

The UN process on small arms: back on track

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Abstract

The Third Biennial Meeting of States on the implementation of the UN Programme of Action on small arms was held in New York from 14 to 18 July 2008. If advocates of strengthened controls on small arms transfers and those in favour of a legally binding instrument were disappointed, a few steps forward were made, allowing us to say, after the failure of the 2006 Conference, that the UN process on small arms is back on track.

Résumé

Le processus des Nations unies sur les armes légères : remise sur les rails

La troisième Réunion biennale des États sur l'application du Programme d'action sur les armes légères a eu lieu à New York du 14 à 18 juillet 2008. Si les attentes des défenseurs de contrôles renforcés sur les transferts, ainsi que des partisans d'un instrument juridiquement contraignant, n'ont pas été comblées, certaines avancées permettent néanmoins d'affirmer, après l'impasse de la Conférence de 2006, que le processus est à nouveau remis sur les rails.

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1. Introduction

States gathered for the third biennial meeting to consider the implementation of the UN Programme of Action on illicit small arms and light weapons (hereafter small arms) in New York from 14-18 July 2008. Advocates of strengthened small arms controls anticipated the meeting with anxiety. States had failed to reach consensus on the way forward at the 2006 UN conference on illicit small arms because of seemingly unsurpassable differences of views. It was up to the delegates at the third biennial meeting to pick up the pieces and try to find a common understanding about the future of the UN process on small arms.

This briefing presents an overview of the third biennial meeting and its outcome. The first section provides a short history of the UN process on illicit small arms. The second and third sections review the debates during the meeting and present the contents of the conference report. The concluding section argues that the report falls short of what many supporters of strengthened small arms controls called for. But it reaffirms the commitment by states to combat the illicit trade in small arms and provides a valuable basis for the further global efforts. Indeed, the results of the meeting suggest that the UN process on illicit small arms to be back on track.

2. The UN process on illicit small arms

The UN process on illicit small arms is principally built on the politically binding 2001 UN Programme of Action (PoA) to prevent, combat and eradicate the illicit trade in small arms in all its aspects.¹ The programme stipulates measures to counter the threat to security and stability as well as the humanitarian and socio-economic consequences that are associated with the illicit small arms trade. Measures that states committed to implement include adequate national legislation on the production, trade, and brokering of small arms, the reliable marking of and comprehensive recordkeeping on small arms, and the assessment of export authorization according to regulations “consistent with existing responsibilities of States under relevant international law”.

States further agreed steps for the effective follow-up to the conference. That is, states agreed to convene meetings on a biennial basis to discuss the implementation of the PoA and a conference to review the progress in the implementation of the UN Programme by 2006. In addition, states agreed that the UN undertake a study on the feasibility of developing an international instrument on marking, record-keeping, and cooperation in tracing illicit small arms and consider further steps to enhance international cooperation in combating illicit brokering of small arms.

The UN Programme was the result of difficult compromises between states. Many states from especially Latin America, sub-Saharan Africa, and Europe called for a legally binding instrument that would also include restrictions on small arms transfers to non-state groups and on civilian small arms possession. European and other states also called for the inclusion of export criteria or, at least, a definition of “existing responsibilities of states under relevant international law” in relation to small arms exports. Further, many states called for firm commitments to the negotiation of, preferably legally binding, instruments on tracing illicit small arms as well as brokering.

At the same time, a few states opposed these issues as too ambitious and, by touching on controls on the legal trade in small arms, as distracting from the combat of illicit small arms trade. The states included China, Cuba, India, Iran, Israel, Pakistan, Russia, and the United States.² They succeeded in pushing for an only politically binding instrument and in blocking commitments to the negotiation of further instruments. They also blocked a clearer definition of obligations of states that export small arms. The USA staunchly opposed any mention of civilian small arms control. Indeed, it was because sub-Saharan African states

1. United Nations. 2001. *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (A/CONF.192/15). Available at <http://www.grip.org/bdg/pdf/g1876.pdf>

2. Anders, Holger. 2007. ‘The UN Process on Small Arms: All Is Not Lost’ in *Arms Control Today*, March. Available at http://www.armscontrol.org/act/2007_03/Anders

dropped their demand for references to civilian small arms control that consensus could be reached in the final hours of the 2001 conference.³

The differences in views between states about how best to combat the illicit small arms trade were further evidenced at the biennial meetings on the UN Programme as well as the UN review conference on the PoA that were held in New York in 2003, 2005, and 2006 respectively. As mentioned, the differences in opinion resulted in the failure of the 2006 conference to even agree on a substantive outcome report of the conference⁴. Nevertheless, states did make some progress on tracing illicit SALW and adopted the politically binding international instrument to enable states to trace illicit small arms, in 2005, after the lengthy consideration about the feasibility of such an instrument.⁵

The tracing instrument encourages states to mark all legally produced small arms with a code containing a unique serial number and information that identifies the country of manufacture and the manufacturer. In addition, states are encouraged to keep adequate records on small arms production and transfers and to cooperate in the tracing of illicit small arms recovered outside their country of production. Even this instrument, though, was only adopted after the many states that called for a legally binding tracing instrument that would also cover small arms ammunition dropped their demands in the face of opposition by the USA and a few other states such as Egypt, Israel, Iran, Japan and Pakistan.

3. The Third Biennial Meeting of States on the UN Programme

The decision to hold a third biennial meeting of states on the UN Programme was taken at the UN General Assembly in January 2007.⁶ The resolution mandating the meeting was passed by majority voting, thereby overcoming a no-vote by the USA that remained unconvinced of the need for further meetings and conferences on the illicit small arms trade. The specific mandate for the biennial meeting was to consider the implementation of the PoA and, for the first time, of the International Tracing Instrument.

Thematic issues that were put on the agenda of the meeting included international cooperation, assistance, and national capacity-building; stockpile management and surplus disposal; illicit small arms brokering; and marking and tracing of illicit small arms.⁷ States adopted the agenda although the Mexican delegation expressed its concern over the absence of issues such as the humanitarian impact of illicit small arms on the agenda.⁸

Limitation of debates

The debates over the following days reflected the continuing disagreements between states with many states calling again for a legally binding PoA as well as legally binding instruments on tracing, brokering, and transfers. Several states also raised again the need, in their view, of common global standards on restrictions of small arms transfers to non-state groups and civilian small arms possession. As previously though, a few other states remained hostile towards such further action. In addition, the Iranian delegation insisted that any outcome document from the meeting should be negotiated line-by-line. Such negotiations would have meant serious delays in the proceedings and would have threatened the ability of the meeting

3. United Nations. 2001. *Report of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, New York, 9-20 July 2001* (A/CONF.192/15), p. 29. Available at http://disarmament.un.org/cab/smallarms/files/aconf192_15.pdf

4. Berkol, Ilhan et Gramizzi, Claudio. 2006. *La Conférence d'évaluation du PoA sur les armes légères : Un non-résultat logique*, Note d'analyse du GRIP, 19 juillet 2006. Available at <https://www.grip-publications.eu/bdg/g4604.html>

5. UN General Assembly. 2007. *International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons* (A/60/88). Available at <http://www.grip.org/bdg/pdf/g4306.pdf>

6. UN General Assembly. 2007. *The Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (A/RES/61/66), January 3. Available at <http://www.grip.org/bdg/pdf/g1081en.pdf>

7. See the four thematic discussion papers of the meeting at: <http://disarmament.un.org/cab/bms3/1DiscussionPapers.html>

8. Reaching Critical Will. 2008. *Small Arms Monitor* (no. 1), 14 July. Available at <http://www.reachingcriticalwill.org/legal/salw/bms2008/monitor/no1.html>

to adopt an outcome document within the given time. This incapacity shows first that the duration of meetings is far being sufficient to consider any future modification of the PoA or the International Tracing Instrument, and second, the necessity of prior preparation of meetings on beforehand via a limited committee of experts to anticipate decisions and the final report.

Some steps forward

Nevertheless, encouraging developments took place during the meeting. First, discussions between states were arguably more detailed than in the past and several states made recommendations for specific measures in the areas of, for example, international assistance for the implementation of the PoA, the tracing instrument, and the management of small arms stockpiles. Second, there seems to have emerged a consensus amongst states to agree to disagree on certain issues without fully blocking possible future developments on other issues.

One example is the mention in the outcome document of the desirability of civilian small arms control in the view of some states and “without prejudice to the view of other States”.⁹ This is the first time that civilian small arms control is explicitly mentioned in an outcome document of UN meetings on the PoA. Another example is the unprecedented step by the meeting to submit the draft outcome document to a vote. The decision was taken after the Iranian delegation refused to budge from its demand for a line-by-line negotiation. This allowed Iran to not have to agree on the document without blocking the adoption of the document by other states. Indeed, when put to the vote, no state voted against it with only Iran and Zimbabwe abstaining from a vote.¹⁰

4. Contents of the outcome document

The outcome report of the third biennial meeting reflects the thematic discussions that states agreed on at the start of the meeting and contains specific recommendations for the way forward under each of the themes. In relation to international assistance, the report underlined that assistance proposals could be improved if they are “formulated as concrete projects with measurable goals as part of relevant national plans”. The report also acknowledges the establishment within the UN of the UN Programme of Action Implementation Support System as a means to better match needs by states establishing strengthened small arms controls with available donor resources.¹¹

In relation to combating illicit small arms brokering, the report notes that while some 80 states already have or are in the process of developing national legislation on brokering much more needs to be done to ensure that all states have adequate controls in place. The report also stresses, for the first time in a report of a UN meeting on the PoA, the importance of controls on brokering-associated activities such as financing and transportation of illicit small arms. Further, the report suggests that states continue to consider ways to reach agreements and establish mechanisms to effectively combat illicit small arms brokering.¹²

On the issue of stockpile management and surplus disposal, the report acknowledges the security threat of poorly managed and inadequately secured small arms stockpiles. The report also provides detailed measures that states could take to ensure the effective control of their national stockpiles. The measures include, for example, the full and regular review of stockpiles and stockpile management practices. The detail of the recommended measures to ensure the physical safety and security of stockpiles is, again, unprecedented in comparison to previous reports of UN meetings on small arms control.¹³

9. UN General Assembly. 2008. *Report of the Third Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (A/CONF.192/BMS/2008/3), p.15, para. 28.

Available via <http://www.grip.org/bdg/pdf/20080820-A-CONF192-BMS-2008-3-EN.pdf>

10. Ibidem, p. 7, para. 23.

11. Ibidem, p. 10-11.

12. Ibidem, p. 11-12.

13. Ibidem, p. 12-15.

Other issues

Significantly, the report contains a section on “other issues” that were discussed and supported by some states during the meeting and that found their way into the report “without prejudice to the views of other states”. The issues, on which no decisions were taken, included a prohibition of small arms transfers to non-state groups and terrorists; the civilian possession of small arms; controls on small arms ammunition; linkages between security, armed violence, development, and human rights; the control of private security providers; and the transformation of the UN Programme into a legally binding instrument.¹⁴

International Tracing Instrument

Annexed to the report is a summary of the proceedings and discussions in relation to the implementation of the International Tracing Instrument. Specifically, states discussed the progress and challenges in implementing the instrument’s standards on marking, record-keeping, and cooperation in tracing. As the way forward, the report encourages states that have not yet done to ensure the conformity of their national regulations and procedures with the Tracing Instrument. The report also reaffirms that donor states are encouraged to seriously consider rendering technical, financial, and other assistance that may be requested by states seeking to implement the tracing instrument at the national level.¹⁵

However, reports of states on the implementation of the Instrument have shown that, in practice, the tools that are at states’ disposal are not yet being used accordingly.

5. Conclusions

The Third Biennial Meeting of States on the UN Programme on illicit small arms did not overcome fundamental differences of opinions between states about the future of the UN process on small arms. Many states remained disappointed in their aspirations for firm commitments to long-held aims such as the negotiation of legally binding instrument on small arms brokering. Likewise, there was no consensus on issues such as small arms transfers to non-state actors, civilian small arms possession, or the inclusion of ammunition in the scope of the PoA.

Nevertheless, the meeting broke new ground by adopting a more flexible approach and the seeming willingness of states to not let their disagreement on certain issues block agreement on further steps in other issue areas. Indeed, the meeting and its outcome suggest that, for the moment at least, the UN process on small arms is back on track. This allows for cautious optimism for strengthening global small arms control standards in the future and, therewith, make an effective contribution to combating the negative consequences associated with the illicit trade in small arms.

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Mots clés :

UN Programme of Action, small arms, Biennial Meeting, civilian possession, Iran, Zimbabwe, traceability

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14 Ibidem, p. 15-16.

15 Ibidem, p. 17-20.