Improving the Effectiveness of the Programme of Action on Small Arms

Implementation Challenges and Opportunities

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UNITED NATIONS

New York and Geneva, 2011

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CONTENTS

Charts

Tables

FOREWORD

Since my appointment last June as Chair-designate of this year's Open-Ended Meeting of Governmental Experts (MGE) on the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (the PoA), I have spoken with many Member States about their expectations and hopes for the PoA. Those consultations have left a vivid impression of the firm commitment to the PoA that was evident across every region.

Ten years after it was adopted, reducing the harmful impact of the illicit trade in small arms and light weapons remains a key disarmament priority—indeed, the key disarmament priority—for many governments and communities. While much has been done since 2001 to advance implementation of the Programme, in too many regions the flow of illicit weapons continues unabated, fuelling crime, conflict and instability, retarding development prospects and exacting a terrible toll in suffering and human lives. This is as true in my own region, the Asia–Pacific, as it is elsewhere.

A decade into its existence, the PoA stands at a critical juncture in terms of its credibility and effectiveness—and two meetings in 2011 and 2012 are likely to prove decisive in ensuring that it can meet the goals we set for it in 2001.

The MGE in May 2011, the first of its kind within the PoA, offers the potential for a new kind of dialogue within the process, one involving frank, in-depth discussion of specific implementation challenges and the adequacy of our efforts to date, and an open exchange of views about what more can be done to make progress. I want the conversations that begin in New York in May to continue long after that meeting ends, and provide a platform for government experts both to learn from each other and to support each other's future efforts. If successful, meetings such as the MGE could become an important new vehicle for advancing future implementation of the Programme.

Next year's Review Conference will be an opportunity to reflect on more than 10 years of national, regional and global work to implement the PoA.

As we seek to draw lessons from our collective efforts, we cannot avoid questions regarding their effectiveness and practical impact on the ground. We must ask whether these efforts are delivering the results we require, and what further steps might be necessary. And we must draw on our answers to chart a course for further action over the next decade.

This report on improving the effectiveness of the PoA is therefore timely. Independent analyses such as these deepen our understanding of the impact and effectiveness of our implementation efforts so far, and provide a solid platform for determining the future goals we must set for the Programme. I encourage all with an interest in the Programme of Action to consider how the information and analysis contained in this report can be best used to strengthen our ongoing efforts to protect our communities from the illicit trade in small arms and light weapons.

Ambassador Jim McLay
Permanent Representative
of New Zealand to the United Nations
2011 MGE Chair-designate

ABOUT THE AUTHOR

Sarah Parker is a consultant researcher with UNIDIR. She has been working on small arms research since 2005 and has authored or co-authored several publications on different aspects of the Programme of Action, including *International Assistance for Implementing the PoA to Prevent, Combat and Eradicate the Illicit Trade in SALW in All Its Aspects: Findings of a Global Survey* (UNIDIR, 2006); *Implementing the UN Programme of Action on Small Arms and Light Weapons: Analysis of the National Reports Submitted by States from 2002 to 2008* (UNIDIR, 2008); and *National Implementation of the United Nations Small Arms Programme of Action and the International Tracing Instrument: An Analysis of Reporting in 2009–10* (Small Arms Survey, 2010).

ACKNOWLEDGEMENTS

ABOUT THIS REPORT

Since the adoption of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA) in 2001, UNIDIR has contributed to the small arms process through a range of projects, including the preparation of analyses of national reports submitted by states on their implementation of the PoA (in partnership with the United Nations Development Programme, the United Nations Office for Disarmament Affairs and the Small Arms Survey), an assessment of cooperation and assistance activities undertaken by states in support of PoA implementation, participation in the development of tools for matching needs and resources on the PoA Implementation Support System hosted by the Office for Disarmament Affairs, as well as an analysis of aid effectiveness in the small arms context.

As a logical continuation of this work, UNIDIR initiated the project Towards a Greater Efficiency of the Programme of Action on Small Arms: Implementation Challenges and Opportunities, to produce a series of studies and reports that evaluate the progress of PoA implementation. This report is the first in the series, and aims to analyse the challenges and opportunities in the implementation of PoA.

At the sixty-third session of the First Committee in 2008, the General Assembly decided "to convene an open-ended meeting of governmental experts for a period of one week, no later than in 2011, to address key implementation challenges and opportunities relating to particular issues and themes, including international cooperation and assistance", and "to convene a conference to review progress [the Review Conference] made in implementation of the Programme of Action, for a period of two weeks in New York, no later than in 2012".[1]

This study is intended to feed into the discussions of the Meeting of Governmental Experts, scheduled to take place from 9 to 13 May 2011. More generally, it intends to support the evaluation of PoA implementation and has two main goals: first, to identify challenges that states are or may be facing in their efforts to implement the PoA as distinct from the nature of the small arms problem they face, including—but not limited to—challenges associated with a lack of capacity or financial and technical

resources; and second, to identify opportunities and suggest strategic axes of intervention that could improve and reinforce the effectiveness of PoA implementation.

This study is based on an analysis of national reports submitted by UN Member States to the United Nations Office for Disarmament Affairs from the adoption of the PoA in 2001 to October 2010, information provided by regional organizations during the Third and Fourth Biennial Meetings of States, as well as a workshop for small arms experts hosted by UNIDIR in December 2010. It is divided into five parts. The first provides a brief introduction to the themes and commitments contained in the PoA and the International Tracing Instrument. The second explores the concept of "implementation challenges", and reviews and analyses the implementation challenges identified in states' national reports on PoA implementation and statements by regional organizations, as well as in the UNIDIR workshop. The third provides an overview of some of the challenges and considerations relevant to assessing implementation of the PoA, as discussed and explored during the UNDIR workshop. The fourth explores opportunities and strategic axes of intervention to help overcome implementation challenges and set the future course of the PoA process. The final part summarizes the findings of the study.

By establishing a better overview of the challenges and opportunities related to the implementation of the PoA, this study will lead to an improved and shared understanding of priorities at the national and the regional level, as well as of impediments in implementation and possible solutions.

PART I

INTRODUCTION

BACKGROUND TO THE POA

In light of growing awareness that the excessive and destabilizing accumulation of and the illicit trade in small arms and light weapons (SALW) was undermining human security and development around the world, the United Nations convened a Conference on the Illicit Trade of Small Arms and Light Weapons in All its Aspects in July 2001 to consider steps that could be taken to address the issue. The result of this conference was the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA), through which UN Member States agree to a series of politically binding commitments at the national, the regional and the global level to prevent, combat and eradicate the illicit trade in SALW in all its aspects as a contribution to international peace and security.

As part of the follow up contemplated in the PoA,[2] a feasibility study was conducted by a Group of Governmental Experts on Tracing Illicit Small Arms and Light Weapons to examine the feasibility of developing an international instrument to enable states to identify and trace in a timely and reliable manner illicit SALW. The Group met three times, between July 2002 and June 2003, before issuing its report in July 2003 concluding that it was both desirable and feasible to develop an international tracing instrument to be negotiated under UN auspices.[3] This ultimately lead to the adoption of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons in December 2005.

The International Tracing Instrument (ITI) was negotiated within the framework of the PoA and contains politically binding commitments that build on the marking, record-keeping and tracing provisions in the PoA. Its provisions also consolidate and reinforce key international standards in the areas of marking and record-keeping, and enhance existing norms in the area of tracing cooperation.[4] Under the ITI, states have agreed to meet on a biennial basis within the framework of biennial meetings convened

for the PoA,[5] and to review implementation and future development of the Instrument within the framework of PoA review conferences.[6] Accordingly, the two instruments and the processes governing their review and development are closely linked.

OVERVIEW OF POA AND ITI THEMES

While many of the commitments in the PoA are general in nature, it covers a wide range of themes and control measures, and accordingly serves as a comprehensive framework for SALW control. The commitments and undertakings contained in the PoA and the ITI can be categorized under the following themes:

National level
- National Coordination Agencies
- National Point of Contact
- Laws, regulations and administrative procedures
- Marking and tracing
- Record-keeping
- International transfers
- Brokering
- Stockpile management and security
- Disposal and destruction of confiscated, seized or collected SALW
- Surplus identification and disposal
- Public awareness
- Disarmament, demobilization and reintegration (DDR)
- Children

Regional level
- Point of Contact within regional organization
- Regional instruments
- Moratoria on SALW transfer and manufacture
- Customs and borders
- Laws, regulations and administrative procedures

- Stockpile management and security
- DDR
- Transparency

Global level
- Embargoes
- Information exchange
- DDR
- Cooperation in tracing
- Instruments against terrorism and transnational organized crime
- Civil society
- Dialogue and culture of peace
- International cooperation and assistance

Within each theme listed above, there are one or more commitments ranging from specific obligations (such as a requirement to mark SALW at the time of manufacture (PoA II.7, ITI para. 8(a)) to general undertakings (such as a requirement to develop and implement public awareness and confidence-building programmes on the problems and consequences of the illicit trade in SALW (PoA II.20)). Annex A provides a breakdown of the themes covered by the PoA and the ITI as well as details of the specific commitments associated with each theme.

PART II

CHALLENGES TO IMPLEMENTATION

WHAT DO WE MEAN BY IMPLEMENTATION CHALLENGES?

At the sixty-third session of the First Committee in 2008, the General Assembly decided to convene an Open-Ended Meeting of Governmental Experts for a period of one week, no later than in 2011, to "address key implementation challenges and opportunities relating to particular issues and themes, including international cooperation and assistance", and to convene a conference to review progress made in implementation of the Programme of Action for a period of two weeks in New York, no later than in 2012 (the Review Conference).[7] What exactly does "key implementation challenges" refer to? States face a number of challenges in the context of combating the illicit trade in SALW and implementing the PoA. The nature of the SALW problem that they face in their territory—whether it be surplus stockpiles or illegal gun runners from neighbouring countries— poses one sort of challenge. States also face challenges with respect to meeting or fulfilling their commitments under the PoA. For example, states may struggle to report fully or regularly on their PoA implementation, which may be due to a lack of inter-agency cooperation and coordination or an inability to report comprehensively on implementation because of a lack of information.[8]

For the purposes of this report, "implementation challenges" is understood to refer to the challenges and obstacles states face in implementing their PoA commitments effectively or at all as separate to and distinct from the nature of the SALW problems they face. Implementation challenges are the *reasons* or explanations for why a state has not implemented its commitments under the PoA fully or at all, and should not be confused with their SALW problems.

Certainly an influx of illicit weapons or regional conflict that causes or increases illicit arms flows into a country may inhibit or hamper the prevention or eradication of the illicit trade, which is, after all, the ultimate goal of the PoA. But such uncontrolled and uncontrollable events do not necessarily prevent states from reviewing stockpiles for surplus, cooperating

with INTERPOL, raising public awareness or introducing brokering controls and other specific PoA commitments. There is a difference between trying to solve or eradicate SALW problems and trying to implement the PoA fully. The latter is a means to the former. The focus in this report is on the reasons why states are struggling to implement their PoA commitments, not the reasons why they need to.

SOURCES OF IMPLEMENTATION CHALLENGES

The challenges states face in implementing their PoA commitments can be identified and derived from several sources. First and foremost, some states include sections in their national reports specifically titled "implementation challenges" or "problems with PoA implementation". Additionally, although they do not expressly label them as "implementation challenges", many states list obstacles they face or describe circumstances preventing their full implementation of the PoA in their national reports.

Secondly, statements by regional organizations also provide insight into implementation challenges faced by states in their respective regions. Thirdly, implementation challenges were discussed and identified during a workshop for SALW experts hosted by UNIDIR in December 2010 (referred to in this report as the UNIDIR workshop). Participants identified many aspects of the process and of the PoA itself that appear to be affecting states' ability and willingness to implement the PoA fully. These process-related and other challenges to implementation have not been explicitly mentioned by states in their national reports, but become apparent upon exchanging information and experiences. This report will identify and review implementation challenges derived from all of these sources.

IMPLEMENTATION CHALLENGES IDENTIFIED IN NATIONAL REPORTS

This part of the report provides an overview of the implementation challenges specifically identified by states in their national reports. Under paragraph II.33 of the PoA, states have requested the Secretary-General of the United Nations, through the Office for Disarmament Affairs, to collate and circulate data and information provided by states on a voluntary basis, including national reports, on implementation of the PoA. Although they do not provide a complete picture of implementation efforts (as not all states have reported on their implementation efforts and not all reporting

states have reported comprehensively), national reports are an important source of information exchange on implementation and one of the few means of judging whether and to what extent states are implementing their PoA commitments. Since the adoption of the PoA in 2001, 158 UN Member States[9] have reported at least once, while 34 Member States have yet to submit a report. There are 584 national reports detailing, to greater or lesser extent, states' implementation efforts over the past 10 years with respect to the various themes.

National reports also provide information on challenges states face with respect to PoA implementation, both explicitly and implicitly, as well as efforts and responses taken to overcome those challenges. In fact, increasingly, states are including sections in their reports dedicated to "implementation challenges" and "obstacles" to implementation, presumably in response to requests for information on "challenges and obstacles met in the implementation of the Programme of Action" by the Office for Disarmament Affairs.[10] The 2008 analysis of national reports published by UNIDIR, the United Nations Development Programme, the Office of Disarmament Affairs and the Small Arms Survey included an overview of implementation challenges identified by states in their reports from 2002 to 2008.[11] For the purposes of this report, the information reflected in the 2008 analysis was supplemented by the inclusion of implementation challenges identified by states in the 2009 and 2010 national reports.

Table 1 provides an overview of the implementation challenges faced at the national level that have been identified and described by states in their national reports. Implementation challenges have been classified according to PoA theme (as described above). They have been further classified according to the nature of the resources required to address the challenge identified (resource implications[12])—as indicated by states in their national reports—under the following subcategories: financial resources, technical resources, human resources, training and education, legislation, cooperation, information exchange and other.[13]

The language used by states in their national reports to describe their implementation challenges has been retained and reflected in the tables below, although it has been paraphrased and abbreviated in some instances. The descriptions of implementation challenges and the language used give significant insight into the broad range of implementation challenges

experienced by states. It also illustrates the range of interpretations given by states to the concept of implementation challenges—many "challenges" identified do not in fact identify or elaborate on the reasons *why* states are facing difficulty implementing certain commitments. Most states indicate that they face a challenge in implementing a particular aspect of the PoA because they lack resources or equipment. For example, some specify that they need marking equipment in order to implement the marking commitments of the PoA.[14] But many identify their SALW problem or SALW "context" as a challenge to implementation. For example, certain South American and Caribbean states listed the trafficking of weapons from North America as a challenge to PoA implementation.[15]

Table 1. National-level challenges and resource implications identified in national reports, by theme
(Note—the descriptions of challenges follow the language used by states in their reports)

Description of implementation challenge identified	Resource implication
National Coordination Agencies	
• Insufficient financial resources to establish a National Commission • Lack of budgetary support to run the secretariat • Need financial support for technical, political and operational strengthening of the National Commission	Financial resources
• Lack of logistical support (vehicles, motorbikes, communications and office equipment) • Lack of office space and mobility • Lack of technical support for staff of the secretariat and commissioners	Technical resources
• Lack of capacity-building for staff of the secretariat and commissioners re issue of SALW control • Lack of training for the coordinating team • Strengthening the capacity of the National Multidisciplinary Commission to formulate public policies on the control of small arms and light weapons and the prevention of criminal and illicit activities involving weapons and the consequences of their use	Training and education
• Weak government institutions and limited institutional capacity	Other

Description of implementation challenge identified	Resource implication
National Points of Contact	
• Limited functioning office equipment	Technical resources
Laws, regulations and administrative procedures	
• Inadequate financial support for reviewing the Firearms Act • Request assistance for financial support for competency testing and verification	Financial resources
• Request assistance for technical support for competency testing and verification	Technical resources
• Not yet ratified the Firearms Protocol • Waiting for parliament to adopt amended firearms legislation • Existing national legislation contains lenient penalties • Regulation of firearms ownership • Greater controls and responsibility for firearms owners is required • Waiting for finalization of amendments to update existing law [that is, pending legislative reform is needed to strengthen implementation] • Ensuring amendments to the legislation that are consistent with the PoA are duly implemented • To amend existing legislation to bring the new generation of weapons within the framework of domestic law • Implementation of relevant legislation does not match the purpose of the law (which is preventive) because of a lack of policy in the criminal justice system to help ensure the Act succeeds in its preventive and standard-setting mission • Inadequate legal framework	Legislation
Marking and tracing	
• Need financial support for marking	Financial resources
• Lack of machine for scanning/tracing • Lack of machines for marking • Need technical assistance to help prevent removal of markings	Technical resources
• Lack of trained personnel to mark firearms • Need training programme for law enforcement personnel to use modern technology and equipment	Training and education

Description of implementation challenge identified	Resource implication
(cont.) • Need training on the different tracing instruments • Need training on tracing (generally)	
• The International Tracing Instrument is not [legally] binding[16] • Introduction of an internationally accepted method of marking[17]	Other
Record-keeping	
• Lack funds for electronic database • Requests assistance for financial support for the establishment of a verifiable [sic] database	Financial resources
• System of manual record-keeping only [that is, a modern record-keeping system is needed] • Need national electronic register or database • Request assistance for technical support for the establishment of a verifiable [sic] database • Need a big [sic] server and computers to accommodate state-owned firearms as current database only records civilian firearms • Databases are not interlinked between agencies in different parts of the country, therefore updating takes many months • Need software and hardware for stockpile management	Technical resources
International transfers	
• Insufficient coordination between law enforcement agencies and importers, exporters and manufacturers with respect to monitoring and control	Cooperation
Brokering	
• Training [is needed] to make actions to combat [illicit arms brokering] more effective • Need training on brokering	Training and education
• Need to regulate brokering and brokering activities	Legislation
Stockpile management and security	
• Need financial assistance to help with equipping and providing locations and storage space	Financial resources
• Need to rehabilitate armouries • Ammunition storage sites are over-stocked, insecure and unstable [sic]	Technical resources

Description of implementation challenge identified	Resource implication
(cont.) • Need technical assistance to help with equipping and providing locations and storage space	
• Need to train law enforcement providers in weapons collection, management and destruction	Training and education
• Plundering of public security forces' stores during civil war	Other
Disposal and destruction of confiscated, seized or collected SALW **Surplus identification and disposal**	
• Lack of financial support for collection and destruction • Financial assistance is needed to destroy obsolete weapons	Financial resources
• Need technical assistance to help with destruction • Lack of adequate equipment to destroy [larger] calibre weapons • Need technical assistance with respect to [identifying] the location for the destruction of SALW	Technical resources
• Training [is needed] in modern methods of destruction • Lack of training in disabling weapons • Lack of qualified personnel to destroy [larger] calibre weapons	Training and education
Public awareness	
• Lack of financial capability has slowed process of awareness raising regarding the International Tracing Instrument	Financial resources
• To reinforce ongoing awareness campaigns to prevent the illicit ownership, transfer and use of firearms[18] • Instruction and education needed to overcome fear due to misleading information in context of civilian surrender of SALW	Training and education
• [Weak] political will on the issue [lobbying] • Lack of resources [unspecified] for awareness raising	Other
DDR	
• Insufficient funding	Financial resources

Description of implementation challenge identified	Resource implication
Policy and planning[19]	
• Inadequate funding for implementing priority projects and the national plan on arms control • Need financial assistance to help improve and develop [sic] national action plan	Financial resources
• Need for greater collaboration between civil population and the military	Cooperation
• Incomplete firearms policy • Lack of national strategy or action plan	Other

Table 2 provides an overview of the implementation challenges that have been identified and described by states in their national reports as affecting implementation of regional-level commitments as well as regional considerations hampering PoA implementation. As per table 1, information provided by states on their implementation challenges has been classified according to PoA themes and resource implications. The headings used in table 2 do not necessarily follow the listing of regional-level commitments (as they do for national-level commitments in table 1). Rather they follow the nature of the issues that states actually reported on.[20]

Table 2. Regional-level challenges identified by states
in their national reports, by theme
(Note—the descriptions of challenges follow the language
used by states in their reports)

Description of implementation challenge identified	Resource implication
Marking and tracing	
• [There is the need to] intensify efforts to standardize the system for marking and tracing weapons • [There is the need] to establish a regional body comprised of the competent national authorities from each country • Lack of regional coordination of the system for the registration of legal weapons and weapons that have been confiscated	Cooperation

Description of implementation challenge identified	Resource implication
• Need a regional register of SALW • Access and analysis of information is limited, therefore [it is] impossible to observe diversion from legal to illegal users or to conduct international tracing cooperation	Information exchange, Cooperation
Record-keeping	
• [There is the need to] develop a regional system for registering legal weapons and weapons seized in each country • Lack of regional coordination of the system for the registration of legal weapons and weapons that have been confiscated • Increase use of and access to available databases to prevent illicit trafficking	Information exchange, Cooperation
Brokering	
• Universal regional plan and cooperation are [needed] to combat illicit brokering	Cooperation
• Need to exchange lists of registered brokers	Information exchange
Customs and borders	
• [There is the need for] financial support for training programme for border officials • Inadequate financial resources limit the extent and effectiveness of border controls • Financial assistance to strengthen security at borders	Financial resources
• Lack of surveillance and detection equipment at border posts • Need metal detectors at land, sea and air ports • Lack of vehicles and communication equipment to secure borders • Need modern equipment such as scanners and metal detectors	Technical resources
• Understaffing limits the extent and effectiveness of border control efforts	Human resources
• Need more cross-border cooperation	Cooperation
• Porous borders • Extensive coastline or borders • Smuggling of dismantled firearms, components and ammunition	Other

Description of implementation challenge identified	Resource implication
Laws, regulations and administrative procedures	
• [Because of disparities] in legislation in the region [there is the] need to harmonize legislation • Need harmonization of export control laws • [There is the need to] harmonize national laws [to ensure] the timely exchange of information, compliance with legal controls and streamlining of national statistical systems	Legislation
• Need regional mechanism of dialogue and consultation between law enforcement agencies in the region [concerning] SALW matters	Cooperation
Transparency	
• [Lack of] cooperation in transparency and confidence-building measures	Cooperation
Regional security	
• Persisting conflict in the region • Continued presence of terrorists/insurgents on the border • Political liberation struggles in neighbouring countries • Geopolitical position makes policing the border difficult • Large Exclusive Economic Zone • Lack of political willingness to act decisively in order to prevent illicit transfers and apply the PoA provisions to that end • Continued unchecked outflow of guns from North America	

As noted above, we have defined implementation challenges as the challenges and obstacles states face with respect to implementing the PoA commitments effectively or at all, and have sought to distinguish these from SALW challenges (that is, the nature of the SALW problem that states face in their country or region). We have sought to make and keep this distinction throughout the report. However, we have included states' interpretations and details of their implementation challenges to give some idea of the depth and breadth of the interpretations given to what constitutes a challenge to implementation.

The implementation challenges specifically identified by states in their national reports, described above, can be grouped into the following broad categories:

- lack of capacity and resources
  (human, financial, technical, equipment, education and training, etc);
- lack of information and awareness
  (nature and scale of the SALW problem, information exchange, etc);
- legislation and institutional frameworks
  (inadequate or outdated laws, weak national institutions, etc);
- context and geography
  (long and porous borders, ongoing conflicts, terrorism, etc); and
- regional considerations
  (lack of regional mechanism or framework, need for harmonization of laws, etc).

Detailed information on and analysis of each of these challenges is provided below.

LACK OF CAPACITY AND RESOURCES

The majority of states that specifically list implementation challenges in their reports mention a lack of resources—be they human resources, money, technical expertise, equipment, training, and so on. In fact, a lack of resources is the most frequently mentioned implementation challenge and is the central challenge to effective implementation.

Notably, a lack of capacity is not limited to an absence of financial or material resources, such as marking equipment. It also includes a lack of knowledge on the part of those engaged on SALW issues. This is reflected in the frequent references to the need for training and capacity-building including, for example, in respect to National Coordination Agencies and law enforcement personnel.

For the most part, lack of capacity and resources is a challenge that can be addressed by international cooperation and assistance, if it is well coordinated. It is the most prevalent and obvious implementation challenge experienced by states, and is also the challenge most easily or directly addressed through cooperation and assistance.

LACK OF INFORMATION AND AWARENESS

Lack of information and awareness as an implementation challenge is encountered at the national and the regional level. At the national level, some states lack reliable data or complete records on the nature and quantity of illicit arms in circulation or they lack tracing capabilities that would help determine where the weapons have come from; others have indicated that they need a better understanding of the scale of local production. In other words, they have poor knowledge of the scope and scale of the SALW problem.

A lack of knowledge or information on the scope and scale of the SALW problem hampers states' ability to implement certain aspects of the PoA, such as the development of appropriate National Action Plans and policies and strategies to tackle their SALW problems. It also limits states' ability to implement appropriate awareness-raising activities, highlighting the particular problems they face (since they are not sure of the exact nature of the problem), and their ability to determine those aspects of the PoA that should be prioritized for action. Finally, it undermines states' ability to cooperate effectively in tracing exercises with other states if they do not have the necessary information to respond to tracing requests.

At the regional level, there may be a lack of information and awareness of the nature and scale of illicit trafficking in the region arising out of a lack of cooperation and information exchange between and among states, especially neighbouring states. In certain regions, there is an element of secrecy surrounding information on SALW issues (especially stockpiles and border controls), as this is perceived as a national security issue. This lack of information and awareness of regional illicit trafficking activities indicates that states are not implementing their regional-level PoA commitments to establish subregional or regional mechanisms, including transborder customs cooperation and networks for information-sharing among law enforcement, border and customs control agencies (PoA II.27), or to develop measures to enhance transparency with a view to combating the illicit trade in SALW in all its aspects (PoA II.31).

Indeed, some states report that the need for (or lack of) transparency and cooperation at the regional level is an implementation challenge. However, it seems a bit tautologous to report that one of the challenges states face in implementing certain PoA commitments, such as sharing

information and enhancing transparency at the regional level, is that there is a lack cooperation and transparency. Such information highlights that information sharing and transparency at the regional level are not being achieved or implemented, but does not explain *why* states do not or cannot implement this commitment. More information from states on why they are struggling to share information or create cooperation networks with the law enforcement agencies of neighbouring states would be helpful in identifying the real implementation challenges they face in this regard.

LEGISLATION AND INSTITUTIONAL FRAMEWORKS

The implementation challenges identified in national reports in the context of legislation generally refer to the existence of outdated legislation that no longer complies with the states' multilateral commitments or is no longer appropriate for the current society. The existence of outdated legislation is a common problem among states, especially in Africa where much of the legislation dates from colonial times. While the existence of outdated legislation that is not consistent with PoA commitments relating to laws and enforcement (primarily contained in paragraphs II.2 and II.3 of the PoA) indicates a state is not implementing certain PoA commitments, it does not, in itself, explain *why* the state is not implementing the commitment. Asserting that a state faces a challenge in implementing its commitment to adopt adequate laws and administrative procedures governing the manufacture, import and export of SALW because, for example, it needs to update and amend its existing legislation simply reiterates the commitment.

Some states did provide detail of why they have not amended their legislation, such as needing financial assistance to undertake a review of their firearms legislation, or why they are struggling to implement amended legislation, such as lacking an appropriate policy in the criminal justice system to ensure implementation of the legislation. Such reasons as to why a state has not yet fulfilled its PoA commitments do constitute implementation challenges, and more detailed explanations of such practical obstacles would help provide a clearer, fuller picture of implementation challenges faced in this context.

In addition to indicating that the existence of outdated legislation and the need for legislative reform constitutes a challenge or obstacle to implementation, some states also report that they are waiting for

finalization of legislative amendments or are waiting for parliament to adopt amended legislation, and that this constitutes an implementation challenge. It is not clear why such is perceived as an implementation challenge per se. Rather this appears to be an explanation of why states have not *yet* implemented certain commitments, though they appear to be in the process of doing so. Indeed, while some states identified delays in the adoption of amended legislation as a challenge, others highlighted forthcoming amendments to legislation—not yet enacted—as an example of progress towards implementation.

In its 2010 national report, Sierra Leone raised a point of interest in the context of delays to the adoption of new legislation in conformity with the PoA. It noted that revised legislation was ready for adoption by Parliament in 2006, but that adoption was delayed pending the transformation of the 1998 Economic Community of West African States (ECOWAS) moratorium on SALW into the legally binding convention in 2006, so that Sierra Leone could also accommodate key provisions of the convention into its revised firearms legislation.

This highlights another challenge to implementation not explicitly identified by states—the challenge of ensuring that national legislation complies with multilateral commitments other than the PoA. Many states, especially in Africa, are members of several regional arrangements involving several regional instruments, and this may cause delays with respect to the harmonization of legislation where there are competing recommendations and obligations. Such instruments are not limited to those addressing the illicit trade in SALW. For example, Sierra Leone noted that its firearms laws are also being reviewed to ensure their compliance with international humanitarian law and the Convention on International Trade in Endangered Species of Wild Fauna and Flora in the context of gaming.

CONTEXT AND GEOGRAPHY

Many states that include specific implementation challenges in their national reports refer to geographical features or political issues as challenges to implementation. For instance, many mention the existence of long or porous borders as a challenge to implementation, or ongoing conflicts in the region. Certainly, long and porous borders in states with

limited resources to monitor such borders pose a challenge to controlling the illicit trade in SALW.

However, the main PoA commitments with respect to customs and borders are to establish subregional or regional mechanisms to prevent the illicit trade across borders, especially through transborder customs cooperation and networks for information-sharing among law enforcement, border and customs agencies (PoA II.27), and to enhance cooperation and exchange experience and training among competent officials, including customs, police, intelligence and arms control officials—at all levels—to combat the illicit trade in SALW (PoA III.7). The fact that a state has a long coastline or porous borders does not or should not prevent it from sharing whatever information it has on illicit trading activities. Granted, that information may be limited due to resource and knowledge limitations, but the commitments to share information and to cooperate can still be fulfilled.

A number of the implementation challenges (and assistance needs) identified as a consequence of having long or porous borders involved the need for financial, technical and human resources to strengthen border security, including staff training. This was discussed and acknowledged during 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 (Fourth BMS), with the outcome document of the meeting noting that, in the context of border controls, "States underlined the need to address the limited means, transfer of technology, human resources and institutional capacity to deal with this problem".[21] One of the observations made during the UNIDIR workshop was that there is a need for specialized training of border security personnel, at least in Europe, because the focus of current training seems to be on tax collection and priorities other than SALW smuggling. The possibility of engaging the World Customs Organization in PoA-related deliberations of border control issues was also raised. This was also mentioned in the outcome document of the Fourth BMS: "States are encouraged to take full advantage of the benefits that can be offered by cooperation with international organizations such as the World Customs Organization".[22]

With respect to context-related implementation challenges, such as ongoing regional conflicts, these can have different impacts on states' ability to fulfil their PoA commitments, especially those at the regional

level. In some regions, notably West Asia and South America, the nature of the geopolitical situation is such that collaboration and information-sharing at the regional level is more complicated and less likely. In such contexts, confidence-building measures to enhance political willingness to implement the PoA are a more pressing priority than, say, lack of resources and capacity.

REGIONAL CONSIDERATIONS

As indicated in table 2 (see page 12), states identify a number of challenges they face in implementing and fulfilling their regional-level PoA commitments. These include a lack of capacity to implement border security measures (such as equipment and training). They also cite the absence of regional mechanisms, such as a regional register on SALW or a regional mechanism to facilitate consultation between law enforcement agencies. As noted above, however, acknowledging that states are struggling to cooperate with respect to tracing requests because they do not have an adequate system of information exchange does not explain why they do not have an adequate system of information exchange or what the specific challenges are with respect to establishing such a system.

Similarly, in the context of laws and enforcement, many states acknowledge the need to harmonize legislation in the region, especially governing export controls, but they do not explain why such harmonization is not taking place, and what the obstacles are to strengthening and harmonizing SALW controls across the region.

IMPLEMENTATION CHALLENGES IDENTIFIED BY REGIONAL ORGANIZATIONS

Just as many regions face particular SALW problems that differ from those faced by other regions, so too do they face particular and different PoA implementation challenges. This section of the report identifies the main implementation challenges faced by states in different subregions based on statements by regional organizations. In the context of Oceania, where statements by the Pacific Islands Forum have not highlighted implementation challenges in the region, other external sources and analyses have been relied on.

This review highlights and reiterates many of the implementation challenges identified by states themselves, including lack of financial and technical capacity, the need to harmonize relevant legislation and the need for greater cooperation. As with national reporting on the issue, the information often falls short of explaining why states are not cooperating well or why legislation is not harmonized and what the obstacles are. But in several instances, the information provided gives frank, objective insight into some of the challenges that states in a given region face that the states themselves may not highlight or acknowledge.

AFRICA

Eastern Africa[23]

The following subregional implementation challenges were identified by the East African Community (EAC) in its statement during the Fourth BMS:

- "The lack of adequate capacity [on the part of] Partner States to effectively police and monitor both maritime and land borders has left the region exposed to illicit circulation of SALW";

- "Whereas a lot of attention has been accorded to land and maritime frontier security, little has been done to provide reciprocal support to strengthening aviation controls"; and

- "There are inherent resource and capacity gaps that need international cooperation and support to be closed".[24]

Additionally, the following subregional assistance needs, which suggest some of the implementation challenges that states in the subregion face, were identified by the Regional Centre on Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa and Bordering States (RECSA)[25] in its statements during the Third and Fourth BMS:

- "[States of the region] fall within the bracket of developing countries and therefore have low levels of funds and technical capacity to adequately address the important issue of small arms and light weapons";[26]

- "RECSA requires funding to support … the building of a strong institutional framework for small arms and light weapons in its region, building of the capacity of law enforcement agencies especially in

new and emerging issues relating to small arms and light weapons, information exchange, procurement of equipment for marking equipment and development of databases for managing small arms and light weapons in the possession of the state and civilians";[27] and

- lack of international standards on subregional cooperation: "RECSA notes the positive contribution of sub-regional instruments on small arms and light weapons in the implementation of the [PoA] and further notes the different standards therein. There is a need, therefore … for the international community to consider the establishment of minimum standards to guide sub-regional cooperation".[28]

The International Conference on the Great Lakes Region also commented on the need to enhance capacities and strengthen cooperation among member states, and noted the continuing need for material and technical assistance to fully implement SALW projects.

Southern Africa

The following subregional implementation challenges were identified by the Southern African Development Community (SADC) in its statement during the Fourth BMS:

- "currently only one SADC state … has an online database of the kind that will facilitate effective tracing and thus the successful implementation of the International Tracing Instrument. There are … financial [and other] restrictions to the development and roll out of online, regionally integrated databases across SADC";[29]

- "There is also a pressing need for increased technical and operational capacity in the area of weapons marking";[30] and

- "At present the lack of required equipment and training for staff is considered the most pressing issue for SADC states to successfully implement the International Tracing Instrument".[31]

AMERICAS

The Organization of American States (OAS) identified a need for states in its region to harmonize and strengthen their legislation to enhance compliance with related regional instruments (specifically, the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in

Firearms, Ammunition, Explosives, and Other Related Materials), although it did not explicitly identify this as a regional implementation challenge. Additionally, it noted that states had agreed to strengthen effective hemispheric cooperation to combat illicit arms trafficking, and promote cooperation and coordination with other organizations, including civil society, suggesting that one of the implementation challenges faced in the region is a lack of cooperation and coordination.[32]

South America

The Southern Common Market (MERCOSUR) noted that the fact that the PoA is not legally binding continues to be an obstacle to its effective implementation, and stressed the need for cooperation mechanisms to overcome cross-border trafficking, and for harmonization of legislation.[33]

Caribbean

The Caribbean Community (CARICOM) made several statements at the Third and Fourth BMS that identified subregional assistance and capacity needs, which suggest some of the implementation challenges that states in the subregion face, including the following:

- "International co-operation and capacity building in the area of security and destruction of stockpiles is critical for countries such as those in the region where there is a lack of technical, financial and human resources in this area";[34]

- "In the region we have sought to build up our national and regional capacity but there are many areas where there is a need for strengthening such as training for personnel, improving national and regional capacity to monitor our aerial and maritime transportation routes, legislative reform and reporting";[35]

- lack of the required technological and human resources and institutional capacity to adequately patrol and monitor borders;[36]

- need for technical assistance and training for personnel who address the issue of border controls;[37] and

- "a major challenge in implementation of the International Tracing Instrument lies in the fact that it is not legally binding [and] financial constraints have held back the development and realization of

programmes which could positively impact on its implementation".[38] Jamaica elaborates on this in its 2008 national report, noting that, because the ITI is not binding, police and intelligence authorities are under no obligation to disclose full information on purchasers of weapons found to be illicitly imported.

EUROPE

Although regional organizations in Europe, including the Organization for Security Co-operation in Europe (OSCE) and the European Union, have not explicitly identified implementation challenges in their statements at various BMS, they have made observations that hint at challenges faced in the region. For example, in its statement at the Third BMS, the OSCE noted that, despite the profound differences between the legal systems and export controls in place among its members, they acknowledged the need to develop uniform and advanced standards for export control, and to ensure that all states adhered to them in order to avoid loopholes. This led to the development of the *OSCE Document on Small Arms* and the *Handbook of Best Practices on Small Arms and Light Weapons*.[39] In its statement on the theme of international cooperation and assistance at the Fourth BMS, the European Union noted the need for increased coordination between donor and recipient states in identifying assistance needs and available resources.[40]

OCEANIA

Although the Pacific Islands Forum has not made statements regarding regional implementation challenges at any BMS, several articles and publications that specifically address the issue of SALW in the Pacific[41] highlight some of the following challenges faced by the region:

- the general sense that the illicit trade in SALW is not a significant problem in the region;

- lack of political momentum and efforts in awareness-raising on the relevant aspects of the PoA to address SALW related issues;

- little regional support to directly target the illegally held or undeclared weapons of individuals;

- poor knowledge management on SALW issues and a lack of institutional memory on SALW-related activities means that there is a lack of available, consistent and reliable records and documentation of older SALW programmes and activities;

- lack of data on or comprehensive estimates of the number of unregistered weapons or expired licenses, as well as incomplete sets of crime records, due to limited reporting;

- high turnover of personnel and frequent rotations, which have an impact on training;

- lack of human resources: as a result of small populations, there is limited access to secondary education and the public sectors are small and under-resourced;

- lack of civil society: only a handful of civil society groups include the issue of SALW in their work, and they are severely under-resourced;

- corruption and poor discipline in law enforcement (police have been implicated in the theft and sale of weapons); and

- inadequate firearms legislation (loopholes and inconsistencies, plus a need to harmonize penalties for firearms crimes across the region).[42]

REGIONAL PRIORITIES

The PoA, as written, reflects priorities for tackling, across all regions, the illicit trade in SALW. Yet certain regions and certain states will need to emphasize some aspects over others, depending on their context and situation. Furthermore, regions and subregions are not homogenous and their priorities and capacity with respect to PoA implementation differ tremendously. For example, CARICOM made several observations during the Third BMS about SALW issues in the region that have repercussions for prioritizing implementation challenges and PoA commitments generally at the international level:

- "CARICOM countries do not maintain large armies and armaments so the notion of stockpile management and surplus destruction is somewhat different in the region and refers more to confiscated illegal weapons";[43] and

- "CARICOM countries are not arms producers, do not import arms on a large scale or re-export them. Yet still, the region finds itself afflicted

by the scourge of the illicit trade in SALW, which in many respects is largely due to external factors and its unique geographical position".[44]

In practical terms, more use could be made of regional meetings with clearer, stronger links to the global PoA process to allow for and to facilitate a focus on regional priorities.[45] By allowing states to focus their attention and implementation efforts on those SALW issues (and the related PoA commitments) that are of the greatest concern to them and their region, greater progress in implementation at the regional level might be achieved. And strengthened regional-level implementation can serve as a catalyst for improvement at the global level.

This is not to suggest or advocate "partial" implementation, whereby states or regions only implement those aspects of the PoA that affect them. States should not be at liberty to pick and choose those commitments they wish to implement, but should ultimately adopt measures to address all the elements of the PoA. Nevertheless, a system—at the global level— for allowing the prioritization of certain issues in a region and for setting milestones for the implementation of those issues first could improve and ultimately accelerate global PoA implementation.

THE ROLE OF REGIONAL ORGANIZATIONS

Regional organizations play an important role in promoting, assisting, strengthening, coordinating and evaluating implementation efforts. They are instrumental in informing states of their PoA commitments, as well as facilitating the fulfilment of their regional-level commitments in the PoA. Regional organizations have a key role to play in supporting and improving PoA implementation by their member states, helping states to overcome their implementation challenges, and in facilitating the implementation of regional-level commitments such as the harmonization of legislation across regions.[46]

Consideration could be given to encouraging regional organizations to send reports on regional implementation efforts to the Office for Disarmament Affairs to supplement and complement the information provided in national reports. Where states in a region are not submitting national reports at all, reports by regional organizations would provide at least some information on their implementation efforts (and challenges), and this would enhance any assessment of implementation. Such reporting

by regional organizations should not, however, be seen as a substitute for national reporting, but rather as a way to supplement gaps in information, especially in regions where states lack the capacity to report regularly.

IMPLEMENTATION CHALLENGES IDENTIFIED DURING THE UNIDIR WORKSHOP

UNIDIR invited 23 SALW experts to attend a workshop in Geneva in December 2010 to discuss PoA implementation challenges and opportunities and to share their regional and national experiences. Participants included representatives from government, regional organizations and civil society. The aim of the workshop was to identify and to explore possible explanations for why states are failing or struggling to implement their PoA commitments, including but not limited to those challenges and obstacles identified in their national reports.

Another aim of the workshop was to start discussing and exploring how to measure PoA implementation efforts, with a view to assessing the extent to which the PoA has been implemented, 10 years after its adoption. By way of preparation for the workshop, UNIDIR conducted a preliminary mapping exercise involving a review of the most recent report submitted by every state that has submitted a national report. The aim of the mapping exercise was to assess which PoA commitments have been implemented, according to states, and to identify gaps in implementation efforts that might highlight those areas or themes where states may be experiencing implementation challenges. The initial results of the mapping exercise are discussed in annex B.

In addition to discussing and elaborating on the implementation challenges derived from national reports, participants identified and discussed a number of other challenges that states face in implementing the PoA. Explanations as to why states may not be implementing their PoA commitments well or at all included the following:

- a lack of understanding of PoA commitments;
- perceptions that SALW are not a problem;
- competing priorities;

- poor knowledge management on SALW issues and a lack of institutional memory;
- challenges related to the provision of assistance; and
- the politically binding nature of the PoA.

LACK OF UNDERSTANDING OF POA COMMITMENTS

It is possible that some PoA commitments have not been frequently addressed in national reports (and, arguably, implemented) because it is not clear what the scope of the commitment is. There is a distinct lack of clarity in the wording or intent of some of the PoA provisions, which has an impact on states' understanding of and ability to implement their PoA commitments. This is reflected in national reports by the fact that many states do not appear to know how to report on certain PoA commitments, illustrated by the fact that they give greatly different responses to identical questions in the reporting template or give answers that are not relevant or appropriate to the question or topic.

This is most apparent and prevalent in the context of some of the commitments contained in paragraph II.18 of the PoA, which includes a requirement that states review state-held stockpiles and "ensure that such stocks declared by competent national authorities to be surplus to requirements are clearly identified" and that programmes for responsible disposal are established. States have reported on this commitment in one of two ways, with some providing details of how they determine which stocks are surplus and others providing details of the markings applied to surplus stocks to differentiate them from other stocks.[47] Where states have used the reporting template available on the Office for Disarmament Affairs website, responses to the specific question in the template regarding the identification of surplus are generally vague and varied—and off topic—presumably because states interpret the obligation to "identify" surplus in different ways.

Another aspect of PoA language that may explain the low level of reporting on or implementation of certain commitments is that some of the commitments are not clearly described or defined. For example, under paragraph II.19 of the PoA, states undertake to "destroy surplus small arms and light weapons designated for destruction, taking into account, inter alia, the report of the Secretary-General of the United Nations on methods

of destruction of small arms, light weapons, *ammunition* and explosives (S/2000/1092) of 15 November 2000" (emphasis added).

Ammunition is not clearly included in the PoA,[48] and reporting practices vary as a result. Stockpile management, including surplus disposal, is one area where the PoA's provisions potentially apply to ammunition and many states have reported on their ammunition destruction activities.[49] The methods used for ammunition destruction, where specified in national reports, are all methods advocated by the Secretary-General's report. This raises the question as to whether those states that reported on ammunition destruction believe or assume that the PoA contains an undertaking on the part of states to destroy surplus ammunition, or perhaps they were simply reporting on *all* SALW-related activities and not PoA implementation specifically.

Similarly, a large number of states provided information on the existence and details of their national legislation governing civilian possession. There are several references to "possession" in the PoA, whereby states are required to criminalize illegal possession, to identify and take action against groups and individuals engaged in "illegal possession", and to adopt measures necessary to prevent the possession of unmarked or inadequately marked SALW.[50] However, the PoA contains no detailed commitments regarding civilian possession and indeed inclusion of the issue in the PoA was vehemently (and, ultimately, successfully) opposed during the negotiations. It is possible that the references to possession in the PoA were intended to refer to illegal, and not legal, possession. It is clear, however, that on some level some states believe or assume that activities involving civilian possession are relevant to PoA implementation.

The ambiguity or vagueness in some of the PoA language is perhaps the result of political compromise during negotiations as well as a consequence of the PoA's politically binding nature (where there is often less detail than in treaties). The generality of some of the language perhaps also stems from the PoA's role as a broad framework document for SALW control. The problem is that such general language does not provide guidance or details for implementation. States cannot implement commitments well that are not clearly understood or that lack clearly defined parameters. Accordingly, the commitments must be read and interpreted in conjunction with more specific instruments in the various areas covered by the PoA, including marking and tracing and international transfer controls.

In other instances it is clear that, although the PoA wording and commitments may be clear and unambiguous, states do not clearly understand the commitments and provide information in their reports that is not relevant or is off-topic. States also sometimes interpret the PoA commitments in different ways, or have differing perceptions regarding what is required to implement the commitments adequately and effectively.

There is a need for more detailed discussion and agreement on what exactly are the commitments of the PoA, in order to identify measurable goals.[51] It seems that there is a lack of universal understanding of what some of the terms and commitments of the PoA are, and implementation would benefit from the development of an annotated version of the PoA, providing details of the intent behind and action required to implement the PoA provisions. In addition specific instruments (such as the ITI) on the various themes and issues covered by the PoA should be developed.

Perceptions that SALW are not a problem

Related to the question of whether and the extent to which states prioritize PoA implementation and SALW issues generally are perceptions that SALW are not a big issue in certain countries. For instance, case studies carried out by UNIDIR in the Pacific found that there is a general sense that the illicit trade in SALW is not a significant problem there.[52] Some states even report that they do not have a SALW problem or, more specifically, that certain PoA commitments are not relevant to them because, for example, they do not manufacture or export SALW or they have no surplus stockpiles. Such states are perhaps not implementing all or certain PoA commitments not because they face implementation challenges, as such, but because certain aspects of the PoA are simply not seen as applicable or relevant.

Competing priorities

While some states seemingly lack the impetus to implement the PoA because they do not face extensive SALW problems in their country or region, others struggle to implement the PoA because they face other, more pressing problems. This point was made clearly in the statement by the Non-Aligned Movement (NAM) to the Fourth BMS in the context of international cooperation and assistance to implement the PoA: "assistance should not be at the expense of support for NAM developing countries in

the execution of their national plans to attain the internationally agreed developmental goals, including the Millennium Development Goals".[53] The existence of competing interests is not confined to developing countries. Developed countries also face the challenge of prioritization. For example, the illicit trade in SALW may be of less significance in a region than the threat posed by weapons of mass destruction, especially nuclear weapons.

Poor knowledge management on SALW issues and lack of institutional memory

Poor knowledge management (including a failure to record, disseminate and use information) on SALW issues and poor interagency or interdepartmental cooperation and information exchange are often challenges to effective reporting and implementation. Additionally, a lack of institutional memory in some states (whereby state agencies and departments responsible for SALW issues may fail to retain a good working knowledge of or expertise on SALW issues, policies and processes due to, for example, high turnover in government staff) makes it difficult to sustain interest in and knowledge of PoA implementation activities and projects.

These challenges face developed and developing countries alike and cannot necessarily be addressed through international cooperation and assistance. Increased awareness of PoA commitments and the sharing of best practices with respect to information exchange and interagency cooperation may contribute to enhancing individual states' institutional arrangements and management of SALW issues and PoA implementation. However, ultimately it is up to states to prioritize and coordinate their SALW programmes and PoA implementation.

Challenges related to the provision of assistance

In the context of discussions on how assistance, especially technical assistance, is provided, workshop participants made several observations with respect to efforts to help states develop legislation and National Action Plans (NAPs) on SALW issues. For example, it was noted that some of the efforts made to review and amend legislation in African states are frustrated by the process of revision and the lack of subsequent implementation. It was observed that, although many NAPs mention the need to develop and reform the national legislation, often these NAPs are developed by foreign non-governmental organizations and experts who

make the initial recommendations, but do not stay to oversee and to assist in implementation of the plans, which is often left to people who do not have the capacity to implement them. The absence of sustained oversight, and especially financial support, of such projects poses a challenge to full and effective implementation of the policy recommendations made.

Additionally, it was noted that many states do not take a comprehensive approach to legislative reform, but rather look to implement and to seek funding for the issues that receive the most attention at the international level, such as brokering. Subregional and regional organizations are also at risk of focusing their efforts on what is popular or topical at the international level rather than prioritizing the issues most relevant for them.[54] Such an approach brings with it the danger that legislative reform becomes piecemeal and does not address SALW control or regulate SALW comprehensively, and does not meet the PoA commitments with respect to putting in place and implementing adequate laws, regulations and administrative procedures to exercise effective control over the production, export, import, transit or retransfer of SALW (in accordance with PoA II.2 and 12).

Politically binding nature of the PoA

One of the questions raised during the UNIDIR workshop was whether states would prioritize implementation of the PoA if it were a legally binding treaty as opposed to a political instrument.

The fact that the PoA is only politically binding is often cited as a weakness. Legal norms have stronger force than political norms, and it is argued that implementation of the PoA might be improved if it were a legally binding instrument. However, politically binding instruments can nevertheless make a difference. The crucial factor is the nature of the follow-up mechanisms and the strength of and commitment to implementation.

In this regard, developments with respect to a future Arms Trade Treaty were noted, and consideration of its relevance to and impact on the PoA was called for. Some of the PoA commitments relating to international transfers of SALW may be covered and enhanced by an Arms Trade Treaty, with the added bonus that they will be legally binding. This will not render the provisions of the PoA redundant, but will have repercussions for implementation of those specific commitments.

PART III

CHALLENGES IN ASSESSING POA IMPLEMENTATION

In addition to discussing implementation challenges that states face in fulfilling their PoA commitments, participants in the UNIDIR workshop also explored the issue of measuring implementation and discussed a range of challenges and considerations relevant to the question of how to measure and assess whether and to what extent states have implemented the PoA, as distinct from the challenges and obstacles states face in implementing the PoA.

ABSENCE OF BENCHMARKS AND BEST PRACTICES

The PoA contains an impressive array of commitments aimed at combating and preventing the illicit trade in SALW, but few benchmarks for assessing when and whether those commitments have been met. There is a lack of detail and precision in many of the PoA commitments. For example, states have undertaken to put in place "adequate laws, regulations and administrative procedures" to exercise "effective" control over production, export, and manufacture. But there is no guidance within the PoA as to what "adequate" laws and "effective" control are. This affects the measurability of PoA implementation and the impact or effectiveness of any implementation. It constitutes a challenge to full and effective implementation because states do not have clarity on what measures are required to fully and effectively implement the PoA. Likewise, it also poses a challenge to assessing implementation of the PoA and its impact on the illicit trade in SALW.

Although the PoA itself does not provide much guidance on what the specific requirements are to implement each commitment, benchmarks are available and evolving through other processes including the two Group of Governmental Experts meetings on ammunition[55] and brokering,[56] the outcome documents of the Third and Fourth BMS,[57] regional instruments and regional and national best practices. In addition, the International Small Arms Control Standards being developed through the United Nations Coordinating Action on Small Arms (CASA) mechanism

will provide guidance on implementation and measurable benchmarks for assessing the adequacy of states' implementation efforts.[58] In summary, the PoA should not be viewed in isolation. Ten years after its adoption, it now stands as a framework document that is, effectively, supplemented by other instruments and processes that enhance and expand on its provisions.[59]

OPTIONS FOR MEASURING IMPLEMENTATION

Participants discussed possible approaches to measuring or evaluating implementation efforts and impact: self-identification or self-assessment (whereby states identify the SALW problems they face, the appropriate measures to address those problems, and the adequacy of the measures taken) versus independent or external assessment (whereby an independent body or organization assesses the adequacy of implementation measures taken by states).[60]

Participants highlighted the political nature of assessment, and noted the sensitivity of some states to the prospect of external evaluation of implementation efforts. Others noted that we need to be realistic about what is feasible with respect to measuring implementation, and that if a state is satisfied that it has implemented appropriate measures to address its SALW problems and fulfil its PoA commitments, then we should not second-guess that state's judgment. On the other hand, it was pointed out that states do not always have the knowledge or resources to identify their SALW problems and to understand what adequate implementation is.

THE ROLE OF CIVIL SOCIETY

In addition to discussing the potential role of civil society in providing an independent evaluation of implementation, participants also suggested that it would be useful to have reports on states' implementation efforts from civil society, to supplement national reports submitted by states. It was acknowledged that civil society is well placed to undertake an impact assessment with respect to PoA implementation, and has a role to play in running or facilitating informal meetings between states to promote the exchange of information and cooperation as a confidence-building measure to help overcome the reluctance to share certain information.

THEMATIC FOCUS

A select number of themes have been identified for focused consideration at the two most recent BMS.[61] Participants in the UNIDIR workshop noted that there are clear advantages to this approach to PoA follow-up and implementation monitoring. It ensures that the time allocated for biennial meetings (generally five working days) is spent in deeper and more detailed discussions of specific issues rather than trying to cover all PoA themes in a relatively short space of time. It also enables states to focus their preparations and national statements on four or so themes.

However, there are also disadvantages to the approach. Because of the need to reach general agreement on which issues or themes should be considered, invariably there are themes whose politically sensitive nature means that they will never receive majority or general support for inclusion. This prevents a coherent, comprehensive assessment of PoA implementation of these issues at the global level.

Additionally there are states and regions whose priority SALW concerns or issues may never reach the international agenda because they are not shared by other states. At the same time, those themes that are on the agenda at the international level may be of no significance to some states or regions, and so there is a danger that the process will cease to be of relevance to them, which could undermine their interest in and willingness to implement the PoA. This is another reason why consideration should be given to identifying regional priorities and facilitating the discussion of regional priorities within the PoA process.

PART IV

STRATEGIC AXES OF INTERVENTION

It is clear that different implementation challenges demand different responses and resources, and some are harder to overcome than others. Many of the challenges identified, such as lack of equipment and lack of capacity, can be addressed through financial and technical assistance as well as training and education, and so the main challenge lies in ensuring coordination and distribution of international assistance activities through the matching of needs and resources. Other challenges identified by states, such as loopholes in regulatory frameworks and a need for harmonization of laws within a region, require a different type of resource, namely standards and guidelines that have been developed and made available at the regional level, as well as the sharing of information and best practices.

There are, of course, the less tangible implementation challenges, such as political will, which are not readily solved through appropriate resource allocation, but which may benefit from confidence-building measures and bilateral and regional cooperation. Nevertheless, most implementation challenges are more tangible and can be overcome with available resources and states should build upon ongoing efforts.

Amidst the implementation challenges described and the assistance needs identified by numerous states in their national reports, there are many stories outlining how states have overcome some of those challenges and examples of collaboration and cooperation that have helped states implement their PoA commitments. Some of those examples involve financial and technical resources that require cooperation and assistance programmes, but others are *not* resource intensive. The sharing of information and best practices, for example, is vital to a coordinated and consistent approach to addressing SALW problems yet requires relatively few resources.

There is need for more detailed discussion and agreement on the exact nature of the PoA commitments and what adequate implementation requires. Regional standards and national best practices that have been developed, as well as the International Small Arms Control Standards

initiative, provide an opportunity for this. Increased awareness of PoA commitments and the sharing of best practices with respect to information exchange and interagency cooperation may also contribute to enhancing individual states' institutional arrangements and management of SALW issues and PoA implementation.

In addition to the various guidelines and standards that have been and are being developed that will help establish indicators and parameters for measuring implementation, the SALW community needs to start looking at an impact-driven assessment process that measures the *effects* of PoA implementation. The need for an impact evaluation should inform future SALW programming and project design. Better monitoring, implementation and ownership by the beneficiaries of SALW programmes will help with lessons learned, help avoid duplication of effort, enable better assessment of impact and, ultimately, increase donor support for initiatives.

PART V

CONCLUSION

The central focus of this report has been the identification of challenges and obstacles that help explain why certain elements of the PoA are not being implemented well or at all by some states, with a view to identifying and differentiating the resource implications and potential responses for overcoming those challenges. National reports are the primary source of information on states' implementation efforts, and provide a good starting point for assessing whether states have implemented or are implementing the PoA. They are also the main source of information on the implementation challenges that states are facing.

Unfortunately, many of the explanations provided by states in their national reports as to why they are unable to implement the PoA lack specificity and give an incomplete picture of implementation challenges, suggesting that many states are struggling to identify the specific challenges they face. It is difficult to identify opportunities for addressing challenges to implementation if states themselves have not pinpointed or described in greater detail the specific reasons for their difficulty in implementing certain PoA commitments. Clear identification of implementation challenges by states is key to addressing those challenges and improving PoA implementation.

It is clear that states—and regions—are at different stages in implementing the PoA and identifying and tackling their implementation challenges. Some are still in the process of determining the nature and extent of their SALW problem. Others have identified the implementation challenges they face and have identified the resources they need to overcome those challenges. Some are implementing their commitments and are being proactive in addressing their implementation challenges, but may be facing difficulties completing projects and programmes adopted to address those challenges. Some states, of course, have successfully implemented many of their PoA commitments and are in a position to provide assistance and guidance to others.

Moving forward, attention should increasingly be paid not merely to whether and to what extent states are implementing their commitments but to whether implementation efforts are having an impact on the illicit trade in SALW and what that impact is with respect to preventing armed violence and promoting human security.

With 10 years of reporting and implementation efforts behind us, the Review Conference in 2012 will provide an opportunity to take stock of the successes and lessons learned so far, and to plot the course for the next phase of the PoA, which must include an assessment of PoA implementation. This report has aimed to help identify the main implementation challenges and opportunities, and highlight some of the resource implications and strategies for addressing them. It is hoped this report will serve as a first step in a larger, collective effort to assess PoA implementation and, ultimately, its impact and effectiveness.

ANNEX A

OVERVIEW OF POA AND ITI THEMES

NATIONAL-LEVEL COMMITMENTS (AND SOURCE)

National Coordination Agencies

- Establish or designate National Coordination Agencies (PoA II.4)

National Point of Contact

- Establish or designate a National Point of Contact (PoA II.5)

Laws, regulations and administrative procedures

- Put in place adequate laws, regulations and administrative procedures to exercise effective control over production of SALW (PoA II.2)

- Put in place adequate laws, regulations and administrative procedures to exercise effective control over export of SALW (PoA II.2 and II.12)

- Put in place adequate laws, regulations and administrative procedures to exercise effective control over import of SALW (PoA II.2)

- Put in place adequate laws, regulations and administrative procedures to exercise effective control over transit of SALW (PoA II.2 and II.12)

- Put in place adequate laws, regulations and administrative procedures to exercise effective control over retransfer of SALW (PoA II.2)

- Establish illegal manufacture as criminal offence (PoA II.3)

- Establish illegal possession as criminal offence (PoA II.3)

- Establish illegal trade as criminal offence (PoA II.3)

- Establish illegal stockpiling as criminal offence (PoA II.3)

- Identify and take legal action against persons involved in illegal manufacture (PoA II.6)

- Identify and take legal action against persons involved in illegal stockpiling (PoA II.6)

- Identify and take legal action against persons involved in illegal transfer (PoA II.6)

- Identify and take legal action against persons involved in illegal possession (PoA II.6)

- Identify and take legal action against persons involved in illegal financing for acquisition (PoA II.6)

- Take appropriate measures against violations of arms embargoes (PoA II.15)

- Public access to laws, regulations and procedures (PoA II.23)

- Submit to regional and international organizations information on SALW confiscated or destroyed and other relevant information (e.g. illicit trade routes) (PoA II.23)

Marking and tracing

- Marking at manufacture (PoA II.7, ITI para. 8(a))

    – country of manufacture (PoA II.7, ITI para. 8(a))
    – identity of manufacturer (PoA II.7, ITI para. 8(a))
    – serial number (PoA II.7, ITI para. 8(a))
    – year of manufacture (ITI, para. 8(a))
    – weapon type or model, and/or caliber (ITI para. 8(a))

- Marking at import (ITI para. 8(b))

    – country of import (ITI para. 8(b))
    – year of import (ITI para. 8(b))
    – other unique marking (if imported arm is unmarked) (ITI para. 8(b))

- Marking of arms transferred from state stockpiles to civilian use (ITI para. 8(c))

    – identification of country from whose stocks the transfer is made (ITI para. 8(c))

- Marking of SALW in possession of government armed and security forces for their own use (ITI para. 8(d))

- Measures to prevent the removal or alteration of markings (ITI para. 8(e))
- Marking and record-keeping or destruction of illicit weapons (PoA II.16, ITI para. 9)
- Secure storage of illicit weapons found on territory (ITI para. 9)
- Cooperation in tracing illicit SALW (PoA II.36, ITI Part V)
- Ensure effective measures for tracing state-held weapons (PoA II.10)
- Use and support of the INTERPOL Weapons Electronic Tracing System (PoA III.9)

Record-keeping

- Record-keeping by the state (ITI para. 11)
- Records of companies going out of business to be forwarded to state (ITI para. 13)
- Record-keeping of manufacture (PoA II.9, ITI para. 12(a))
- Record-keeping of transfers (PoA II.9)
- Record-keeping of holdings (PoA II.9)

International transfers

- Effective national system of import licensing or authorization (PoA II.11)
- Effective national system of export licensing or authorization (PoA II.11)
- Assess export applications according to procedures consistent with international law (PoA II.11)
- Establish measures on international transit (PoA II. 11)
- Use of authenticated end-user certificates (PoA II.12)
- Notification of original exporting states before the retransfer of SALW (PoA II.13)

Brokering

- Legislation or administrative procedures on brokering (PoA II.14)

- registration of brokers (PoA II.14)

- licensing or authorization of brokering transactions (PoA II.14)

- appropriate penalties for illicit brokering activities (PoA II.14)

Stockpile management and security

- Establish standards and procedures for stockpile management and security (PoA II.17)

  – appropriate locations for stockpiles (PoA II.17)

  – physical security measures (PoA II.17)

  – control of access to stocks (PoA II.17)

  – inventory management and accounting control (PoA II.17)

  – staff training (PoA II.17)

  – security, accounting and control of SALW held or transported (PoA II.17)

  – procedures and sanctions in the event of theft or loss (PoA II.17)

Disposal and destruction of confiscated, seized or collected SALW

- Destruction of confiscated, seized and collected SALW (PoA II.16)

- Disposal (other than destruction) of confiscated, seized and collected SALW (PoA II.16)

Surplus identification and disposal

- Regular review of stockpiles (PoA II.18)

- Identification of surplus SALW (PoA II.18)

- Establish programmes for the disposal, preferably, through destruction, of surplus SALW (PoA II.18)

- Safeguarding of stocks designated for disposal (PoA II.18)

- Destruction of surplus SALW by proper methods (PoA II.19)

Public awareness

- Develop and implement public awareness and confidence-building programmes (PoA II.20)

Disarmament, demobilization and reintegration

- Develop and implement effective DDR programmes[62] (PoA II.21)

Children

- Address the special needs of children affected by armed conflict (PoA II.22)

REGIONAL-LEVEL COMMITMENTS (AND SOURCE)

Point of Contact within regional organization

- Establish or designate a point of contact within subregional and regional organizations to act as liaison on matters relating to PoA implementation (PoA II.24)

Regional instruments

- Encourage negotiations to conclude relevant legally binding instruments aimed at preventing, combating and eradicating the illicit trade in SALW and ratify and implement those that exist (PoA II.25)

Moratoria on SALW transfer and manufacture

- Encourage strengthening and establishing of moratoria in affected regions or subregions on the transfer and manufacture of SALW (PoA II.26)

Customs and borders

- Establish (sub)regional mechanisms: transborder customs cooperation and information-sharing networks (PoA II.27)

Laws, regulations and administrative procedures

- Encourage regional and subregional action on illicit trade in SALW in order to introduce, adhere, implement or strengthen relevant laws, regulations and administrative procedures (PoA II.28)

Stockpile management and security

- Encourage states to promote safe, effective stockpile management and security (PoA II.29)

- Implement (sub)regional stockpile management and security mechanisms (PoA II.29)

Disarmament, demobilization and reintegration

- Support national DDR programmes (PoA II.30)

Transparency

- Encourage regions to develop measures to enhance transparency (PoA II.31)

GLOBAL-LEVEL COMMITMENTS (AND SOURCE)

Embargoes

- Cooperate to ensure the effective implementation of Security Council arms embargoes (PoA II.32)

Information exchange

- Request the Secretary-General, through the Office for Disarmament Affairs, to collate and circulate data and information provided by states on a voluntary basis and including national reports, on implementation of the Programme of Action (PoA II.33)

Disarmament, demobilization and reintegration

- Encourage DDR (PoA II.34 and 35)

Cooperation in tracing

- Strengthen the ability of states to cooperate in identifying and tracing in a timely and reliable manner illicit SALW (PoA II.36, ITI Part V)

- Cooperation with INTERPOL (PoA II.37, ITI para. 33)

Instruments against terrorism and transnational organized crime

- Encourage states to consider ratifying or acceding to international legal instruments against terrorism and transnational organized crime (PoA II.38)

Brokering

- Develop common understandings of issues and scope of problem relating to illicit brokering (PoA II.39)

Civil society

- Facilitate the appropriate cooperation of civil society (PoA II.40)

Dialogue and culture of peace

- Promote dialogue and a culture of peace (PoA II.41)

International Cooperation & Assistance (PoA, Part III)

PRELIMINARY IMPLEMENTATION MAPPING EXERCISE

To provide background for the UNIDIR workshop, UNIDIR conducted a mapping exercise assessing PoA implementation efforts that involved an analysis of the frequency with which states addressed the various PoA themes and specific commitments in their national reports. The mapping exercise sought to identify the PoA themes and commitments that have received the most attention in terms of implementation efforts with the aim of calculating what proportion of states have implemented each of the PoA commitments (based on self-reporting), and identifying gaps in implementation, that is, those themes where levels of implementation appear to be lower or where reporting on implementation efforts is lacking.

By comparing levels of implementation activities and identifying those themes where implementation appears to be relatively low or infrequent, it is possible to identify those commitments that are not being implemented and those areas where states may be experiencing implementation challenges or that have not been prioritized. Conversely, a high rate of reporting may indicate a certain theme is a priority for many states and has been a focus of implementation activities.

Methodology

The mapping exercise was conducted by reviewing the latest report of every state that has submitted a national report on PoA implementation, and keeping a record of the frequency with which states report having implemented a specific commitment (for example, states indicating that they have a system for registering brokers in accordance with PoA II.14) or mention in general terms that they have made efforts to implement a theme (for example, states reporting that they have introduced measures on the marking of SALW, but not specifying what those measures are). A total of 158 national reports were reviewed. Due to time constraints, it

was not possible to review all 584 national reports to obtain a complete picture of implementation efforts reported by states since the adoption of the PoA in 2001.
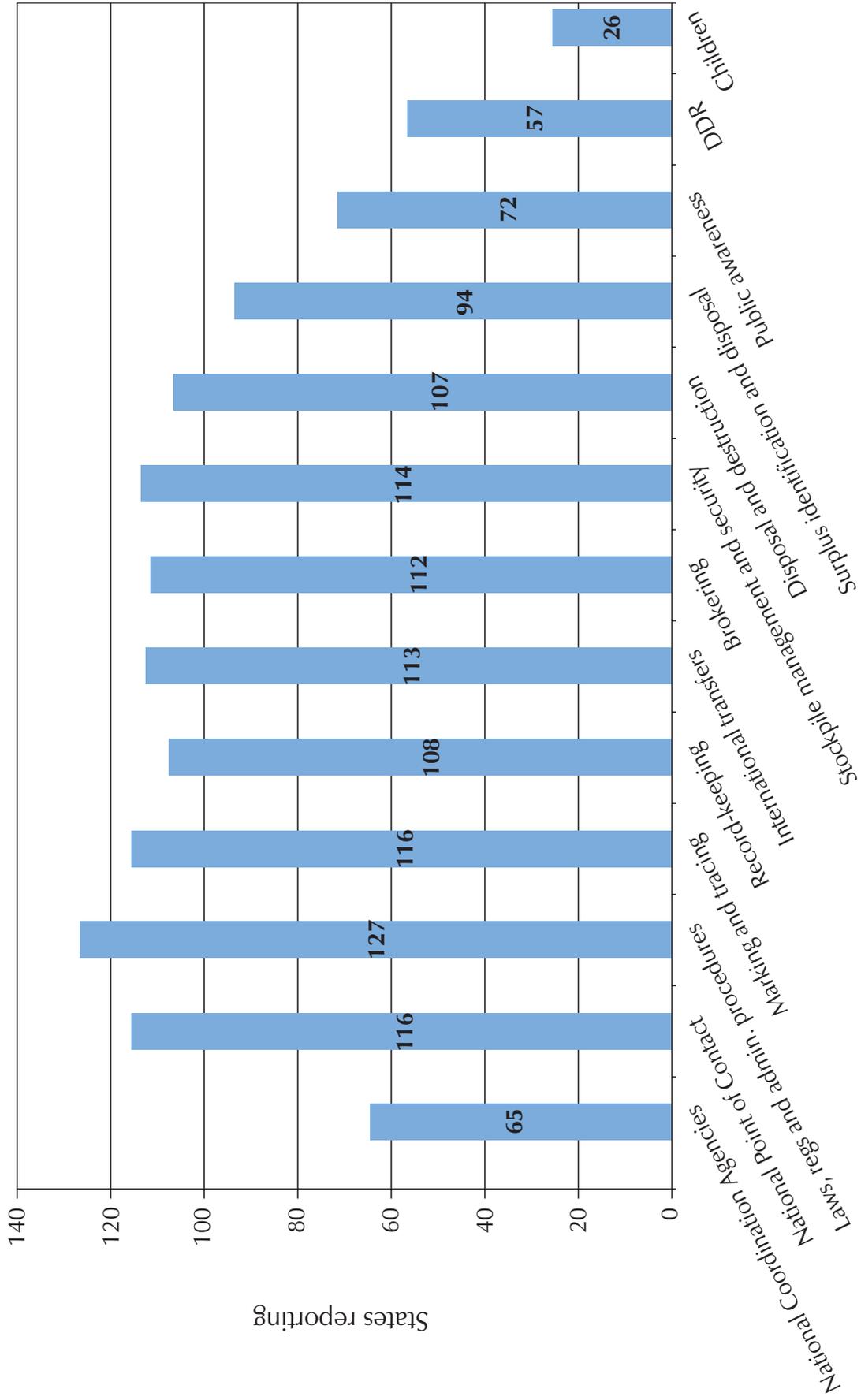
OUTCOME

Chart 1 provides a general overview of the frequency with which states have reported on the PoA themes generally in their latest national reports (see pp. 2–3 for the list of PoA themes).

Chart 1 allows us to make preliminary observations about states' implementation efforts. For example, the measures relating to the theme of laws, regulations and administrative procedures were mentioned by the greatest number of states, with 127 states providing some information on national legislation. In most instances, the legislation described pre-dates the PoA so it cannot, strictly speaking, be said to have been adopted or put in place in fulfilment of PoA commitments (although some states do note that their legislation is under review or is undergoing amendment to ensure compliance with the PoA). This does not detract from the fact that some states are fulfilling their PoA commitments in this regard, but it does give perspective to the level of activity generated by the PoA in the context of laws and enforcement.

Some of the core issues of the PoA (marking and tracing, record-keeping, international transfers, stockpile management and security, disposal and destruction of confiscated, seized or collected SALW, surplus identification and disposal, brokering and international cooperation and assistance) have been reported on with more or less the same frequency, though there has been a decrease in the level of reporting on customs and borders, and a marked drop in the frequency of reporting on DDR (only a small number of states need it or have provided assistance for it).

Chart 1. Frequency of thematic reporting

States reporting

Category	Value
National Coordination Agencies	65
National Point of Contact	116
Laws, regs and admin. procedures	127
Marking and admin. procedures	116
Record-keeping	108
International transfers	113
Brokering	112
Stockpile management and security	114
Disposal and destruction	107
Surplus identification and disposal	94
Public awareness	72
DDR	57
Children	26

Tables 3 to 11 show the frequency with which states mentioned or addressed the specific national-level PoA commitments with respect to each theme, as outlined and identified in annex A. Where states mentioned a PoA theme generally, but did not provide information on implementation efforts with respect to specific commitments within that theme, these are recorded as "general".

The "Yes" column indicates how many states reported that they have implemented the particular commitment. For example, 25 states report that they have introduced penalties for illicit brokering. With respect to some commitments, however, states give a variety of responses or information. For example, in the context of legislation on manufacturing, some states report that they have fulfilled the commitment and have legislation governing the manufacture of SALW; others report that they do not have manufacturing legislation, or not yet; and others report that they do not manufacture SALW and so legislation on manufacturing is not required. These responses are captured in additional columns in the relevant table.

Table 3. Laws, regulations and administrative procedures

Laws, regulations and administrative procedures	Yes	No	Not applicable	
			Civilian possession prohibited	*Does not manufacture*
Legislation on civilian possession[63]	80	1	3	
Legislation on manufacturing	73	4[64]		43
Criminalization of illicit trafficking and/or manufacture	56			
Prosecution of illicit trafficking/ manufacturing	21	9		

Table 4. Marking and tracing

Marking and tracing	Yes	No	Not applicable				
			(Unspecified)	Does not manufacture	Does not import unmarked arms	Does not transfer to civilians	No tracing requests received
Marking at manufacture	59			43			
Marking at import	31	1			5		
Marking of arms transferred to civilian use	3	1				6	
Marking of state-held weapons	48	4[65]					
Measures to prevent removal of markings	13						
Marking or destruction of illicit weapons	13						
Criminal offences against the removal of markings	5						
Cooperation in tracing	35	3[66]	1				3
Cooperation with INTERPOL	54		2				
Use of IWETS	12	9[67]					
General	4						

Table 5. Record-keeping

Record-keeping	Yes
Records kept by state	91
Records kept of companies going out of business	9
Records by manufacturers	37
Records of transfers	40
Records of holdings	31
General	4

Table 6. International transfers

International transfers	Yes	No	Sometimes	Not applicable			
				Does not import or only government is authorized to import	Does not export	Does not re-export	
Import controls	90	2		2			
Export controls	73				24		
Export license	70	3[68]					
End-user certificates	50	4	3				
Transit controls	60	6					
Re-export controls (general)	36	3				12	
Re-export controls (notification to country of origin)	14	3	7[69]			12	
General	4						

Table 7. Brokering

Brokering	Yes	No	Under development	Covered by other laws	Not applicable	
					Not an issue	Brokering prohibited
Legislation on brokering	52	30	30	23	5	12
Registration of brokers	25	1		2[70]		
Licensing	36	1				
Penalties for illicit brokering	25					

Table 8. Stockpile management and security

Stockpile management and security	Yes	No	Yes, but no details provided	Not applicable
Appropriate locations	16			
Physical security measures	55	1	4	
Control of access	21			
Inventory management	91			
Staff training	30	3		
Transport security	20			
Procedures for theft/loss	30			1[71]
General	20			

Table 9. Disposal and destruction of confiscated, seized or collected SALW

Disposal and destruction of confiscated, seized or collected SALW	Yes	No	Not applicable	
			(Unspecified)	No surplus
National programmes for collection and disposal	87	1		
Disposal of confiscated/seized weapons	82	1[72]		
Identification of surplus	17		1	
Procedures to review stockpiles for surplus	26		1	
Figures on estimated surplus and destruction	21	2[73]		7
Destruction of surplus	66			
Methods of destruction	48			
Other forms of disposal	24			
Safeguarding stocks for disposal	32			
Public destruction	11	1		
General	4			

Table 10. DDR, Children

DDR, Children	Yes	No, or not applicable
DDR	21	22
Children	22	7

Table 11. Customs and borders

Customs and borders	Yes
National measures to enhance border controls	33
Cooperation with other countries	48
General	15

OBSERVATIONS

The mapping exercise provided a preliminary overview of the nature and extent of some of the progress and achievements states have made so far in their PoA implementation efforts. Clearly not all states have implemented all of their PoA commitments, but a significant portion of states have and are implementing some of the core commitments of the PoA. The adequacy and effectiveness of the measures undertaken is unclear. But the fact remains that many states are endeavouring to meet their PoA commitments and to combat and eradicate the illicit trade in SALW.

UNIDIR conducted the mapping exercise to start to assess PoA implementation and to identify gaps in thematic reporting in anticipation that this would provide insight on the levels of implementation of certain commitments and help to identify implementation opportunities and challenges. The mapping exercise was designed to inform the discussions held during the UNIDIR workshop, and to establish the framework for a comprehensive mapping exercise that will form part of a larger, follow-on project.

It is worth acknowledging the limitations of the exercise and the information available. Firstly, not all states have submitted national reports

or have reported on *all* of their implementation efforts and activities. The submission of national reports is voluntary[74] and states are free to submit whatever information on whichever issues or aspects of implementation they choose, and to whatever level of detail. It may be that states have reported on and focused their implementation efforts on those areas that are most relevant to them or their region. It is also possible that states have focused on reporting on or implementing those PoA commitments that are clearly understood.

Secondly, as noted above, some of the commitments in the PoA contain specific obligations that can be objectively realized (such as a requirement to mark SALW at the time of manufacture (PoA II.7, ITI para. 8(a)), whereas others contain general undertakings that involve a subjective assessment to determine whether they have been successfully or adequately implemented. Although standards and benchmarks for making such an assessment are evolving, for the time being, we are reliant on states' self-assessments and assertions that they have implemented certain PoA commitments.

Thirdly, and finally, the PoA does not contemplate that information provided by states in their national reports will be independently verified, and so the information must be taken at face value, as has been done for the mapping exercise undertaken by UNIDIR.

Accordingly, this mapping exercise is not intended to imply that states have, in fact, successfully implemented certain PoA commitments, only that they have provided details of their implementation efforts (or lack thereof) in their national reports. Nevertheless, the exercise provides a starting point to begin an overall assessment of PoA implementation. It also alerts us to certain aspects or features of the PoA and the PoA process that may be hindering full implementation and may help guide the way forward for the process as a whole.

Notes

1   General Assembly, *The illicit trade in small arms and light weapons in all its aspects*, UN document A/RES/63/72, 12 January 2009, paras. 13 and 14.

2   Under part IV, paragraph 1(c), states agree "to undertake a United Nations study, within existing resources, for examining the feasibility of developing an international instrument to enable States to identify and trace in a timely and reliable manner illicit small arms and light weapons".

3   See General Assembly, *The Illicit Trade in Small Arms and Light Weapons in All Its Aspects*, UN document A/58/138, 11 July 2003.

4   For more information on adoption of the International Tracing Instrument, see G. McDonald, "Connecting the Dots: The International Tracing Instrument", in *Small Arms Survey 2006: Unfinished Business*, Small Arms Survey, 2005, pp. 94–117.

5   ITI, para. 37.

6   Ibid., para. 38.

7   General Assembly, *The illicit trade in small arms and light weapons in all its aspects*, UN document A/RES/63/72, 12 January 2009, paras. 13 and 14.

8   Details of some of the reporting challenges states face can be found in S. Cattaneo and S. Parker, *Implementing the United Nations Programme of Action on Small Arms and Light Weapons: Analysis of the National Reports Submitted by States from 2002 to 2008*, UNIDIR, 2008, p. 133.

9   One Permanent Observer to the United Nations, the Holy See, has also submitted a "nil" report on PoA implementation, but is not included in the analysis that follows.

10 As stated in a note verbale (ref. ODA/02-2008/SALW-BMS) distributed 28 January 2008.

11 For more details see S. Cattaneo and S. Parker, *Implementing the United Nations Programme of Action on Small Arms and Light Weapons: Analysis of the National Reports Submitted by States from 2002 to 2008*, UNIDIR, 2008, p. 127.

12 Resources are identified as items, assistance or activities that a state indicates that it needs in order to overcome a challenge it faces.

13 The subcategories of resource implications were identified as follows: financial resources—where states specifically indicated that they need financial assistance or they lack budgetary support; technical resources—where states indicated they need equipment, logistical support or technical support or assistance; human resources—where states indicated that they face staffing issues; training and education—where states indicated that they require training, capacity-building or awareness raising; legislation—where states identified a need to update or introduce regulations as an implementation challenge; cooperation—where states indicated a need for cooperation, coordination or collaboration; information exchange—where states indicated a need for information exchange or regional mechanisms for sharing

information; and other—where it was not clear what resources were required to overcome the challenge identified or where the resources required did not fall into one of the previous categories.

14 Kenya, Malawi, Swaziland and Tanzania.

15 Guyana and Jamaica.

16 The fact that the ITI is not legally binding can pose an implementation challenge at the national level. For example, some states note that they have problems getting the relevant agencies in their country to take the ITI seriously because it is not legally binding, therefore these agencies do not prioritize its implementation.

17 The implementation challenge here is (presumably) that, in the absence of an internationally accepted marking method, states do not know what marking method they should apply. In other words, it would make it easier to implement this commitment at the national level if there were an international standard to guide national practice.

18 This was listed as a "challenge", although, in practice, it is a goal rather than a challenge.

19 The category "policy and planning" has been included to accommodate implementation challenges identified in the context of national action plans and general SALW policy considerations, although this is not a specific PoA theme.

20 No specific implementation challenges at the regional level were identified or listed in national reports with respect to the following PoA themes: Point of Contact within regional organization; regional instruments; moratoria on SALW transfer and manufacture; stockpile management and security; and DDR. Accordingly, these themes are not listed in table 2. The category "regional security" has been included to accommodate broad political and geographical implementation challenges identified at the regional level, although this is not a specific PoA theme. Additionally, although the commitments in the PoA relating to marking and tracing, record-keeping and brokering are *national-level* commitments, states included information on challenges faced at the *regional* level with respect to these themes, and accordingly, they are included in table 2.

21 General Assembly, *Report of 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*, UN document A/CONF.192/BMS/2010/3, 30 June 2010, part V, para. I.8.

22 Ibid., para. I.14.

23 The regional and subregional groupings and descriptions used are based on the geographical classifications established by the Statistics Division of the United Nations.

24 Statement by Beatrice Kiraso, Head of the East African Community Delegation, at the Fourth BMS, 16 June 2010, <www.poa-iss.org/BMS4/1IntlRegOrganizat ionsStatementsBMS4/EAC-E-ORG.PDF>.

25 Member states of RECSA are predominantly East African States, with the exception of the Democratic Republic of the Congo (Middle Africa) and the Sudan (Northern Africa).

26 Statement by Francis Sang, Executive Secretary, RECSA, at the Third BMS, 14 July 2008, <www.un.org/disarmament/convarms/BMS/bms3/1BMS3Page s/1IntlRegOrganizationsStatements/RegionalCentreOnSmallArms(RECSA)(E). PDF>.

27 Ibid.

28 Statement by Francis Sang, Executive Secretary, RECSA, at the Fourth BMS, 16 June 2010, <www.poa-iss.org/bms4/1IntlRegOrganizationsStatementsBMS 4/RECSA-E-ORG.PDF>.

29 Statement by Joaquim Bule, Director of International Relations Ministry of Interior of the Republic of Mozambique, on behalf of the SADC at the Fourth BMS, 16 June 2010, <www.poa-iss.org/BMS4/1IntlRegOrganizationsStatemen tsBMS4/SADC-E-ORG.PDF>.

30 Ibid.

31 Ibid.

32 Statement by the OAS at the Third BMS, 16 July 2008, <www. un.org/disarmament/convarms/BMS/bms3/1BMS3Pages/1Statements-IOsANDregionalorgs.html>

33 Statement by Jorge Argüello, Permanent Representative of Argentina to the United Nations, on behalf of MERCOSUR at the Fourth BMS, 14 June 2010, <www.poa-iss.org/BMS4/1NationalStatementsBMS4/Argentina-S-BORD. PDF>.

34 Statement by Mohammed Iqbal Degia, First Secretary, Permanent Mission of Barbados to the United Nations, on behalf of CARICOM at the Third BMS, 15 July 2008, <www.un.org/disarmament/convarms/BMS/bms3/1BMS3Pages/ 1National Statements/BarbadosforCaricom-StockpileMgt(E).pdf>.

35 Statement by Mohammed Iqbal Degia, First Secretary, Permanent Mission of Barbados to the United Nations, on behalf of CARICOM at the Third BMS, 16 July 2008, <www.un.org/disarmament/convarms/BMS/ bms3/1BMS3Pages/1National Statements/Barbados_OtherIssues.pdf>.

36 Statement by Camillo Gonsalves, Ambassador and Permanent Representative of the Permanent Mission of Saint Vincent and the Grenadines to the United Nations, on behalf of CARICOM at the Fourth BMS, 14 June 2010, <www. poa-iss.org/bms4/1NationalStatementsBMS4/CARICOM-Saint-Vincent-Grenad-E-BORD.PDF>.

37 Ibid.

38 Statement by Raymond O. Wolfe, Permanent Representative of Jamaica to the United Nations, on behalf of CARICOM at the Fourth BMS, 17 June 2010, <www.poa-iss.org/BMS4/1NationalStatementsBMS4/ITI/CARICOM-Jamaica-E-ITI.pdf>.

39 Statement by Lamberto Zannier, Director of the Conflict Prevention Centre, OSCE Secretariat, at the Second BMS, 11–15 July 2005, <www.un.org/events/smallarms2005/Thematic/osce-export.pdf>.

40 Statement by Spain, on behalf of the European Union, at the Fourth BMS, 15 June 2010, <www.poa-iss.org/BMS4/1NationalStatementsBMS4/2010%2006%2015%20ASST/EU-E-ASST.PDF>.

41 See K. Maze and Y. Issar, *International Assistance for Implementing the UN Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects: Case Study of the South Pacific*, UNIDIR, 2009. See also D. Capie, *Under the Gun: The Small Arms Challenges in the Pacific*, Victoria University Press, 2003.

42 See K. Maze and Y. Issar, *International Assistance for Implementing the UN Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects: Case Study of the South Pacific*, UNIDIR, 2009, especially pp. 43–44.

43 Statement by Mohammed Iqbal Degia, First Secretary, Permanent Mission of Barbados to the United Nations, on behalf of CARICOM at the Third BMS, 15 July 2008, <www.un.org/disarmament/convarms/BMS/bms3/1BMS3Pages/1NationalStatements/BarbadosforCaricom-StockpileMgt(E).pdf>.

44 Statement by Mohammed Iqbal Degia, First Secretary, Permanent Mission of Barbados to the United Nations, on behalf of CARICOM at the Third BMS, 14 July 2008, <www.un.org/disarmament/convarms/BMS/bms3/1BMS3Pages/1National Statements/BarbadosforCaricom-IntlCoop(E).pdf>.

45 Regional meetings were held for the Pacific in Sydney in June 2009, for the Great Lakes, Horn of Africa and Southern Africa in Kigali in July 2009, for the Americas in Lima in March 2010, for Asia in Bali in March 2010 and for Central Africa in Kinshasa in April 2010. Information on these meetings is available at <www.poa-iss.org/PoA/PoA.aspx>.

46 For more information on the role of regional organizations in strengthening PoA implementation, see the principle recommendations arising out of the seminar hosted by the Geneva Forum in January 2004, which brought together senior representatives of 15 regional organizations to share information on how they were dealing with the illicit trade in SALW and to learn from each other's experiences. The full report of the seminar is available at <www.geneva-forum.org/Reports/20040129-30.pdf>.

47 For more detail see S. Cattaneo and S. Parker, *Implementing the United Nations Programme of Action on Small Arms and Light Weapons: Analysis of the National Reports Submitted by States from 2002 to 2008*, UNIDIR, 2008, pp. 74–75.

48 For a discussion of the omission of explicit references to ammunition in the PoA, see C. Carle, "Small arms ammunition: light at the end of the barrel?", *Disarmament Forum*, no. 1, UNIDIR, 2006.

49   See S. Cattaneo and S. Parker, *Implementing the United Nations Programme of Action on Small Arms and Light Weapons: Analysis of the National Reports Submitted by States from 2002 to 2008*, UNIDIR, 2008, p. 82.

50   Paragraph II.3 requires states "To adopt and implement … the necessary legislative or other measures to establish as criminal offences under their domestic law the illegal manufacture, *possession*, stockpiling and trade of small arms and light weapons within their areas of jurisdiction, in order to ensure that those engaged in such activities can be prosecuted under appropriate national penal codes" (emphasis added); paragraph II.6 requires states "To identify, where applicable, groups and individuals engaged in the illegal manufacture, trade, stockpiling, transfer, *possession*, as well as financing for acquisition, of illicit small arms and light weapons, and take action under appropriate national law against such groups and individuals" (emphasis added); and paragraph II.8 requires states "To adopt where they do not exist and enforce, all the necessary measures to prevent the manufacture, stockpiling, transfer and *possession* of any unmarked or inadequately marked small arms and light weapons" (emphasis added).

51   In this context, the work of the Geneva Process Working Group on Implementation should be noted as a welcome development. The Group is in the process of developing an implementation matrix that outlines the PoA undertakings and commitments and identifies the resource implications and measurable impact or indicators for assessing whether the commitments have been fulfilled. As the matrix is still under development, it is not publicly available, but will no doubt prove a useful tool in mapping and measuring PoA implementation in the future.

52   See K. Maze and Y. Issar, *International Assistance for Implementing the UN Programme of Action on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects: Case Study of the South Pacific*, UNIDIR, 2009, p. 43.

53   Statement by Hasan Kleib, Chargé d'Affaires ad interim, Permanent Mission of the Republic of Indonesia to the United Nations, on behalf of the Non-Aligned Movement at the Fourth BMS, 14 June 2010, <www.poa-iss.org/bms4/1NationalStatementsBMS4/NAM-Indonesia-E-BORD.PDF>.

54   Other donor funding issues identified by regional organizations include, for example, that "assistance has been uncoordinated and made in piecemeal, often late and generally inadequate. The funding periods have been too short to create the necessary impact as envisaged under the Nairobi Declaration and Nairobi Protocol. There is an urgent need therefore for the donor community to pool resources together to avoid duplication of efforts"; statement by Francis Sang, Executive Secretary, RECSA, at the Third BMS, 14 July 2008, <www.un.org/disarmament/convarms/BMS/bms3/1BMS3Pages/1IntlRegOrgan izationsStatements/RegionalCentreOnSmallArms(RECSA)(E).PDF>.

55   See General Assembly, *Problems arising from the accumulation of conventional ammunition stockpiles in surplus*, UN document A/63/182, 28 July 2008.

56 See General Assembly, *The illicit trade in small arms and light weapons in all its aspects*, UN document A/62/163, 30 August 2007.

57 See General Assembly, *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*, UN document A/CONF.192/BMS/2008/3, 20 August 2008; and General Assembly, *Report of 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*, UN document A/CONF.192/BMS/2010/3, 30 June 2010.

58 Information regarding the CASA project on International Small Arms Control Standards is available at <www.un-casa-isacs.org/isacs/Welcome.html>.

59 For more information on implementation benchmarks, see G. McDonald, "Fact or Fiction? The UN Small Arms Process", in *Small Arms Survey 2011*, Small Arms Survey, forthcoming.

60 For more information on PoA monitoring, see G. McDonald, "Under the Spotlight: Monitoring Implementation of Small Arms Measures", in *Small Arms Survey 2004: Rights at Risk*, Small Arms Survey, 2004, pp. 248–75.

61 At the Third BMS the issues were illicit brokering in SALW, stockpile management and surplus destruction and disposal, the ITI, and international cooperation and assistance and national capacity-building. At the Fourth BMS, the themes were preventing and combating the illicit trade in SALW across borders, international cooperation and assistance, strengthening of PoA follow-up mechanisms and preparations for the 2011 Meeting of Governmental Experts and the 2012 Review Conference, and the ITI. With respect to the inclusion of the ITI, the Instrument itself mandates biennial meetings. The General Assembly acknowledges this and makes explicit in relevant resolutions the fact that the ITI is to be discussed within the framework of PoA biennial meetings.

62 States are required to develop DDR programmes "where possible" and to include provisions for DDR programmes in peace agreements "where applicable". In other words, this is a qualified commitment and there is implicit acknowledgement that the establishment of DDR programmes is not applicable or appropriate in all states.

63 There is no requirement under the PoA for states to adopt laws, regulations or administrative procedures on civilian possession of SALW. However, many states provide information on civilian possession in their national reports, hence it has been captured here.

64 States were included in this category if they indicated they do not have legislation on the manufacture of SALW, or they indicate there is a state monopoly on manufacture.

65 States were included in this category if they indicated in their national report that only some stocks are marked; marking of state-held stocks will start; no additional special markings are applied other than the original manufacturer's

marking; or they have no marking equipment with which to mark state-held stocks.

[66] Three states report they did not cooperate in tracing during the reporting period in question.

[67] Several states indicated in their national reports that they have access to the INTERPOL Weapons Electronic Tracing System, but they do not use it or have not used it yet.

[68] States were included in this category if they reported that they do not have procedures for licensing exports or their existing law does not address the export of SALW.

[69] Seven states report that they sometimes notify the original exporting state, depending on such things as the original terms of contract or the sensitivity of the re-export.

[70] Two states reported that, though they have no system of registration for brokers per se, brokers and brokering activities are recorded through the authorization and licensing process.

[71] One state reports that, since no theft or losses from stockpiles have occurred, there is no need for special procedures.

[72] One state reports it does not have facilities to destroy confiscated and collected weapons.

[73] Two states reported they do not have programmes for destruction or no surplus destruction took place during the period in question.

[74] Paragraph II.33 of the PoA calls on states to request the UN Secretary-General to collate and circulate data and information provided by states on a voluntary basis, "including national reports, on implementation by those States of the Programme of Action".

ABBREVIATIONS

BMS   Biennial Meeting of States
CARICOM   Caribbean Community
DDR   disarmament, demobilization and reintegration
ITI   International Instrument to Enable States to Identify and
                 Trace, in a Timely and Reliable Manner, Illicit Small
                 Arms and Light Weapons
PoA   Programme of Action to Prevent, Combat and Eradicate
                 the Illicit Trade in Small Arms and Light Weapons in All
                 Its Aspects
SALW   small arms and light weapons