

7

Small arms: monitoring the UN action programme

Helen Hughes

It is over three years since United Nations (UN) member states adopted the July 2001 Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (POA).¹ Although it is only politically rather than legally binding, the POA is the only international agreement that aims to tackle the proliferation of small arms and light weapons (SALW) through a series of measures aimed at curtailing the illicit trade in such arms. The reference to ‘in all its aspects’ in the POA’s title signifies that it also includes some provisions aimed at attempting to strengthen controls on the legal trade. In their chapter in the *Verification Yearbook 2003*, Kate Joseph and Taina Susiluoto called the POA ‘more a menu of measures than a binding system of controls’.² In the absence of a more robust, legally binding agreement, the POA does, however, provide an international framework for further action in tackling the proliferation of SALW.

Sufficient time has now passed for states to have made some progress towards implementing the agreement, thereby activating its provisions related to monitoring. This chapter will examine what these provisions are, how they relate to the principles of monitoring and verification, and the implications for states. It will discuss whether the approach taken is adequate given the nature of the agreement, especially in response to such a complex problem, and assess the strengths and weaknesses of such an approach. The role of civil society in monitoring states’ progress will also be considered.

Alongside the POA, there are a number of other relevant regional and multilateral initiatives and instruments, often containing stronger provisions, including, for example, the 2004 Nairobi Protocol.³ This legally binding instrument contains provisions relevant to monitoring and verification which warrant some discussion,

since they may prove informative for strengthening the POA—an opportunity available to states in 2006 when the agreement will be reviewed.

The Programme of Action

The POA was agreed by the UN member states following a negotiating process which comprised three preparatory committee meetings and an international conference at the UN in New York in July 2001. The final document consists of four sections and over 50 measures covering several key issues. The Preamble acknowledges the impact of the problem and establishes the norms and principles that states have agreed underpin the POA. Section II, entitled ‘Preventing, combating and eradicating the illicit trade in small arms and light weapons in all its aspects’, identifies operational measures at the national, regional and global level, including:

- the establishment of national focal points and commissions;⁴
- the review of existing legislation or the adoption of adequate relevant national legislation, and policy or procedures on controlling the production and transfer (import, export and transit) of SALW;⁵
- the review of existing legislation or the adoption of adequate national legislation criminalizing the illicit manufacture, possession or stockpiling of and trade in SALW;⁶
- review of present stockpile management and security regulations and practices, and the development and implementation of appropriate measures where weaknesses are found;⁷
- the development of disarmament and weapon collection programmes and review of the extent to which these are embedded in wider peace-building, security sector reform or development programmes;⁸
- the development and implementation of policies and procedures for the destruction of confiscated, collected and surplus weapons; and
- the development of and an increase in co-operation between governments and civil society.⁹

Section III of the POA, on ‘Implementation, international co-operation and assistance’, concentrates on ensuring that states provide resources to implement

the POA. It was apparently the least controversial part of the negotiations.¹⁰ The follow-up, section IV, is the most important part of the agreement relating to monitoring implementation.

What type of monitoring?

Section IV, 'Follow-up to the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects', sets out the process for the review of implementation of the POA. A more formal follow-up was resisted, particularly by the United States, which opposed the idea of a mandatory review conference which would serve 'only to institutionalize and bureaucratize' the process.¹¹ In the last few days of the negotiations it was widely accepted that the conference could at best establish the framework for the future development of an effective international action programme. Thus, a strong follow-up section would in part compensate for other weaknesses in the document.¹² The follow-up section recommends that a conference be convened no later than 2006 to review progress made in implementing the POA.¹³ It also provides for biennial meetings to 'consider national, regional and international implementation.'¹⁴

The first biennial meeting was held in July 2003. The one-week meeting was used to take stock of progress thus far, but nothing more substantive was discussed. A second such meeting will be held in July 2005. States will convene at the UN in July 2006 for a full review of the POA, which in principle will be an opportunity to revise and strengthen the programme. Although at present few states have publicly spoken of such intentions, many non-governmental organizations (NGOs) are lobbying, for example, for key issues that were omitted in 2001 to be included, for stronger language to be inserted into the POA, and for some measures to be elaborated to specify how they should be implemented.

Beyond this implementation review process there are certain measures in the POA requiring states, mostly on a voluntary basis, to exchange information and submit data to the UN. Apart from this there are no other provisions in the POA that could be described as monitoring and verification.

There are several reasons for this. The political wrangling that characterized most of the negotiations meant that states could not agree on 'how formal the follow-up

to the conference and its [POA] should be'.¹⁵ Moreover, the nature and scope of the POA—covering diffuse issues in what is only a politically binding agreement—are in some regards not conducive to a formal monitoring and/or verification system. Verification of compliance is difficult since states are under no obligation to ban or reduce the production of, trade in or possession of SALW, but rather to prevent, eradicate and combat the illicit trade. The amorphous nature of the latter means that there are no specific thresholds or limitations for states to adhere to.¹⁶

Perhaps the only reference in the POA that represents a commitment to restrict arms transfers is paragraph 11 of section II which requires states to responsibly exercise control over the licensing of SALW by ensuring that exports are consistent with their commitments under international law:

To assess applications for export authorizations according to strict national regulations and procedures that cover all small arms and light weapons and are consistent with the existing responsibilities of States under relevant international law, taking into account in particular the risk of diversion of these weapons into the illegal trade. Likewise, to establish or maintain an effective national system of export and import licensing or authorization, as well as measures on international transit, for the transfer of all small arms and light weapons, with a view to combating the illicit trade in small arms and light weapons.

This reference, even without specifying which existing responsibilities apply, was very difficult to negotiate and has proved somewhat controversial because of its ambiguity. Its inclusion has, however, provided an opportunity for some states and NGOs to explore the policy embedded in this commitment and to identify the relevant international law in order to develop common understandings and standards on transfer controls to be taken forward at the international level. This could include a legally binding instrument which would codify states' commitments within a framework convention on arms transfers.¹⁷

The means to monitor: transparency and information-sharing

Unlike most other arms control agreements, the POA has no monitoring and verification regime and no organization, not even one mandated to oversee, assess and assist

in implementation. Instead it has a limited, ad hoc framework for voluntary information exchange and reporting, co-ordinated by the Conventional Arms Branch of the United Nations Department for Disarmament Affairs (UNDDA), which does create some transparency regarding states' implementation of the agreement.

The issue of information exchange and transparency was controversial throughout the negotiations: the US, China and the Arab Group were among those opposed to the inclusion of specific language on transparency measures.¹⁸ Hence, none of the original negotiating text relating to transparency measures was retained in the final agreement. In the first draft of the POA the Preamble declared that 'enhanced openness and transparency and improved information exchange ... would greatly contribute to confidence-building and security among [s]tates including a better understanding of the illicit trade in [SALW]'.¹⁹ This principle was later removed, as was a measure calling on states to make public relevant information relating to the manufacture, transfer and transport of SALW.²⁰

In the end, states did manage to agree some measures relating to transparency, information-sharing and co-operation, although these were somewhat diluted versions of previous draft language. For example, states agreed to make public relevant national laws, regulations and procedures.²¹ States are also encouraged to 'develop, where appropriate and on a voluntary basis, measures to enhance transparency with a view to combating the illicit trade in SALW in all its aspects'.²² Such provisions are similar to those in Article 7 of the 1997 Ottawa Landmine Convention relating to transparency reporting although, unlike that treaty, reporting under the POA is voluntary. Under paragraph 33 of section II, the POA also requests the UN Secretary-General to circulate information provided voluntarily by states through, for example, national reports on their implementation of the POA. These are deposited with the UNDDA and are made available on the department's Conventional Arms Branch website.

National reporting

National reporting is the main means by which states can present progress they have made in implementing the POA.²³ In 2002, 16 states submitted national reports to the UNDDA. In 2003 this increased to 103. As expected, the quality of these varied considerably.

In an attempt to encourage states to submit their national reports, the United Nations Development Programme (UNDP), in co-operation with the UNDDA and the United Nations Institute for Disarmament Research (UNIDIR), and under the auspices of the United Nations Coordinating Action on Small Arms (CASA),²⁴ began a project to support states requesting assistance in compiling and submitting their national reports. The assistance package includes guidelines for reporting which provide an overview of the types of information to be included and a suggested template that can be used for completing the report. Prior to the first biennial meeting in July 2003, reporting assistance was provided to 25 states; of these 20 submitted reports to the meeting.²⁵

On-site support may also be provided on request, including workshops for officials from relevant government departments (such as defence, foreign affairs and customs) on how to gather information, co-ordinate and co-operate, and create opportunities for in-depth discussions on the content of national reports.²⁶ These capacity-building workshops (several of which have already been held, including one in Nairobi, Kenya, in May 2003) enable states to discuss issues that are applicable to and/or are sensitive for them, and allows them an opportunity to draw on best practice from other country reports.

According to the UN, states may use their annual reports to 'identify new developments in the implementation process as well as any remaining difficulties'.²⁷ They provide an opportunity to identify lessons learned and establish a record of progress. National reporting is undoubtedly important in helping increase transparency and build confidence among states that the POA is being implemented. States may use it to share and make public information on an array of measures, such as the enactment of national legislation to criminalize the illicit manufacture of, possession of or trade in SALW or the development and implementation of disarmament, demobilization and reintegration programmes.

The reports submitted to the UNDDA in 2003 have been analyzed to help identify progress in reporting on implementation of the POA and highlight requirements for further support from UN agencies and donors.²⁸ The analysis presents an account of the broad trends in reporting, but also analyses thematic areas across the reports submitted in 2003. It notes, for example, the number of references made in states' reports to different issues and the substance of these references, particularly in

terms of good practice such as marking and tracing of SALW, and whether technical or financial assistance has been offered or received. Where possible the report also analyses the links between reporting and implementation, for example, the number of national co-ordination agencies that have been mentioned in reports submitted by states as against the (larger) number that actually exist.²⁹

This is a sensitive step forward for the UN since it officially has no mandate to make any assessment of states' progress, but, by identifying areas for improvement, it should encourage more comprehensive reporting and ultimately more effective implementation, as well as help states to prepare their reports for the next biennial meeting in 2005.

There is certainly considerable value in encouraging a more systematic approach to national reporting, as it should make the information more useful and meaningful provided sufficient detail is included. This latter point is quite crucial, as it is difficult to discern the effectiveness of policies that states have put in place when transparency is purely voluntary.

The capacity-building approach is at least a systematic attempt not only to encourage and facilitate national reporting, but also to streamline it so that the data reported are sufficiently meaningful to make it possible to evaluate the efficacy of such critical measures as legislation and regulations. States are also encouraged to submit national reports annually, which is critical to sustaining momentum even if there have not been any significant changes or progress since the previous year in implementing the POA.

Qualitative assessments of the information exchange are currently the preserve of civil society and NGOs, since no committee or body has been mandated by the states to assess implementation. It is probably premature even for an ad hoc committee to be set up to make assessments of implementation, which is why so far the focus on information sharing has been to build confidence among states. This is working slowly but surely.

The opportunity to strengthen the follow-up and monitoring provisions in the agreement will come in 2006, when the POA will be fully reviewed, enabling states to strengthen (or possibly weaken), the POA and its associated measures. In the meantime, and in the absence of a stronger monitoring mechanism, civil society is stepping in to fill this void.

Co-operation and partnership

Section III of the POA establishes measures on co-operation and assistance thus: ‘states undertake to ensure co-ordination, complementarity and synergy in efforts to deal with the illicit trade in [SALW] in all its aspects’.³⁰ The agreement refers to co-operation repeatedly, particularly in relation to establishing partnerships at all levels, enhancing co-operation between arms control officials,³¹ building capacities in areas including stockpile management and security,³² and considering the promotion of assistance, when requested.

This emphasis on co-operation and partnership has enabled a certain amount of openness among some governments in tackling the problem of SALW and implementing the POA. While this is far from universally recognized or accepted, a willingness to involve civil society NGOs has begun to extend beyond the usual progressive states—those at the forefront in calling for a broader response rather than just solely tackling the illicit trade. For example, NGOs have been included in national commissions in Kenya, Tanzania and Uganda.

The role of civil society in monitoring the POA

The POA recognizes the important contribution of civil society in tackling the illicit SALW trade and in implementing the agreement. It also encourages relevant international and regional organizations to facilitate co-operation between governments and civil society, especially NGOs.³³

The partners in the Biting the Bullet project—Saferworld, International Alert and Bradford University—along with the International Network on Small Arms and Light Weapons (IANSA) have joined forces to monitor states’ progress and produce reports on their implementation efforts.³⁴ This consortium produced a substantial report on states’ implementation for the 2003 biennial meeting, *Implementing the Programme of Action: Action by States and Civil Society*.³⁵ Updates will be produced for the 2005 biennial meeting and the 2006 Review Conference.

The first report, covering 156 states, produced a baseline assessment of policy and practice relating to key commitments in the POA, including on establishing national points of contact and national co-ordination agencies, the introduction or revision of relevant legislation and administrative procedures, stockpile management, disarmament, and weapons collection and destruction. It also examined in more

detail policies and practices at the national and regional level. This is particularly important since considerable progress on tackling SALW proliferation has been encouraged through regional approaches. The report concluded with recommendations for states on improving implementation of the POA, including the need for governments and other stakeholders to ‘develop and strengthen regional and international mechanisms to encourage and facilitate information exchange and transparency’.³⁶

Researchers from around the world collected the data and information on states to produce the report. Given the sensitive nature of the issues covered by the POA, such as stockpile management and exports and imports of SALW, this task is difficult and even risky, especially in those countries that lack stable democratic structures.

Clearly, a role for the analysis of data on implementation is necessary, and the production of such a report is certainly a valuable contribution to the UN SALW process and, in the absence of adequate reporting by states, critical to stimulating scrutiny of states’ progress or the lack of it.

Extending the UN Register to include SALW?

The UN Register of Conventional Arms is a voluntary arrangement, established in 1991 by the UN General Assembly, covering seven categories of heavy weapons and military equipment.³⁷ States provide the UN Secretary-General with relevant data on annual exports and imports. The information submitted on arms transfers is rarely systematic, comprehensive or coherent, making it difficult to tally exports with imports. This has meant that the instrument is not as useful as it should have been, and it has therefore not succeeded in building confidence, which is essential if more countries are to participate and improve the quality of their submissions.

Governments have largely resisted extending the scope of the UN Register to cover SALW. By all accounts, the types of information and data required to make such an extension useful would not fit with the existing format. While of course this is also politically convenient for those states that are reluctant to see such information published, there are some legitimate concerns about how to categorize information on SALW transfers. Nonetheless, this has not deterred some states from submitting background information on SALW imports/exports as part of the register.³⁸

The 2003 Group of Government Experts mandated to consider ways of developing and expanding the scope of the UN Register noted that ‘interested states could provide voluntary information on transfers of small arms and light weapons with their annual submissions’.³⁹ The group also proposed that the reporting threshold for large-calibre artillery systems should be lowered from 100 mm to 75 mm, that man-portable air defence systems (MANPADS) should be included⁴⁰ (both are recognized as light weapons) and that these definitions should be used in reporting. MANPADS are now included in category VII entitled ‘Missiles and Missile Launchers’. The register has thus already begun to evolve towards including at least some part of the SALW problem.

Precedents for a verification role in SALW control?

While the POA is the only international agreement covering SALW, other agreements—such as the Nairobi Protocol and the Southern African Development Community (SADC) Protocol—contain measures relating to monitoring and verification in SALW control. These illustrate how a mechanism that builds greater accountability into monitoring implementation can be developed.

The 2004 Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa is legally binding. It was agreed on 21 April 2004 and signed by all 11 states in the region,⁴¹ but cannot enter into force until two-thirds of the signatory states have ratified it.⁴² The protocol mandated the Nairobi Secretariat on Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa to oversee and monitor implementation of the agreement and ensure states’ compliance.⁴³ The secretariat had been set up by the 2000 Nairobi Declaration on Small Arms and Light Weapons.⁴⁴ The protocol also declares that disputes will be settled ‘in accordance with the principles of public international law’,⁴⁵ although it is unclear what this means and exactly what disputes will require settling.

The 2001 SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials (the SADC Firearms Protocol)⁴⁶ sets out minimum standards for addressing the priorities of the region on SALW (including firearms) control. Many of the provisions are similar to those in the POA. Article 17 establishes a

committee to oversee implementation, while Article 18 requires that disputes arising from interpretation or application of the protocol which cannot be settled amicably may be referred to a tribunal.

While these two agreements have similar monitoring provisions, the difference in their implementation demonstrates the importance of securing the political support and commitment of states to ensure that the arrangements actually function. In the case of the SADC Protocol, despite its call for a committee to oversee implementation, this has not yet been agreed due to a lack of co-ordination between the SADC and the Southern African Regional Police Chiefs Co-operation Organisation (SARPPCO), as well as political confusion over the division of responsibilities.⁴⁷ As for the Nairobi Protocol, the Nairobi Secretariat is tasked with overseeing implementation of this agreement. Governments in the region have seconded personnel to work in the secretariat and it has already begun work on implementation of the protocol. Representatives from each of the national focal points in states that have signed the protocol met in July 2004 in Tanzania to begin developing an implementation plan.

Conclusions

At present provisions relating to the monitoring of SALW agreements are geared towards encouraging and facilitating transparency, and building confidence and co-operation, rather than actually monitoring and ensuring compliance. In terms of developing the follow-up mechanism and monitoring measures in the POA, there is some possibility that the framework for information exchange and policy development will be strengthened. Of course some states are unwilling to agree to measures that involve increasing levels of transparency and accountability, and this does tend to make the inclusion of more stringent, formal provisions for oversight of the POA's implementation more difficult. Nevertheless, increased transparency would serve to enhance the effectiveness of this agreement, especially among those states that are endeavouring to put their commitments into practice.

It will be interesting to see how negotiations taking place in the Open Ended Working Group (OEWG) on Marking and Tracing of SALW will address the monitoring issue and what follow-up process will be decided. The origin of this group lies in

the section of the POA in which states agreed that a study be undertaken to examine the feasibility of 'developing an international instrument to enable [s]tates to identify and trace in a timely and reliable manner illicit small arms and light weapons'.⁴⁸ Following the recommendations of this study, the UN General Assembly adopted a resolution to establish an OEWG to negotiate such an instrument.⁴⁹ The OEWG held the first of three planned negotiating sessions in June 2003 in New York. At the very least there should be standardized annual reporting by and annual meetings of state parties.

Meanwhile, opportunities for strengthening co-operation among all stakeholders (states, regional organizations, international organizations and civil society) in relation to all aspects of the POA should be pursued. At present, efforts should centre on encouraging co-operation and assistance in those regions where initiatives are absent or are poorly implemented.⁵⁰ Comprehensive, standardized, good-quality annual national reporting is particularly useful as it provides states with an opportunity to identify their needs and the help they require to implement the POA.

To promote the implementation of the POA, a different approach to an intrusive regime is required, one where states recognize and are willing to genuinely combat the proliferation and misuse of SALW through increased transparency, leading to greater accountability. Highlighting strengths and weaknesses is also something states should welcome in order to collectively help them adopt best practices. While a more systematic and formal approach to reviewing and monitoring implementation of the POA is likely to be resisted for the time being, the Review Conference in 2006 does at least provide a forum for further dialogue. At the very least states should seek to build on the existing process.

States are being encouraged to implement the POA by civil society and by the more 'progressive' states. They are being provided with technical and other assistance through partnerships and increased co-operation at the regional and international levels. This approach is reaping some results as states become less circumspect about civil society organizations and recognize the advantages of working with them, given the expertise and experience they have to offer on an array of SALW issues. However, in the long run, for SALW efforts to be truly effective there is a need for formalized and institutionalized monitoring of compliance.

Helen Hughes is Project Co-ordinator on Small Arms and Export Controls at Saferworld in London. She also worked extensively on small arms issues in her former position as Disarmament Programme Officer at the United Nations Association of the UK (UNA-UK). She has an MA in international politics and security studies from the Peace Studies Department at Bradford University, UK.

Endnotes

- 1 UN document A/CONF.192/15, July 2001.
- 2 Kate Joseph and Taina Susiluoto, 'A role for verification and monitoring in small arms control?', in Trevor Findlay and Oliver Meier (eds), *Verification Yearbook 2002*, Verification Research, Training and Information Centre (VERTIC), London, December 2002, p. 129.
- 3 The Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and Horn of Africa, 2004, adopted at the Ministerial Review Conference in April 2004. See www.saferfrica.org/DocumentsCentre/NAIROBI-Protocol.asp.
- 4 Section II, paras 4 and 5.
- 5 Section II, para. 2.
- 6 Section II, para. 3.
- 7 Section III, para. 29.
- 8 Section II, paras 21 and 30.
- 9 Section II, para. 40.
- 10 'Reaching consensus in New York: the UN 2001 Small Arms Conference', in *Small Arms Survey Yearbook 2002*, Small Arms Survey, Geneva, pp. 203–227.
- 11 John Bolton (US Under Secretary of State for Arms Control and International Security Affairs), Statement to the UN Conference on Small Arms and Light Weapons, New York, 9 July 2001.
- 12 Helen Hughes, *Falling Short: Limited Action to Curb Small Arms*, United Nations Association of the UK, London, September 2001, p. 11.
- 13 Section IV, para. 1(a).
- 14 Section IV, para. 1(b).
- 15 *Small Arms Survey Yearbook 2002*, p. 227.
- 16 Joseph and Susiluoto, p. 136.
- 17 A draft legally binding instrument has been developed by a group of NGOs working for an international Arms Trade Treaty. See www.controlarms.org/the_issues/ATT_0504.pdf. Other initiatives include the Biting the Bullet Small Arms Consultative Group, which is examining transfers to non-state actors and the development of guidelines for transfer controls; and the UK-led Transfer Control Initiative which aims to develop support among regions for common international controls on SALW transfers.
- 18 The British American Security Information Council (BASIC), International Alert and Saferworld, *Implementing the UN Action Programme for Combating the Illicit Trafficking in Small Arms and Light Weapons in All Its Aspects*, Biting the Bullet Briefing paper no. 15, BASIC, International Alert and Saferworld, London, 2001, p. 14.
- 19 Para. 16, Preamble. UN document A/Conf.192/L.4, December 2000.
- 20 BASIC, International Alert and Saferworld, *Implementing the UN Action Programme for Combating the Illicit Trafficking in Small Arms and Light Weapons in All Its Aspects*, p. 14. This measure was originally para. 26 of section II in the first draft, UN document A/Conf.192/L.4.
- 21 'To make public national laws, regulations and procedures that impact on the prevention, combating and eradicating of the illicit trade in small arms and light weapons in all its aspects and to submit, on a voluntary basis, to relevant regional and international organizations and in accordance with their national practices, information on, inter alia, (a) small arms and light weapons confiscated or destroyed within their jurisdiction; and (b) other relevant information such as illicit trade routes and techniques of acquisition that can contribute to the eradication of the illicit trade in small arms and light weapons in all its aspects'. POA, section II, para. 23.
- 22 Section II, para. 31.
- 23 In addition to states, UN agencies, regional organizations, NGOs and other entities have also provided the UNDDA with information on relevant projects and programmes. These demonstrate the great relevance

- of small arms issues to many others, including health, human rights and child welfare. There are a multitude of initiatives happening in response to and alongside the POA at all levels.
- 24 The Small Arms Survey in Geneva is the technical adviser.
- 25 United Nations Development Programme (UNDP), UNDDA and the United Nations Institute for Disarmament Research (UNIDIR), 'The UN [POA] on Small Arms: implementation and reporting' (brochure) (no date), www.undp.org/bcpr/smallarms/PoA.htm.
- 26 UNDP, UNDDA and UNIDIR, 'The UN [POA] on Small Arms: implementation and reporting'.
- 27 UNDP, UNDDA and UNIDIR, 'Assistance package: guidelines for reporting on implementation of the [POA]', p. 5. See www.undp.org/bcpr/smallarms/docs/POA_package.pdf.
- 28 The analysis of reporting was conducted under the auspices of the United Nations Coordinating Action on Small Arms (CASA), as a joint UNIDIR, UNDP and UNDDA project, with the Small Arms Survey as a project partner. See Elli Kytömäki and Valerie Yankey-Wayne, 'Implementing the United Nations Programme of Action on Small Arms and Light Weapons: analysis of the reports submitted by states in 2003', Geneva, UNIDIR, 2004.
- 29 Kytömäki and Yankey-Wayne, p. 20
- 30 Section III, para. 2.
- 31 Section III, para. 7.
- 32 Section III, para. 6.
- 33 Section II, para. 40.
- 34 See www.international-alert.org/policy/biting.htm.
- 35 Biting the Bullet/International Network on Small Arms and Light Weapons (IANSA), *Implementing the Programme of Action: Action by States and Civil Society*, London, 2003. See www.iansa.org/documents/03poareport/index.htm.
- 36 Biting the Bullet/IANSA, *Implementing the Programme of Action: Action by States and Civil Society*, p. 191.
- 37 UN General Assembly Resolution 46/36 L, 9 December 1991. The categories are: battle tanks; armoured combat vehicles; large-calibre artillery systems; combat aircraft; attack helicopters; warships; and missiles and missile launchers.
- 38 Poland and Sweden have apparently included details on small arms transfers in their reports for 2003 to the UN Register. The UK has also included an aggregate of its transfers of small arms. See UN, 'Report of the Secretary-General: the UN Register of Conventional Arms', UN document A/59/193, 30 July 2004.
- 39 UN, 'Report on the continuing operation of the United Nations Register of Conventional Arms and its further development', UN document A/58/274, New York, 13 August 2003, para. 107.
- 40 UN, Press Release DC/2880, 1 August 2003. See also UN, 'Report on the continuing operation of the United Nations Register of Conventional Arms and its further development', UN document A/58/274, para. 112.
- 41 The signatories are Burundi, the Democratic Republic of the Congo (DRC), Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, the Seychelles, Sudan, Tanzania and Uganda.
- 42 The signatories have apparently agreed an ambitious plan for this to happen by the end of 2004.
- 43 According to Article 18, Institutional Arrangement, '(a) State Parties mandate the Nairobi Secretariat to oversee the implementation of this protocol; (b) In this regard the Nairobi Secretariat shall be responsible for: development and issuance of guidelines and instructions for the implementation of, monitoring the implementation of, the execution of, and the evaluation of this Protocol, in liaison with law enforcement agencies, and ensuring adherence to the standards set out therein informing Ministers on a regular basis of progress thereof; and, attending to the difficulties experienced in the application of this protocol'.
- 44 See www.saligad.org/declarations/declaration_nairobi.html.
- 45 Article 19, Settlement of Disputes. 'Disputes arising out of the interpretation or application of this

Protocol, which are not settled amicably, shall be settled in accordance with the principles of public international law’.

- 46 SADC members have signed the protocol, bringing it into force on 31 July 2004. The SADC countries are Angola, Botswana, the DRC, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.
- 47 As a result of the treaty establishing the SADC, the secretariat is mandated to oversee implementation of all agreements that come under it, including, in principle, this protocol. However, at one point it looked as though the Southern African Regional Police Chiefs Co-operation Organisation (SARPPCO) would become the agency to oversee implementation of the protocol. It is still unclear which body will take responsibility.
- 48 Section IV, para. 1(c).
- 49 UN General Assembly Resolution 58/241, ‘The illicit trade in small arms and light weapons in all its aspects’, 23 December 2003, operative paras 8 and 9. See <http://disarmament.un.org:8080/cab/salw-oewg.html>.
- 50 *Biting the Bullet/IANSA, Implementing the Programme of Action: Action by States and Civil Society*, p. 7.