting the close relationship between the different sectors, especially surplus identification and effective stockpile management.⁷⁵

Ammunition, although essential to effective regulation, has received scant attention in UN small arms agreements. Except when referring to other documents, the PoA makes no mention of ammunition,⁷⁶ and this category was deliberately excluded from the ITI—a development that led directly to the establishment of a GGE on surplus ammunition stockpiles.⁷⁷ The Group's July 2008 report situates the problem of surplus ammunition stockpiles—for all conventional weapons, not just small arms—within the broader framework of stockpile management, addressing such issues as marking, accounting, public safety, stockpile security, and disposal and destruction (UNGA, 2008a).⁷⁸ Many of the report's recommendations apply to the management of arms as well as ammunition. As of January 2011, a set of 'technical guidelines', designed to complement the 2008 report, were being developed by UNODA.⁷⁹

Border controls

Despite its weaknesses, noted earlier in the chapter, the BMS4 outcome on border controls usefully develops the limited text found in the PoA. Among the basic elements of border control it lists are cooperation and coordination *between* and *within* states, capacity building, and—not least—the need to integrate the prevention of small arms trafficking into national border management strategies. For the time being, we are left with these general principles. A proposal by some UN member states to discuss the issue of border controls in greater detail, at the 2011 MGE, was abandoned in the face of opposition by other states.

International cooperation, assistance, and national capacity building

Early consideration of PoA implementation, specifically at the First and Second BMSs, underlined the importance of cooperation, assistance, and national capacity building for this purpose, but in fairly general, non-specific terms; no attempt was made to build upon the provisions of the PoA.⁸⁰ At BMS3, and again at BMS4, this discussion became more focused—as reflected in the outcome documents of the two meetings. At BMS3, states considered practical means of improving the identification and communication of needs, along with the matching of needs with resources (UNGA, 2008b, outcome, sec. I).⁸¹ As noted above, the BMS4 outcome, while echoing these points, stresses the

Box 2.2 International Small Arms Control Standards

In parallel with the recent efforts at normative development involving UN member states, the UN system's Coordinating Action on Small Arms—or CASA—mechanism has undertaken its own standard-setting initiative. The creation of a comprehensive set of International Small Arms Control Standards (ISACS) is modelled on the UN system's prior development of technical standards for mine action and the disarmament, demobilization, and reintegration of ex-combatants. The ISACS project aims:

to develop a set of internationally accepted and validated technical standards that provide comprehensive guidance to practitioners and policymakers on legal, policy and operational issues surrounding small arms control (UNGA, 2010e, para. 35).

The ISACS modules are drafted by technical consultants, with inputs from a wide range of experts and practitioners. As of January 2011, 26 modules were in development, with the adoption and launch of final versions planned for late 2011.

Sources: UNCASA (2010); UNGA (2010e, para. 35)⁸²

importance of cooperation—not just assistance—in implementing the PoA. It also highlights the need to ensure the effectiveness of cooperation and assistance (UNGA, 2010c, sec. II).

The view at ground level

The development of detailed guidance for PoA implementation should, in theory, help ensure that the commitments states have made in the PoA find practical expression ‘at ground level’. But that raises the question of what is known about implementation. A 2010 UN report presents a wide range of activity on small arms, specifically in Africa, the Americas, and Europe (UNGA, 2010e).⁸³ In some cases this ‘activity’ involves meetings and discussions.⁸⁴ In others, it is more concrete—such as strengthening controls or sharing information for operational purposes.⁸⁵ Not all of the news is good, however.⁸⁶ Moreover, the report describes many activities that are proposed or planned, not under way or completed.

Most of the information on the implementation of the PoA and ITI comes from national reporting, which is rarely self-critical. Despite encouragement over recent years to share information on ‘implementation challenges and opportunities’,⁸⁷ states are providing relatively little information on the difficulties they encounter in giving practical effect to the two instruments—except to note, usually in general terms, a lack of capacity or need for assistance.⁸⁸

Independent evaluations of PoA implementation have consistently pointed to serious weaknesses.⁸⁹ Most recently, the Small Arms Survey sought to determine whether information states had provided to UNODA on their national points of contact for the PoA was accurate and, further, whether the NPCs were operational (Parker, 2010, pp. 26–33).⁹⁰ The results are not encouraging. The existence and identity of the NPC could be confirmed in only 52 cases—just over one-quarter of the UN membership (p. 32).⁹¹ The establishment of an NPC is a relatively simple task⁹²—the designation of a government official to serve as a liaison on PoA-related matters and the communication of their contact information to UNODA. It serves, in other words, as an indication of some minimal willingness on the part of the country to take its PoA commitments seriously.

The current picture of PoA and ITI implementation is quite sketchy; visibility ‘at ground level’ is very limited. The information states offer in their reports does not, as a whole, include the level of detail that would permit a clear determination of whether specific commitments are being fulfilled—even allowing for the imprecision of many PoA provisions (Parker, 2011). What is clearer, thanks to independent research, is not encouraging. Baseline indicators of political commitment to the PoA (NPCs) and the ITI (reporting rates, information exchange) are flashing red. These admittedly limited assessments give the distinct impression that the UN small arms process is nothing more than a ‘paper tiger’, limited to declarations of good intent.

The impression that there is little more to the process than paper is reinforced by the UN membership’s continuing aversion to any formal assessment of implementation. The guidelines for PoA implementation, described above, are a start in developing a set of ‘benchmarks’ that could be used for the systematic assessment of implementation. Much more could be done to develop the measurability of the PoA.⁹³ The critical obstacle is perhaps not the development of such benchmarks but, more simply, the acceptance of independent measurement. Self-assessment of the kind promised in the 2010 omnibus resolution can be meaningful when the assessor is serious about fulfilling its commitments under the relevant instrument. It is wholly insufficient when the real intention is to get on with ‘business as usual’ and ignore the instrument.

The UN, or civil society, or some combination of both could fulfil the monitoring and evaluation role, preferably with a mandate from UN member states. The greater the trust that monitored actors have in such an exercise, the

Baseline indicators of political commitment to the PoA and ITI are flashing red.



An arms monitor of the United Nations Mission in Nepal inspects a weapon surrendered by Nepalese Maoists under the November 2006 Comprehensive Peace Agreement, April 2008. © Agnieszka Mikulska/UN Photo

greater the chance they will act on the results of any evaluation.⁹⁴ With or without a UN mandate, however, independent scrutiny of PoA (and ITI) implementation appears long overdue.⁹⁵ The BMS4 outcome recommends that the issue of strengthened PoA follow-up be put on the 2012 Review Conference agenda (UNGA, 2010c, para. 49). Such a move would indicate that the UN membership is poised to take the issue more seriously in the coming years. Yet member states' failure, in the 2010 omnibus resolution, to authorize an independent assessment of implementation in advance of the 2012 Review Conference suggests the opposite.

CONCLUSION

A decade after the adoption of the PoA, it is not clear that the UN small arms process has changed much at 'ground level' in terms of concrete implementation. There were, to be sure, some modest successes in 2010 at the diplomatic level. The BMS4 outcome document contributed to the operational guidance for PoA implementation that has been developed in recent years. It also sketched out a more elaborate, and potentially effective, follow-up process for the PoA, extending beyond mere reporting to the focused consideration—and assessment—of reporting. Nevertheless, 2010 also saw persistent indications that most UN member states are not following through on their

PoA and ITI commitments—that these instruments and their associated meetings are, in essence, elaborate fictions that conceal the determination of many countries to carry on with ‘business as usual’.

A key setback in 2010 was the General Assembly’s use of the general small arms resolution to translate BMS4 text favouring ‘a comprehensive assessment’ of implementation (UNGA, 2010c, para. 40) into an exercise in self-reporting. Equally important were the exceptionally poor rates of compliance for key markers of PoA and ITI implementation. In 2010, there were few functioning points of contact for the PoA and ITI and little exchange of information on ITI implementation. Based on this evidence, it appears that only 50 to 60 states are taking their UN small arms commitments seriously.⁹⁶ It is admittedly difficult to draw firm conclusions based on the limited information that is currently available, but the UN membership’s reluctance to embrace independent scrutiny of PoA (and ITI) implementation suggests it has a case to answer.

It is too soon to write off the UN small arms process. It is possible that the 2011 MGE and 2012 Review Conference will provide clear evidence that the UN membership, as a whole, is committed to the concrete, practical work of strengthening small arms control—and submitting such work to independent evaluation. Yet we may also be approaching the point at which the UN small arms process is widely seen as inadequate, paving the way for non-UN initiatives, whether global or regional, that are more ambitious in their design and effective in their implementation.⁹⁷

There are many good reasons to keep the UN at the centre of global activity on small arms. Most importantly, numerous aspects of the problem are transnational in nature. Deficient export controls or weak stockpile management, for example, have global implications. For this reason alone, states *around the world* need to tackle the small arms issue with some minimal level of determination—in particular, by translating their PoA and ITI undertakings into concrete action. Yet phantom NPCs, patchy reporting, and the continued aversion to formal monitoring leave few grounds for optimism. 🍷

LIST OF ABBREVIATIONS

| | |
|---------|---|
| ATT | Arms Trade Treaty |
| BMS | Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (‘Biennial Meeting of States’) |
| GGE | Group of Governmental Experts |
| ISACS | International Small Arms Control Standards |
| ITI | International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons (‘International Tracing Instrument’) |
| MGE | Open-ended Meeting of Governmental Experts |
| NPC | National point of contact |
| OEWG | Open-ended Working Group |
| PoA | Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects |
| PrepCom | Preparatory Committee |
| UNIDIR | United Nations Institute for Disarmament Research |
| UNODA | United Nations Office for Disarmament Affairs |

ENDNOTES

- 1 The full name of BMS⁴ is the Fourth Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. For meeting documents, see UN (n.d.a). The First, Second, and Third Biennial Meetings of States are referred to as BMS¹, BMS², and BMS³, respectively.
- 2 For meeting documents, see UN (n.d.c).
- 3 The Friends of the Chair were Australia (international cooperation and assistance), Colombia (follow-up), Nigeria (other issues), the United States (International Tracing Instrument), and Uruguay (border controls).
- 4 See UN (n.d.b).
- 5 See the discussion of the follow-up section of the BMS⁴ outcome, below.
- 6 This provision was also referenced in the small arms omnibus resolution. See UNGA (2010g, para. 4, n. 5).
- 7 The PoA encourages trans-border customs cooperation and information-sharing at the subregional and regional levels (UNGA, 2001, para. II.27), as well as the exchange of experience and training among customs, police, intelligence, and arms control officials for purposes of combating the illicit small arms trade (para. III.7). The BMS³ outcome also mentions the issue of border controls (UNGA, 2008b, outcome, para. 7b).
- 8 The various elements of PoA follow-up are mentioned in UNGA (2010c, para. 32).
- 9 The two-week Review Conference was preceded by a two-week Preparatory Committee session.
- 10 For an analysis of the 2006 Review Conference, see McDonald, Hasan, and Stevenson (2007, pp. 118–26).
- 11 As mandated in an earlier General Assembly resolution, implementation of the ITI was the fourth BMS³ theme. For more on the BMS³ preparatory process, see Čekuolis (2008).
- 12 For an analysis of BMS³, see Bevan, McDonald, and Parker (2009, pp. 136–43).
- 13 The vote saw 134 states in favour and none against, with Iran and Zimbabwe abstaining. See UNGA (2008b, para. 23).
- 14 See, for example, UNGA (2010c, para. 11).
- 15 See Bevan, McDonald, and Parker (2009, p. 141).
- 16 As reflected in the BMS⁴ outcome, the priorities concern the matching of needs and resources (UNGA, 2010c, paras. 30g–h); the identification and communication of needs by recipient states (paras. 23, 25, 30g); and national reporting (para. 23).
- 17 See also UNGA (2010c, para. 41).
- 18 See also UNGA (2010c, paras. 25, 30f). Compare with UNGA (2008b, outcome, para. 7b).
- 19 Section III is entitled 'Implementation, international cooperation and assistance'.
- 20 This point is acknowledged in the PoA itself. See UNGA (2001, paras. III.1–2).
- 21 See also UNGA (2010c, paras. 21, 30a).
- 22 Iran and Zimbabwe abstained when the adoption of the BMS³ outcome was put to a vote. The United States, which had earlier voted in the General Assembly against convening BMS³, did not attend the meeting.
- 23 Note that the BMS³ outcome's international cooperation and assistance section also includes provisions relating to follow-up. See Bevan, McDonald, and Parker (2009, p. 142).
- 24 See Bevan, McDonald, and Parker (2009, pp. 142–43).
- 25 BMS⁴ agenda item 6c reads: 'Strengthening of the follow-up mechanism of the Programme of Action, and preparations for the 2011 Experts Group meeting and the 2012 Review Conference' (UNGA, 2010b, para. 9).
- 26 Two BMSs, two years apart, are to be followed, after two years, by a review conference.
- 27 The BMS⁴ draft outcome, issued by the chair in advance of the last day of discussions, 'noted that the [Review Conference] had a mandate to consider whether the Programme of Action was meeting the objectives States had set for it in 2001' (Mexico, 2010, para. 46). At the request of India, however, this language was replaced, just before the end of the meeting, with PoA language stating that the Review Conference is 'to review progress made in the implementation of the Programme of Action' (UNGA, 2001, para. IV.1.a; 2010c, para. 48). A small number of other amendments were made to the draft outcome on the same day, but none had a significant impact on substance.
- 28 The 2010 ITI outcome also reprises language from 2008, noting that national reports may include 'quantitative data that would enable States to assess the effectiveness of the Instrument in enhancing cooperation in tracing' (UNGA, 2010d, para. 10d; 2008b, ITI outcome, para. 9d).
- 29 Compare with UNGA (2008b, ITI outcome, para. 9g).
- 30 Paragraph 7 addresses this issue but is exceptionally weak (UNGA, 2010d).
- 31 Compare with UNGA (2010d, paras. 6, 10g). Import marks, when present, greatly enhance the chances of a successful trace as they enable investigators to access relatively recent records relating to the weapon. See Bevan (2009, pp. 118–20).
- 32 Compare with UNGA (2008b, ITI outcome, para. 9 chapeau).

- 33 'However, States also noted the latest analysis by the Small Arms Survey, which suggested that more work needs to be done to foster wider and deeper cooperation' (UNGA, 2010d, para. 5). See also Parker (2010, pp. 52–68).
- 34 Figure as of 6 May 2010. This number includes states that simply mentioned the ITI in their national reports. Information countries provided on marking, record-keeping, and tracing that referred only to the Programme of Action was, however, excluded from the total. See Parker (2010, pp. 52–54). Revised figures available in mid-January 2011, as the May 2010 study was being updated, put the 2010 ITI reporting total at approximately 60 states—still lower than for 2008.
- 35 See UNDP (2003).
- 36 In 2008, 109 states reported on their implementation of the PoA—as compared with 62 for the ITI (Cattaneo and Parker, 2008, pp. 4, 97).
- 37 For a review of national preparations for implementation in the months preceding the ITI's adoption by the UN General Assembly, see McDonald (2006, pp. 112–14).
- 38 The 18 countries were: Algeria, Bahrain, Burundi, Canada, Chile, Colombia, Croatia, Czech Republic, Italy, Jamaica, Mauritius, Namibia, Poland, Portugal, Romania, Senegal, Spain, and Thailand. In two cases, no phone number, fax number, or email address was listed (Bahrain and Thailand). There were multiple entries for two other states (Namibia and Portugal). The multiple entries may have reflected a decision to separate the operational (weapons tracing) and information exchange (overall implementation) functions of the point of contact—a possibility the ITI envisages (UNGA, 2005, para. 25)—but this was not specified.
- 39 See UNGA (2010b).
- 40 See UNGA (2010f; 2010h).
- 41 See UNGA (2010e, paras. 41–42).
- 42 The omnibus resolution focuses on the ITI's reporting requirements. See UNGA (2010g, paras. 11, 14).
- 43 The omnibus resolution fails to include such points as the explicit mention of a biennial PoA reporting schedule; collaboration between PoA meeting chairs; and the need for clear definitions of, and distinctions between, PoA meeting mandates. For more on these elements, see the discussion of the BMS4 follow-up section, above.
- 44 Derived from UNGA (2010c, para. 32).
- 45 See also UNGA (2010c, para. 32).
- 46 In 2006, there were two different chairs for the Preparatory Committee and the Review Conference.
- 47 See UNGA (2001, paras. II.11–13). The PoA also covers brokering (para. II.14) and addresses the implementation of UN Security Council arms embargoes (para. II.15).
- 48 'States [. . .] undertake [. . .] [t]o assess' (UNGA, 2001, paras. II.1, II.11). 'States [. . .] undertake [. . .] [t]o put in place and implement' (paras. II.1, II.12). Much weaker is: 'To make every effort' (para. II.13).
- 49 The first part of paragraph II.11 reads: 'To assess applications for export authorizations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of States under relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade' (UNGA, 2001).
- 50 For information on the early stages of the process, see McDonald, Hasan, and Stevenson (2007, pp. 128–30).
- 51 See UNGA (2008e); Bevan, McDonald, and Parker (2009, pp. 147–52).
- 52 The dates were 2–6 March and 13–17 July 2009.
- 53 See also UNGA (2009c, para. 21).
- 54 The four substantive agenda items were: 'goals and objectives', 'scope', 'principles and draft parameters', and 'other aspects' of an ATT (UNGA, 2009a; 2009b).
- 55 Author's observations at the second substantive session, 13–17 July 2009. The more concrete, detailed discussions tended to involve the question of ATT 'scope', meaning the range of items the future treaty is to cover.
- 56 Author's observations at the second substantive session, 13–17 July 2009. For more information on national positions on the ATT, see Bevan, McDonald, and Parker (2009, pp. 148–49). Note that since its change of government in 2009, the United States has ceased to oppose the ATT process. After voting against the General Assembly's 2006 and 2008 ATT resolutions, it voted in favour of the 2009 resolution. Voting records of the UN General Assembly (First Committee resolutions) are available at WILPF (2010).
- 57 See Caughley (2009).
- 58 Ambassador Moritán also chaired the earlier ATT meetings (2008 GGE and 2009 OEWG).
- 59 The Friends of the Chair were Australia (common standards or criteria); Egypt (implementation and application); and Trinidad and Tobago (scope).
- 60 To the dismay of many non-governmental organizations, these sessions were closed to civil society participants. See Epps (2010).
- 61 See, for example, Epps (2010).
- 62 'All U.N. countries had now accepted the principle of a treaty, delegates said' (Worsnip, 2010).

- 63 Author's observations during the second week of the 2010 PrepCom.
- 64 Author's observations during the second week of the 2010 PrepCom.
- 65 Debate continues on the question of whether the standards or criteria for export licensing that would be agreed in an ATT would merely be 'taken into account' by states, perhaps in a superficial manner, or would, instead, pose greater constraints on national decision-making. See Wood and Estévez (2010).
- 66 On the importance of controls over ammunition, see Greene (2006).
- 67 See, in particular, the materials from the Boston Symposium on the Arms Trade Treaty (28–30 September 2010), available at UMass Boston (n.d.).
- 68 Two one-week sessions of the PrepCom have been scheduled for 2011: 28 February to 4 March and 11 to 15 July.
- 69 See UNGA (2001, para. IV.1.c).
- 70 See UNGA (2001, paras. II.7–10, 36–37, III.10).
- 71 For the report of the GGE, see UNGA (2003).
- 72 See UNGA (2001, para. IV.1.d).
- 73 See, for example, UNGA (2010g, para. 3).
- 74 Standards and procedures for stockpile management are addressed in paragraphs 20, 22, 24, 27b–c, e; the identification of surplus in paragraphs 20, 23, 25–26, 27a; surplus disposal and destruction in paragraphs 22–23, 27e; and resources in paragraphs 21–23, 27d (UNGA, 2008b, outcome).
- 75 See UNGA (2008b, outcome, paras. 20, 25).
- 76 Arguably, some of its provisions, such as those relating to stockpile management and surplus disposal, apply to ammunition, but this is contested by some states.
- 77 See Bevan, McDonald, and Parker (2009, p. 145).
- 78 For an overview of the report, see Bevan, McDonald, and Parker (2009, pp. 145–47). Note that 'public safety' concerns focus on the prevention of accidental explosion and consequent harm to surrounding populations, whereas 'stockpile security' relates to the risk of diversion to unauthorized groups and individuals (theft or loss). See UNGA (2008a, secs. I.D–E).
- 79 See UNGA (2008a, paras. 53–54, 61, 72).
- 80 The PoA devotes an entire section (18 paragraphs) to the topic of 'Implementation, international cooperation and assistance' (UNGA, 2001, sec. III).
- 81 See also UNGA (2010h, paras. 5–6).
- 82 For more information, see UNCASA (n.d.).
- 83 Note that the report provides relatively little information on activities in Asia–Pacific, the Middle East, or North Africa. See UNGA (2010e, paras. 15, 26, 31, 45, 64).
- 84 See, for example, the review of developments in Asia–Pacific in UNGA (2010e, para. 64).
- 85 See UNGA (2010e, paras. 50, 52, 60, 65).
- 86 See UNGA (2010e, para. 9), relating the findings of UN experts groups.
- 87 See, for example, UNGA (2010g, pmb. para. 8).
- 88 Remarks by Sarah Parker, based on research conducted for Parker (2011). UNIDIR workshop on PoA implementation, Geneva, 3 December 2010.
- 89 See, for example, BtB with IANSA (2006).
- 90 The Survey study also looks at national coordination agencies and national action plans. See UNGA (2001, paras. II.4–5).
- 91 As of May 2010, the UNODA website (www.poa-iss.org) listed 151 NPCs, although information for five countries was insufficient to initiate enquiries (Parker, 2010, p. 27).
- 92 In contrast to the many more complex requirements of the PoA, including the regulation of small arms manufacture, international transfer, brokering, and stockpile management (UNGA, 2001, sec. II), the establishment of a functioning NPC is also quite easy to measure. The existence and identity of an NPC is 'an objectively verifiable fact' (Parker, 2010, p. 32).
- 93 The UN Secretary-General has identified the PoA's lack of measurability as a factor impeding progress in its implementation (UNSC, 2008, para. 30; see also paras. 58, 63).
- 94 See Persbo (2010).
- 95 See McDonald (2004).
- 96 This estimate is based on the number of functioning points of contact for the PoA (52) and the number of states that reported on their implementation of the ITI in 2010 (around 60, according to information available in January 2011). If, on the other hand, one focuses on the ITI point of contact figures, then the number of states that appear serious about implementation drops to 18 (or 16; see endnote 38).
- 97 See Borrie et al. (2009, pp. 21–22); Efrat (2010). Efrat notes that '[w]hile global cooperation may be desirable, conflicting government preferences could render it weak'. He concludes that smaller-scale collaboration between like-minded governments, especially at the regional or subregional level, 'offers a second-best alternative' (pp. 127–28).

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