



BITING THE BULLET

INTERNATIONAL ALERT | SAFERWORLD | UNIVERSITY OF BRADFORD

Implementation of the PoA in Europe

Introduction

Between 26 June and 17 July 2006, international governments will meet to review their commitment made five years ago to control small arms and light weapons (SALW). The UN Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects (PoA) was agreed at a UN Conference in July 2001, and is the primary international instrument relating to the controls of small arms and light weapons.

The PoA sets out a range of measures and initiatives to be taken by states' in areas such as: controls on the import, export and transit of small arms (transfer controls); the regulation of arms brokering; stockpile management; addressing the impact of small arms on development; and the marking and tracing of small arms.

The Biting the Bullet project aims to promote effective implementation of the PoA and periodically it produces a "Red Book" analysing progress against the PoA.

The 2006 Red Book concludes that global implementation of the PoA is patchy. Although progress has been made in some areas, action taken so far has not been sufficient to have more than a local or marginal impact on the problems of Small Arms and Light Weapons (SALW) trafficking, proliferation and misuse. Some of the factors contributing to inadequate performance are linked to weaknesses in the PoA itself. This year's conference provides the first formal opportunity to review and strengthen the PoA since it was agreed.

This Biting the Bullet briefing focuses on the implementation of the PoA in Europe, highlighting progress thus far, and outlining recommendations for further improvements.

Recommendations for more effective implementation of the PoA in Europe

- **Implementing effective SALW transfer controls:** More rigorous application of the OSCE¹, EU and other multilateral transfer control criteria is required by European states. For example, some EU near-neighbouring states have pledged adherence to the EU Code of Conduct on Arms Exports, but many such states lack the technical and administrative capacity to fully implement such controls.
- **Developing and implementing controls on SALW transit and brokering:** The OSCE should implement effective controls on SALW transit and brokering. For example, although many European states have agreed on the importance of

¹ The OSCE unites all countries belonging to NATO and the former Warsaw Pact, as well as others.

developing and implementing controls through the OSCE Document on Small Arms and the Handbook on Best Practices on SALW², many states have failed to do so.

- **Managing state-controlled stocks of SALW:** Many European states need to build their national capacities to securely store and manage state SALW stockpiles. For example, in Eastern Europe, South Eastern Europe, and the South Caucasus, significant external technical and financial assistance is needed for this.
- **EU controlling SALW production overseas:** EU member states need to take full responsibility for the transfer of SALW production capacity outside the EU to avoid contributing to SALW proliferation around the world, as acknowledged in the EU SALW strategy. For example, there is a developing trend whereby the manufacture of SALW is being outsourced to producers outside the 25 EU member states. This might be undertaken to avoid the stricter levels of controls over SALW export that apply in the EU.
- **Integrating SALW control into wider programmes:** SALW control initiatives need to be integrated into wider security and justice sector reform programmes to ensure state and civilian ownership and use of SALW is responsibly managed. For example, in many states within Eastern Europe, South Eastern Europe and South Caucasus, the proliferation and misuse of SALW is linked closely to the existence of an unreformed and poorly regulated security sector.
- **Greater international involvement in SALW initiatives:** Increased international assistance for capacity-building and training for state officials and agencies on SALW control measures is a key priority. For example, in the South Caucasus in particular, international engagement on SALW issues is falling short. The limited extent to which the PoA has been implemented is mirrored in low levels of engagement on the part of the international donor community.

Arms proliferation in Europe

Europe is a key player in the international arms trade. Whilst home to some of the world's largest arms producers and exporters such as the **UK, Germany, France** and **Russia**, it also contains regions that are in, or recently emerging from conflict such as South Eastern Europe (SEE). The recent expansion of the EU provides an additional complexity as new members take the necessary steps to bring their export control regimes into line with existing EU member states.

Through the OSCE, all states in the wider Europe region have agreed to control SALW transfers in accordance with a comprehensive set of guidelines that take into account the potential use of the SALW for export. Furthermore, the majority of European states are either party to, or have declared adherence to the principles of, the EU Code of Conduct on Arms Exports. Despite this, question-marks remain over the implementation of controls on SALW transfers.

The proliferation and misuse of SALW in SEE, following the end of the conflicts in the 1990s, continues to fuel crime and insecurity. Progress in implementation of the PoA in this region is uneven. In Eastern Europe, a region that continues to be a major source of SALW with stockpiles of SALW following the dissolution of the Soviet system, implementation of the UN PoA is weak. In the **South Caucasus**, large quantities of SALW are the result of a number of conflicts within the sub-region that broke out in the early 1990s. While the conflicts are now dormant, continuing tension in the sub-region means that all initiatives to improve security, including in the sphere of SALW controls remain tentative and have yet to yield concrete results. Implementation of the PoA has taken place at a very slow rate.

² The Handbook on Best Practices on SALW can be found at http://www.osce.org/fsc/item_11_13550.html

Implementation of the PoA in Europe

Continent wide initiatives

Organisation for Security and Co-operation in Europe (OSCE)

The OSCE Document on Small Arms and Light Weapons (SALW) and the OSCE Handbook of Best Practices on Small Arms and Light Weapons³, are some of the strongest international agreements to tackle the uncontrolled spread of SALW. These provide a comprehensive framework for multilateral action to develop norms, principles and measures covering different SALW areas including: manufacture; brokering; marking, tracing and record-keeping; export control criteria; management of stockpiles; reduction of surpluses; transparency and SALW and disarmament, demobilisation and reintegration processes.

The European Union (EU)

The EU has taken a leading position on SALW policy and action, developing several EU-wide instruments that tackle various aspects of SALW, for example most member states have well developed policy and capacity for SALW control.

The EU Code of Conduct on Arms Exports (1998) is one of the most established regional mechanisms for arms transfer controls in the world. At the heart of the EU Code are the eight common criteria governing national arms export licensing decisions. Implementation of the EU Code has improved transparency within the region, but this requires further development and is currently under review.

There are other EU transfer related measures, such as the Common Position on the control of arms brokering that was implemented in June 2003 which binds member states to establish a clear legal framework and to take all the necessary measures to control brokering activities within their territory. However it lacks a number of key provisions such as those relating to the registration of brokers and the extraterritorial scope of controls which states are recommended, rather than required, to adopt. The Common Position does not have a timeframe for implementing the required brokering controls. Three years on, six of the 25 EU member states are not in compliance with the requirements of the Common Position.

Significantly, it is understood that once the ongoing EU Code Review is finalised, member states will transform the EU Code into a legally binding EU Council Common Position, bringing it together with the EU Common Position on Arms Brokering under one instrument that member states will be required to adopt within their national systems.

The EU also has a number of instruments that have a bearing on member states' implementation of the PoA – such as the 1999 & 2002 EU Joint Actions to combat the destabilising accumulation and spread of SALW and ammunition. The EU-wide action on SALW received a new impetus with the agreement of an EU Small Arms Strategy. The EU Strategy to Combat Illicit Accumulation and Trafficking of SALW and their Ammunition⁴

³ The Handbook on Best Practices on SALW can be found at http://www.osce.org/fsc/item_11_13550.html

⁴ EU Council, EU Strategy to Combat Illicit Accumulation and Trafficking of SALW and their ammunition, DG E WMD 5319/06, see <http://register.consilium.eu.int/pdf/en/06/st05/st05319.en06.pdf>

(EU Strategy) was adopted in January 2006 and provides a basis for further action against SALW proliferation and misuse.

National implementation in the EU

Overall, there is a good level of implementation of the UN PoA on the part of EU states. Out of the **25** EU Member States:

- **24** have established a national point of contact under the PoA;
- **9** have established a national SALW co-ordination mechanism;
- **16** now publish national reports on arms exports.⁵
- **20** have legislation in place that will meet their obligations under the Common Position on Arms Brokering.

Weapons destructions have also taken place in **Belgium**⁶ and **Germany**⁷ and a number of countries including **Belgium** and the **UK** have introduced, passed or amended domestic export control legislation.

South Eastern Europe (SEE)

In SEE, the most comprehensive initiative to tackle SALW is the Regional Implementation Plan (RIP) agreed in 2001. Many of the measures to combat SALW proliferation outlined in the RIP closely correspond with those contained in the PoA. However, the RIP's major shortcoming is its lack of clarity and specificity on how it is to be implemented, therefore it has achieved much less in practice at the national level. The most significant institutional development resulting from the agreement of the RIP, was the establishment of the South Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC). SEESAC works to support the RIP by providing technical input, information exchange, co-ordination of activities and fundraising assistance for specific SALW control projects. In May 2006 the mandate of SEESAC was broadened to include Eastern as well as South Eastern Europe.

Cross-border co-operation among law enforcement, border and customs control agencies have developed across this sub-region. In 2002, the South Eastern Europe Co-operative Initiative (SECI) Regional Centre for Combating Transborder Crime established a sub-group on anti-terrorism that looks at SALW issues, illicit trade, transfer and possession of SALW. Police and customs officers from SEE use this mechanism to share information on SALW trafficking. However, this framework suffers from limited financial and operational resources.

National implementation in SEE

Out of the **9** countries in the sub-region:

- **7** have established a national point of contact under the PoA
- **4** have developed a national co-ordination agency,⁸
- **8** have commissioned or co-operated with national SALW surveys

BiH, FYRoM and **Serbia** and **Montenegro** have also developed national strategies for addressing SALW and **BiH, Bulgaria, Croatia** and **FYRoM** have all amended SALW-related legislation. In **FYRoM**, the new Law on Weapons of 2005 covers all aspects of

⁵ Significantly, this includes new member states such as Czech Republic, Lithuania, Slovakia and Slovenia publishing national reports for the first time since their accession in 2004.

⁶ The government of Belgium destroys an average of 12,000 to 13,000 SALW annually

⁷ The Federal Armed Forces in Germany destroyed over 1.7 million surplus SALW between 1990 and 2004.

⁸ Bosnia & Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, and Serbia & Montenegro.

SALW control, including civilian possession, import, export, transit and brokering, bringing provisions into line with EU standards; **BiH, FYRoM** and **Albania** have also undertaken weapons collection and destruction efforts.⁹

Eastern Europe

There is no sub-regional agreement or co-operative framework that binds **Belarus, Moldova, Russia** and **Ukraine** in joint efforts to tackle the proliferation of SALW. Rather, multilateral frameworks for SALW control are provided by the OSCE and NATO's Partnership for Peace (PfP) programmes.

National implementation in EE

National capacity to implement the PoA has not been comprehensive. Out of the **4** countries in the sub-region:

- **3** have established national points of contact under the PoA;¹⁰
- **0** have established a national commission
- **1** has a National Action Plan (**Ukraine**)

However, **Belarus, Russia** and **Ukraine** have made some progress towards improving national and international norms and policies regulating SALW. For example, **Ukraine** has passed a new law on State Control of International Transfers of Goods Designated for Military Purposes and Dual-Use Goods (2003). In **Russia**, the Federal Law on Arms, which regulates the production of SALW, has new provisions have been introduced in the fields of licensed production. In **Belarus**, the most important legal and policy changes include Decree 133 of 2003, which introduced a unified procedure for licensing imports and exports of armaments.

South Caucasus

Although the governments of **Armenia, Azerbaijan** and **Georgia** have all expressed their commitment to combating illicit SALW proliferation at the national, sub-regional and international level, there is a distinct lack of sub-regional co-operation in the South Caucasus.

National implementation in the South Caucasus

National implementation of PoA commitments within the South Caucasus region has been disappointingly slow. Out of the **3** countries in the sub-region:

- **0** have developed a national action plan;
- **1** has developed a national coordination agency (which has since been disestablished);
- **1** has a national point of contact (**Armenia**)

In **Georgia** a new Inter-Agency Group on Small Arms was established in 2005 under the National Security Council, with the objective of implementing a number of reforms in SALW legislation and procedures. However, at the time of writing, the Inter-Agency Group

⁹ Albania has destroyed more than 140,000 SALW and 22,000 tonnes of ammunition since 2001.

¹⁰ Belarus, Russia, Ukraine

has been disbanded, following structural changes within the National Security Council. **Armenia** has amended national legislation to expand the scope of the existing legislation on illicit trafficking,¹¹ and criminalise the illegal manufacture, possession, stockpiling, acquisition, sales, transportation and theft of arms and ammunition.¹² Disarmament and destruction programmes have also been few and far between, with initiatives only undertaken in **Georgia**. A significant step in **Georgia** is the forthcoming national SALW survey, the first of its kind in the region.

Further Information

- *Promoting Effective Global Action on Small Arms: Priorities for the 2006 UN Review Conference*, Biting the Bullet Project (International Alert, Saferworld and University of Bradford), January 2006
- *Implementing the Programme of Action 2006: Action by States and Civil Society*, Biting the Bullet (International Alert, Saferworld and University of Bradford), June 2006
- The EU Code of Conduct on Arms Exports (1998)
<http://ue.eu.int/uedocs/cmsUpload/08675r2en8.pdf>
- 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.192/15
- The OSCE Handbook on Best Practices on SALW can be found at http://www.osce.org/fsc/item_11_13550.html

¹¹ Articles 235, 236 & 238.

¹² Articles 237 & 239.