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A federal firearms specialist searches gun records on microfiche, Martinsburg, WV, USA, March 2010.
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Second Wind

THE POA'S 2012 REVIEW CONFERENCE

INTRODUCTION

All fired up. Nothing to do. The Second Review Conference (RevCon) for the UN Programme of Action (PoA)¹ faced the same problem that had helped to sink its predecessor, namely how to make sense of a mandate that required it 'to review progress made' in PoA implementation when there was no mechanism to do so.²

This chapter explains how the Second Review Conference, despite such uncertainty, managed to achieve a result that holds out the promise of a strengthened PoA. Drawing on relevant UN documents and the author's own observations of the meeting and its preparatory phase, the chapter examines the principal features of the Review Conference process and outcome. Its main conclusions include the following:

- The Second Review Conference avoided many of the problems that plagued the First Review Conference, largely through the use of a working method that contributed to the success of UN small arms meetings after 2006.
- The Review Conference outcome is forward-looking, setting out a series of measures intended to bolster implementation of the PoA and the International Tracing Instrument (ITI)³ during the next six-year meeting cycle.
- While the Review Conference text draws on the conclusions of preceding PoA meetings, overall it has little to say about 'progress made' in PoA and ITI implementation, reflecting the lack of formal monitoring tools.
- The Review Conference outcome raises the possibility of increased attention to longer-term trends in small arms proliferation and misuse, including the related question of PoA and ITI effectiveness.
- The challenges associated with the proliferation and misuse of small arms remain acute, yet UN member states have now laid the foundations for sustained and effective solutions to the problem.

The chapter begins by analysing the difficulties inherent in the Review Conference mandate, as initially formulated, before presenting the main features of Conference preparations. A section covering the main developments at the Conference itself then paves the way for a more detailed analysis of Review Conference achievements—in terms of process as well as substance. The conclusion recaps the chapter's main themes, including the Conference's potentially positive, but as yet unconfirmed, legacy.

CONFERENCE MANDATE

In preparing for the Second Review Conference, UN member states were, in a sense, starting from scratch. The PoA's First Review Conference, convened in June–July 2006, had failed to produce a substantive outcome, largely because states could not agree what its formal mandate—'to review progress made' in PoA implementation (UNGA, 2001, para. IV.1.a)—meant exactly.⁴ Nevertheless, the subsequent meeting cycle proved quite productive. In contrast to the

first two Biennial Meetings of States (BMSs), held in 2003 and 2005, BMS3 and BMS4 (held in 2008 and 2010) produced substantive outcomes covering a range of subjects.⁵ There was nothing very new in these discussions, but the meeting outcome documents, negotiated by diplomats, did offer useful elaboration of many existing (often vague) PoA provisions. An Open-ended Meeting of Governmental Experts (MGE), convened in May 2011, resulted in a Chair's Summary that recapped discussions of specific challenges states were encountering in their implementation of the ITI and means of overcoming the same (New Zealand, 2011).⁶

These meetings were designed to clarify the practical implications of fulfilling PoA and ITI commitments in specific areas and to share experiences in meeting associated implementation challenges. They did not, however, attempt to assess the extent to which states, individually or collectively, were fulfilling their commitments under these instruments. BMS4 considered the question of PoA follow-up, producing a recommendation for 'a comprehensive assessment of progress in the implementation of the Programme of Action [. . .] as an input for the 2012 Review Conference', which, in a subsequent General Assembly resolution, became an invitation to 'Member States to communicate [. . .] their views' on such progress (UNGA, 2010a, para. 40;⁷ 2010b, para. 29). The result, a short report compiling the submissions of seven states, fell far short of 'a comprehensive assessment' of progress in implementing the PoA and ITI, but it did contain useful information on national implementation by the seven countries, their assessment of implementation challenges, and their priorities for the future, including for the Second Review Conference (UNGA, 2012d).

In short, the second PoA meeting cycle (2006–12), though far more productive than the first, did not examine 'progress made' in PoA implementation. Nor did it establish any mechanism that would, for example, analyse the information contained in national reports on PoA and ITI implementation. That left the Second Review Conference to grapple with the question of how to give effect to its formal mandate. The General Assembly resolutions that preceded the Conference offered little help in this regard, most often simply echoing the PoA's original formulation of the Review Conference mandate.⁸ Resolution 66/47, however, also encouraged states 'to explore ways to strengthen [PoA] implementation' at the Conference, suggesting that the Conference would, to some extent, look to the future (UNGA, 2011, para. 14).

**The PoA process
lacked a mechanism
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PoA implementation.**

RUN-UP TO REVCON

Notwithstanding the uncertainties surrounding its mandate, the Review Conference was able to look to the UN small arms meetings that preceded it for guidance as to how to go about its work. BMS3 established a set of principles for the preparation and organization of UN small arms meetings that broke with earlier, relatively unstructured practice and guided BMS3, as well as BMS4 and the 2011 MGE, to greater success.⁹ A key element of this approach was the early designation of the meeting chair.

The chair takes the reins

In May 2011, Ambassador U. Joy Ogwu of Nigeria was designated chair of the Second Review Conference and of its Preparatory Committee (PrepCom).¹⁰ As preceding meeting chairs had done, she took advantage of this early nomination to consult with member states on procedural and substantive questions relating to the Conference well before it, or its PrepCom, convened.¹¹

Joy Ogwu, Permanent Representative of Nigeria to the UN and President of the Review Conference, addresses delegates at the Second Review Conference on the UN PoA, New York, August 2012. © UN Multimedia



At an early stage in her consultations, Ambassador Ogwu floated the possible adoption of another element of the BMS3 working method, namely limiting the number of meeting topics (Nigeria, 2011a; 2011b). This option was rejected in favour of a comprehensive approach; there would be no culling of topics from the broader PoA and ITI menu when developing the Review Conference agenda (Nigeria, 2011c). That obviously put a premium on effective time management at the two-week Review Conference and its one-week PrepCom session.

The idea of conducting parallel Review Conference sessions was explored during the consultations, but dropped due to a lack of available meeting space and the difficulty smaller delegations would have had in covering simultaneous meetings (Nigeria, 2012a). Instead, Ambassador Ogwu adopted two further components of the BMS3 approach that had helped make the most of scarce meeting time. The first was the use of facilitators, employed at both BMS3 and BMS4 to shepherd the development of specific sections of meeting outcome documents (Nigeria, 2011a; 2011b). The second component was to dispense with—or, in the case of the Review Conference, limit—general statements in order to focus meeting discussions on the contents of the outcome documents (Nigeria, 2011c; 2012a).¹²

In order to prepare for the Review Conference, it was important to make good use of the PrepCom, something states had failed to do before the First Review Conference.¹³ In general terms, this implied some discussion of, and agreement on, substantive components of the Review Conference at the PrepCom (Nigeria, 2011b; 2011c). To help steer the meeting in this direction, in early March Ambassador Ogwu issued a set of 'indicative non-papers', listing 'possible areas of focus' in the PrepCom discussions (Nigeria, 2012b).

The March 2012 PrepCom

The PrepCom for the Second Review Conference convened from 19 to 23 March 2012. The key issue facing the meeting was the same that had confronted the UN membership since the start of Conference preparations, namely how to carry out the Conference's formal mandate 'to review progress made' in PoA implementation when the UN membership had established no mechanism for measuring such progress.

At the outset of the PrepCom, Ambassador Ogwu emphasized the need for the meeting to focus on substance. She asked national delegations to indicate which topics, in their view, the Review Conference should address and to limit the length of their interventions.¹⁴ There was no 'general debate' or 'general exchange of views'—UN language for a wide-ranging discussion of any and all aspects of a particular subject. Instead, upon completion of initial formalities that included the adoption of the meeting agenda, the PrepCom moved immediately to a 'thematic debate' consisting of five topics mirroring the structure of the PoA and a sixth relating to the ITI as a whole (UNGA, 2012a).¹⁵

The PrepCom moved immediately to a thematic debate consisting of six topics.

Throughout the week, PrepCom discussions proceeded at a relatively brisk pace, with most countries mentioning specific issues they wanted the Review Conference—and the subsequent six-year meeting cycle—to address. On 22 March, the second-to-last day of the PrepCom, Ambassador Ogwu distributed a Chair's Summary that sought to distil the range of views states had expressed regarding Review Conference priorities (Nigeria, 2012c).¹⁶ In essence, for each of the six PrepCom topics, the document presented some of the steps states had taken to implement the PoA and ITI and, at the same time, it listed 'suggested themes for the Second Review Conference' (Nigeria, 2012c). To some extent, the document looked backwards in that it 'noted' specific examples of progress in PoA and ITI implementation that states had cited at the PrepCom. Yet, in its enumeration of suggested Review Conference themes, which were largely priorities for work after the Conference, it also looked to the future. Overall, however, the focus was not on introducing new issues to the existing PoA–ITI framework, but rather on strengthening implementation of this framework.

On the final day of the PrepCom, states could not agree whether to annex the Chair's Summary to the formal (procedural) report of the meeting. Instead, the Summary was issued as a 'conference room paper'—officially, one input, among others, to the Review Conference, 'prepared under [the chair's] own responsibility' (UNGA, 2012b, para. 10). Nevertheless, almost all states that spoke on the issue at the end of the PrepCom said they considered the Chair's Summary a good basis for the upcoming Review Conference discussions. In practice, the document was to provide a rough template of the Conference outcome structure, as well as much of the raw material that would fill that structure.

From PrepCom to RevCon

Early in her consultations, and again at the PrepCom, Ambassador Ogwu indicated she wished to use the period between the March PrepCom and the August–September Review Conference to prepare and discuss a draft outcome document of the Conference; the Review Conference would largely concern itself with negotiations on the draft (Nigeria, 2011c; 2012a).¹⁷ On 6 June, as an annexe to a letter she addressed to UN member states, Ambassador Ogwu distributed a set of 'zero drafts' of the Review Conference outcome, comprising:

- a '2012 Declaration';
- an implementation plan for the PoA;
- an implementation plan for the ITI; and
- a schedule of meetings covering the 2012–18 period (Nigeria, 2012d; UNGA, 2012c).

The zero drafts sought to translate the PrepCom discussions into draft outcome form (Nigeria, 2012d). They included many of the points contained in the Chair's Summary that Ambassador Ogwu produced at the end of the PrepCom and used the PrepCom meeting structure. The implementation plan for the PoA contained four separate sections covering implementation at the national, regional, and global levels, plus international cooperation and assistance. While tackling the question of what meetings to convene during the 2012–18 cycle, the separate schedule of meetings document also included other points relating to PoA and ITI follow-up.

The zero drafts were discussed at informal consultations that Ambassador Ogwu convened at the UN's New York headquarters on 14 and 29 June 2012. Thereafter, the main work of developing the draft outcome shifted to the four facilitators she had appointed:

- Claire Elias (Australia) for the 2012 Declaration;
- Amr Aljowaily (Egypt) for the ITI implementation plan;¹⁸
- Bibi Sheliza Ally (Guyana) for the PoA implementation plan; and
- Tomoaki Ishigaki (Japan) for the schedule of meetings.

As the Conference on the Arms Trade Treaty occupied UN arms control diplomats for almost all of July, the facilitators conducted most of their consultations on the zero drafts in August, releasing a new set of draft outcome documents the week before the Review Conference (UNGA, 2012e).¹⁹ The 21 August drafts retained the structure and much of the content of the zero drafts. In an effort to address competing national proposals, however, some parts of the new text were unclear²⁰ or went so far as to dilute existing PoA or ITI commitments.²¹ That conjured up the ghost of the First Review Conference, which at times had seemed determined to call the existing normative framework into question.²² The challenge for the Second Review Conference, then, building on the 21 August drafts, was to find ways of adding value to—not subtracting it from—existing PoA and ITI norms, while staying within the bounds of the politically feasible.

States had nine days to negotiate the Review Conference outcome.

THE SECOND REVIEW CONFERENCE

The PoA's Second Review Conference was convened at UN headquarters in New York from 27 August to 7 September 2012. With a UN holiday on 3 September removing one working day from the schedule, states had nine days to negotiate the Conference outcome. As described above, the UN membership had made a reasonably good start on this task, with Ambassador Ogwu preparing an initial draft of the Review Conference texts after the PrepCom and following up in August with revised versions that took account of the facilitators' pre-Conference consultations. Success was not guaranteed, however. Formally, no part of the draft outcome was, or would be, agreed by the UN membership until the last day of the meeting;²³ meanwhile, important challenges remained—not least, the fact that certain parts of the 21 August drafts weakened existing PoA–ITI norms.

At the first session of the Review Conference, Ambassador Ogwu reiterated the need to make optimal use of the limited time available. She encouraged states to utilize the 'general exchange of views' segment of the Conference to indicate the kind of Review Conference outcome they sought, using their national reports to convey information on implementation (UNGA, 2012g).²⁴ In the event, the Review Conference breezed through the initial 11 points of its agenda at its first meeting on 27 August. These involved organizational matters, such as the election of Ambassador Ogwu as Conference president, as well as the—sometimes more contentious—adoption of the Conference agenda and rules



The representative of Australia addresses delegates at the Second Review Conference, New York, August 2012. © UN Multimedia

of procedure (UNGA, 2012g; 2012f). Most of the first meeting was, in fact, devoted to item 12 of the agenda, the ‘general exchange of views’.

Agenda item 12 was largely wrapped up by the second day of the Conference, with statements by intergovernmental organizations and NGOs taking up part of the second and third days.²⁵ This was in stark contrast to the PoA’s First Review Conference, during which statements by all groups, but especially states, took up almost the entire first week.²⁶ Equally important, during the opening phase of the Second Review Conference, most countries followed Ambassador Ogwu’s suggestion and set out their objectives for the Conference outcome; only exceptionally did their statements focus on past implementation.

On the morning of the third day of the Conference, 29 August, attention shifted to the 21 August drafts (UNGA, 2012e). Starting with the PoA implementation plan, states reviewed these texts, usually paragraph by paragraph, making specific comments and requests for amendments. Beginning on Friday, 31 August, plenary meetings were supplemented by informal meetings; open to all states, these were convened during lunch-time or in the evening in smaller rooms and without UN language interpretation. By the end of the first week, the Review Conference had completed one or more readings of each draft outcome document, with the exception of the 2012 Declaration.

On Tuesday morning, 4 September, the start of the Conference’s second week, the president issued revised versions of the PoA and ITI implementation plans, and of the ‘follow-up’ section,²⁷ all of which took account of the discussions held in week one (UNGA,

2012h). On 4–5 September, states considered the 2012 Declaration and the three other documents in plenary and informal meetings, which were frequently chaired by the four facilitators.²⁸ On Thursday morning, 6 September, the second-to-last day of the Conference, Ambassador Ogwu issued a new set of outcome documents, comprising an ‘Annex 1’, with revised versions of the 2012 Declaration, the PoA implementation plan, and the follow-up section, and an ‘Annex 2’ incorporating the revised ITI implementation plan (UNGA, 2012i). In consolidating the four outcome texts into two, the President sought to balance the demands of some states for a single outcome document and of others for the initial four-document structure.

States considered the two-annexe text—as a whole—in a plenary meeting on Thursday morning. While many states said they could accept the document as it stood, others raised objections to certain parts of the text. By this time, although issues that had prompted much debate at the Conference, such as ammunition, border controls, gender, and conflict tracing, had been settled, other sticking points remained. These included: language on international transfer controls, in particular UN arms embargoes (PoA implementation plan); the topics of future UN small arms meetings (follow-up section); and a possible study on the implications for ITI implementation of recent developments in small arms manufacturing, technology, and design (ITI implementation plan). On Thursday afternoon and evening, the facilitators chaired successive, informal meetings that attempted to resolve these and other outstanding issues.

The disagreement on arms embargoes saw the European Union pushing for clear references to such measures in the Conference outcome and Iran and North Korea strongly resisting the same. The dispute was settled by replacing a provision that repeated PoA language on embargoes with general reaffirmations of PoA undertakings, including those on arms embargoes, at the national and global levels.²⁹ Language fixes were also found for the provisions on future meeting topics³⁰ and the ITI technical study.³¹

These and other revisions were incorporated in new versions of the two outcome documents that the president issued on the morning of the last day of the Conference, Friday, 7 September (UNGA, 2012j). Final amendments to the Declaration and to transfer controls language in the PoA implementation plan were required before the Conference outcome documents could be adopted, by consensus, on Friday afternoon (UNGA, 2012l; 2012m), as annexes to the formal Conference report (UNGA, 2012k).

UN member states had broken the spell that had doomed the First Review Conference, but what was gained—or lost—as a result? The next sections consider the specific achievements, and some of the missed opportunities, of the Second Review Conference in terms of process, as well as substance.

PROGRESS MADE: PROCESS

At both the beginning and the end of the Second Review Conference, states noted its importance to the broader UN arms control agenda.³² Discussions on an Arms Trade Treaty had stalled.³³ After more than a decade, the Conference on Disarmament in Geneva remained at an impasse. Not only did the Review Conference result set a positive precedent for the PoA’s Third Review Conference, but it also demonstrated that the UN’s 193 member states could still reach agreement on arms and security matters. Some of the structural reasons for this outcome are mentioned above; this section recaps these points and calls attention to several others that, together, contributed to the relatively positive Review Conference result.

UN member states broke the spell that had doomed the 2006 Conference.

Overall, the Review Conference, including its preparatory phase, was characterized by incremental, visible progress towards a final (consensual) outcome. At an early stage, Ambassador Ogwu was nominated as the chair-designate of the Review Conference and its PrepCom. Her initial consultations allowed for the timely development of the key parameters of the Review Conference process. Prominent among these was the optimal use of scarce meeting time at both the PrepCom and the Review Conference. PrepCom discussions were substantive in nature, allowing Ambassador Ogwu to identify a list of ‘elements’ for the Conference and, in early June, table a set of ‘zero drafts’ that served as the basis for subsequent, focused discussions on, and revisions to, Conference outcome text (Nigeria, 2012c; UNGA, 2012c).

The pre-Conference drafts presented, at least implicitly, the solution to the problem of the Review Conference’s ambiguous—and, to some extent, impracticable—mandate ‘to review progress made in the implementation of the Programme of Action’ (UNGA, 2001, para. IV.1.a). These documents acknowledged, in general terms, the efforts states had undertaken to give practical effect to the PoA and ITI. Fundamentally, however, they were forward-looking in nature, identifying measures to strengthen implementation in various areas during the period leading to the Third Review Conference in 2018.

By and large, the process was inclusive, transparent, and structured.

At the Conference itself, the president, with the assistance of the facilitators, produced four new versions of the Review Conference outcome. Language was sharpened. Text that weakened existing PoA and ITI norms was brought into conformity with those instruments. Issues that, for some, went beyond the text of the PoA and ITI were subjected to caveats (such as ‘when appropriate’), yet since these provisions typically sought to enable action, not compel it, they largely retained their value. Many issues, though important to some states, were left by the wayside in the drive towards consensus. Successive drafts of the Review Conference outcome retained only those points and language formulations that were broadly acceptable to all other states—mostly as discussed during meetings attended by all states, but sometimes as elaborated by smaller groups of states with an interest in the relevant issue. Even in the latter case, however, the Conference president and the facilitators identified such groups and invited interested countries to join their discussions.

By and large, the Review Conference process was inclusive, transparent, and structured. As noted above, UN member states took on board many elements of the working method that had initially been applied at BMS3 and that had helped put the UN small arms process back on track after the First Review Conference. Yet they also avoided several other hazards that had contributed to the failure of the 2006 Conference. Among them, perhaps the most important was the resolution of the uncertainty surrounding the Review Conference mandate at an early stage. By the time the Conference started, states seemed comfortable with an outcome document that, while forward-looking, was rooted squarely in the implementation of existing PoA and ITI norms.

Ambassador Ogwu also maintained control of the process, for example by avoiding the use of rolling text (the submission of a draft to line-by-line amendment), something that had gobbled up scarce time at the First Review Conference. Last, but not least, there was a spirit of compromise at the Second Review Conference that had been largely absent at its 2006 predecessor. Positions that met serious opposition were usually sacrificed in favour of commonly acceptable language. Overall there were fewer ‘red lines’ at play at the Second Review Conference than in 2006. When states reached an apparent impasse, for example on the issue of arms embargoes, compromises were promptly found. The Second Review Conference also saw states focusing largely on substance—rather than on the kinds of political considerations that had bedevilled the First Review Conference.³⁴ At the end of the day, this is arguably the key test of any multilateral process—whether it enables consideration of, and action on, the substantive matters at hand.

PROGRESS MADE: SUBSTANCE

The Review Conference outcome comprises two documents. The first—the PoA outcome—focuses on the Programme of Action but also includes provisions that apply to the ITI, such as those relating to international cooperation and assistance or to future UN meetings. The second document focuses exclusively on the ITI. The next sections analyse the contents of these documents, beginning with the three sections of the PoA outcome.

The 2012 Declaration

The 2012 Declaration (UNGA, 2012l, s. I) acts as the springboard for the other components of the Review Conference outcome. With greater specificity than anywhere else in the outcome, it notes several areas where ‘progress [. . .] has been made in implementing’ the PoA and ITI (paras. I.7–8). At the same time, however, the Declaration emphasizes ‘that implementation remains uneven’, while illicit small arms continue to threaten individuals and societies around the world (paras. I.4–5, I.9). As a result, states ‘reaffirm [their] support and commitment to implement all the provisions’ of the PoA and ITI, both by following up on previous PoA meetings and through ‘the further strengthening and development of norms and measures at the national, regional and global levels’ (paras. I.1, I.10–11). The core objective of the Declaration, and of the Review Conference outcome, is ‘to achieve clear and tangible results over the next six years that will improve the security, safety and livelihoods of our people’ (para. I.18).³⁵ Fundamentally, then, the Declaration, like the Review Conference outcome as a whole, looks to the future.³⁶

In addition to providing the above ‘mission statement’, the 2012 Declaration introduces many of the issues that, as developed in other parts of the Conference outcome, constitute its substantive added value. Reflecting the conclusions of small arms research, the Declaration highlights ‘the different concerns and needs’ of those affected by illicit small arms, defining such groups by gender, age, and the presence of a disability (para. I.14). The Declaration fills a gap in the PoA by making specific reference to ‘international human rights law’ (para. I.4).³⁷ The same paragraph, concerning the effects of illicit small arms, also mentions ‘certain natural resources’ in place of the PoA’s more restrictive reference to ‘precious minerals’ (UNGA, 2012l, paras. I.4, I.17; 2001, preamble, para. 7). Further, the 2012 Declaration acknowledges the ‘close links’ between the illicit small arms trade and armed violence (UNGA, 2012l, para. I.17);³⁸ it also foreshadows text in the PoA implementation plan concerning, for example, national action plans, border controls, and international cooperation and assistance (paras. I.7, I.9, I.12–13).

The PoA implementation plan

The PoA implementation plan (UNGA, 2012l, s. II) recaps existing PoA language in some areas,³⁹ but in several others it elaborates on basic PoA norms in order to take account of past implementation experience and highlight opportunities for the enhanced application of the PoA framework. For example, the provision on national points of contact with its commitment ‘to share and update this information regularly’ responds, at some level, to independent reports that such information is frequently out of date (UNGA, 2012l, para. II.2.d; Parker, 2011, pp. 22–27). Similarly, the plan notes the importance of involving arms transfer licensing authorities, among other actors, in intra-governmental coordination on small arms issues (UNGA, 2012l, para. II.2.c).⁴⁰

In comparison with the PoA, the implementation plan puts more emphasis on ‘the participation and representation of women in small arms policymaking’ (para. II.2.i).⁴¹ This language, however, represents only a small step forward for a large number of countries that had pushed for broader references to ‘gender’. Further added value can be found in the document’s encouragement ‘to develop and implement national action plans’ (para. II.2.l), which some states have

The PoA implementation plan highlights opportunities for enhanced application of the PoA framework.

An officer of the Indian Border Security Force speaks to journalists at the India-Pakistan border where heroin, fake currency, and weapons were allegedly seized, Thatha Koda, India, January 2009. © Altaf Qadri/AP Photo

used to coordinate their PoA implementation even though the instrument is silent on such plans. Significantly, Review Conference language on border controls is not limited to ‘information-sharing’ (UNGA, 2001, para. II.27), but includes the concepts of ‘cooperation [and] coordination’ (UNGA, 2012], para. II.3.e).⁴² The implementation plan also stresses enhanced ‘synergies between the Programme of Action and relevant subregional and regional instruments’ (para. II.3.b), one example of the greater attention the Review Conference outcome pays to the relationship between the PoA and other initiatives.⁴³ In addition, the plan highlights the potential role of industry in tackling the illicit small arms trade (para. II.4.e),⁴⁴ an important feature of the 2011 MGE discussions.⁴⁵

The Review Conference commitments on international cooperation and assistance, contained in the PoA implementation plan and applicable to both the PoA and the ITI,⁴⁶ are generally quite strong. For example, PoA

language calling upon states to ‘seriously consider rendering assistance’ reads, in the implementation plan, as an undertaking ‘[t]o render’ such assistance—provided, as both texts specify, states are ‘in a position to do so’ (UNGA, 2001, para. III.3; 2012], para. II.5.b).⁴⁷ The other salient feature of the section is its incorporation of concepts, discussed at BMS³ and BMS⁴ and reflected in their outcome documents, including ‘the identification, prioritization and communication of [. . .] assistance needs’ (para. II.5.c); ‘matching needs and resources’ (para. II.5.h); increasing the ‘measurability and effectiveness of international cooperation and assistance’ (para. II.5.d);⁴⁸ and ‘ensuring the sustainability of assistance’ (para. II.5.e).⁴⁹

The PoA implementation plan also encourages the building of national capacity ‘to monitor and analyze the consequences’ of small arms proliferation and misuse (para. II.5.c). This provision focuses on the impacts of illicit small arms, presumably measured as physical, social, and economic costs. Yet, read in conjunction with references to armed violence elsewhere in the PoA outcome,⁵⁰ it also suggests a possible link to the Geneva Declaration process and its ‘measurability’ pillar.⁵¹ Looking past immediate impacts to longer-term trends and their causes, the language of paragraph II.5.c also raises the question of whether the PoA and ITI have been effective in curbing small arms proliferation and misuse.





The follow-up section

At the Review Conference, the main subject of debate in relation to follow-up was the number and character of meetings that were to be convened during the 2012–18 cycle. States generally argued against convening too many meetings, but also expressed a strong preference for further MGEs. Nevertheless, there was no consensus to replace one or more BMSs with one or more MGEs. The follow-up section of the PoA outcome (UNGA, 2012), s. III) therefore *adds* an MGE to the cycle, in 2015, while, as before, scheduling two BMSs in advance of the next Review Conference, in 2014 and 2016 (para. III.1). It schedules the PoA's Third Review Conference for 2018, at the end of the next six-year cycle, and elects to follow the practice of the Second (not First) Review Conference in opting for a one-week (not two-week) PrepCom (para. III.2). While states did not agree to identify the topics of any of these meetings in advance—with the exception of international cooperation and assistance, which will continue to feature in all meetings (para. III.3)—a reference to 'physical security

measures' (para. III.4) reflects the preference many states expressed for discussing stockpile management, specifically at a future MGE.

The follow-up section recalls the BMS4 'recommendation to clearly define and distinguish the mandates of Programme of Action meetings' (s. III, preamble, para. 3), but offers only select hints as to what this means in practice. By mentioning the need to consider the 'political and technical aspects' of PoA meeting topics and by noting the importance of ensuring 'to the extent possible, the participation of appropriate experts/officials from States' (para. III.4), the UN membership appears to be moving towards a clearer distinction between political, diplomat-led BMSs and technical, expert-driven MGEs, but it has yet to express this clearly.

Other parameters of PoA follow-up, many of which were first articulated in the BMS4 outcome, are nailed down with greater precision. These include:

- linking and ensuring 'the complementarity of, meeting mandates and outcomes' (s. III, preamble, para. 3);⁵²
- identifying the topics of PoA and ITI meetings well in advance (para. III.4);⁵³
- designating meeting chairs early, if possible one year in advance of the meeting (para. III.5);⁵⁴

- synchronizing national implementation reports with BMSs and review conferences (biennial reporting) (para. III.9);⁵⁵ and
- providing financial assistance 'to enable States that are otherwise unable to do so to participate in' PoA meetings (para. III.10).⁵⁶

The PoA implementation plan also encourages the use of a template for national reports prepared by the UN Office for Disarmament Affairs (para. II.2.k).⁵⁷ Finally, building on discussions at BMS3,⁵⁸ the follow-up section devotes some space to the question of enhanced linkages between the global (PoA) and regional levels, including the possible alignment of regional small arms meeting schedules with their global counterparts (paras. III.6–7).

The ITI implementation plan

The ITI outcome, which takes the form of an 'Implementation Plan 2012–2018', provides important diplomatic fuel for the UN tracing process (UNGA, 2012m). The BMS3 and BMS4 outcomes regarding the ITI added little to the existing framework, their normative elements consisting largely of reminders to states to follow up on their ITI commitments.⁵⁹ As the 2011 MGE dealt with the nuts and bolts of ITI implementation in far greater depth, the 2012 ITI outcome takes its lead from the MGE in articulating specific implementation measures. These include:

- strengthening measures against efforts by traffickers to remove or alter weapons markings (para. 2.a);
- training relevant personnel for weapons identification and record-keeping (para. 2.b);
- strengthening coordination between government agencies to facilitate timely responses to tracing requests (para. 2.c); and
- exchanging tracing results, both within government and with other states, to help prevent diversion (para. 2.d).



A police officer handles a weapon marked as belonging to the armed forces of Venezuela, seized from a gang allegedly involved in drug trafficking, Medellin, Colombia, September 2008. © Luis Benavides/AP Photo

At the Review Conference, there was no agreement on a proposal, made at the MGE, to establish a technical committee composed of government and industry representatives for the purposes of drafting recommendations for ITI implementation in light of new developments in weapons manufacture and design.⁶⁰ Instead of establishing such a committee, the ITI outcome requests that the UN Secretary-General report on such questions, ‘drawing on views of States’ (para. 3.g)—although presumably not limited to them, given the need for industry inputs on such matters.

The ITI outcome contains its fair share of reminders regarding the fulfilment of basic ITI commitments, such as ensuring that the laws, regulations, and administrative procedures needed to support ITI implementation are in place (para. 3.a)⁶¹ and sharing information on national marking practices (para. 3.e).⁶² Regarding the designation of national point(s) of contact, the ITI outcome goes so far as to set a (modest) deadline for this task, namely the Third Review Conference (para. 2.f).⁶³

In addition, the ITI outcome adds flesh to the bones of the Tracing Instrument’s brief mention of its application to ‘conflict situations’ (UNGA, 2005, preamble, para. 2). Under paragraph 2.e of the document, UN member states undertake to ‘cooperate, when appropriate [with UN] bodies, organs and missions’, as well as regional organizations, in tracing small arms and light weapons in accordance with ITI rules. The Review Conference discussions on this provision related mainly to multilateral peace operations deployed in conflict or post-conflict settings, but the agreed language would also bring UN political missions, tribunals, and sanctions monitoring groups within its scope.

CONCLUSION

The Second Review Conference marks an important step forward in the UN small arms process. Avoiding many of the problems that plagued the First Review Conference, UN member states reached consensus agreement on a substantive outcome, committing themselves to a series of measures designed to bolster implementation of the PoA and ITI during the period up to 2018. While some of these measures simply repeat PoA or ITI text, many of them, drawing on earlier meeting discussions, fill out the existing framework. The Review Conference outcome also consolidates recent moves towards a more structured process, sketching out the broad outlines of the 2012–18 meeting cycle.

Despite these gains, important gaps remain. First, although the UN small arms process is more structured than before, states have not really heeded the BMS4 recommendation ‘to clearly define and distinguish the mandates of Programme of Action meetings’ (UNGA, 2010a, para. 34; 2012l, s. III, preamble, para. 3). Crucially, it remains impossible to say much about ‘progress made’ in the implementation of the PoA and ITI in the absence of mechanisms that independently assess the extent to which states are meeting their commitments under these instruments. The Review Conference outcome does point to the possible consideration of longer-term trends in small arms proliferation and misuse, along with the question of PoA and ITI effectiveness (UNGA, 2012l, para. II.5.c), but this chapter of the PoA story has yet to be written.

Implementation aside, there is still room for normative development. Among the many issues that states tried, and failed, to include in the Review Conference outcome—often because of the opposition of a small number of states⁶⁴—the exclusion of the word ‘ammunition’ from the final texts is perhaps the most puzzling omission. Neither excluded from, nor included in, the PoA, given the latter’s failure to define ‘small arms and light weapons’, ammunition remains in some kind of political limbo, notwithstanding its pivotal role in fuelling crime and conflict around the world. Such omissions will not, however, decide the legacy of the Second Review Conference. The Conference outcome, despite its gaps, remains an important diplomatic achievement. Language on border controls, women (though not ‘gender’),

and conflict tracing, although contentious at past UN meetings, found expression in the final outcome. Moreover, despite the apparent preference of a few states for a weaker PoA and ITI, there was no dilution of existing norms.

With or without an Arms Trade Treaty, the PoA will remain the only comprehensive global framework for small arms control, covering almost all stages of the small arms life cycle from cradle (manufacture) to grave (final disposal). ‘Control’ is more difficult than prohibition. The long life span and complex ownership chains of many small arms make the task harder. Yet, building on preceding UN meetings and taken together with the PoA and ITI themselves, the Second Review Conference offers an extensive road map for meeting these challenges.

What is essential, obviously, is not simply to have the map, but to use it to move forward. Given the UN membership’s continuing reluctance to countenance formal monitoring of ‘progress made’ in PoA and ITI implementation, the depth and breadth of commitment to these instruments remains unclear. As they indicated quite clearly at the Second Review Conference, a small number of states view UN small arms norms with considerable suspicion. Yet, at the end of the day, it was the determination of the vast majority of states to wrest something useful from the Conference that proved decisive. While a future embracing ‘the full and effective implementation’ of the PoA and ITI⁶⁵ remains to be written, for the moment the UN small arms process has a spring in its step. ■

LIST OF ABBREVIATIONS

BMS	Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
ITI	International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons
MGE	Open-ended Meeting of Governmental Experts
PoA	Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects
PrepCom	Preparatory Committee
RevCon	United Nations Conference to Review Progress Made in 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

ENDNOTES

- 1 Full name: Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. See UNGA (2001).
- 2 That mandate is set out in UNGA (2001, para. IV.1.a).
- 3 Full name: International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons. See UNGA (2005).
- 4 See McDonald (2007, pp. 118–21).
- 5 The subjects were: international cooperation and assistance; illicit brokering; stockpile management and surplus disposal; border controls; and PoA follow-up. Each outcome included a separate section on the International Tracing Instrument. See UNGA (2008a; 2010a).
- 6 See also McDonald (2012).
- 7 See also UNGA (2010a, para. 36).
- 8 See, for example, UNGA (2008b, para. 14).
- 9 See Čekuolis (2008, p. 23).
- 10 This was also the deadline suggested by the UN General Assembly. See UNGA (2010b, para. 19).
- 11 In advance of the March 2012 session of the PrepCom, Ambassador Ogwu held six informal consultations at UN headquarters in New York, one set of consultations in Geneva, and several consultations at the regional level.
- 12 Regarding both components, see Čekuolis (2008, p. 23).
- 13 See McDonald (2007, pp. 118, 120).
- 14 Unpublished remarks made at the PrepCom, United Nations headquarters, New York, 19 March 2012.

- 15 The PrepCom topics were: national, regional, and global-level implementation of the PoA (topics 1–3), implementation, international cooperation, and assistance (topic 4), PoA follow-up (topic 5), and all aspects of the ITI (topic 6). See UNGA (2012a).
- 16 Unpublished remarks made at the PrepCom, United Nations headquarters, New York, 22 March 2012.
- 17 Unpublished remarks made at the PrepCom, United Nations headquarters, New York, 21 and 23 March 2012. See also UNGA (2012b, s. V, Decision I).
- 18 To acknowledge the distinct nature of the PoA and ITI processes, Amr Aljowaily was also appointed ITI ‘moderator’, continuing a practice that had started at BMS3.
- 19 Ambassador Ogwu initially issued the revised draft outcomes as an attachment to her letter of 21 August 2012 (Nigeria, 2012e). In addition to their publication as UN document L.4/Rev.1 (UNGA, 2012e), the same drafts were released as a Review Conference ‘conference room paper’ (UN doc. A/CONF.192/2012/RC/CRP.2).
- 20 See, for example, UNGA (2012e, annexe II, paras. 2.e, 3.d).
- 21 For example, the provision on ITI reporting, by associating mandatory ITI reporting with voluntary PoA reporting, appeared to nullify the firm commitment to report under the ITI (UNGA, 2012e, annexe III, para. 3.g; 2005, para. 36; 2001, para. II.33).
- 22 See McDonald (2007, p. 119).
- 23 In the language of diplomacy, ‘nothing is agreed, until everything is agreed’.
- 24 Unpublished remarks made at the Review Conference, United Nations headquarters, New York, 27 August 2012.
- 25 For a list of the interventions made by states, intergovernmental organizations, and NGOs, see UNGA (2012k, paras. 12–14). Many of the statements are posted on UN (n.d).
- 26 See McDonald (2007, p. 120).
- 27 The same section had earlier been called ‘Schedule of meetings, 2012–2018’ (UNGA, 2012e).
- 28 States reviewed the L.4/Rev.1 version of the Declaration and the CRP.3 versions of the other documents.
- 29 See UNGA (2012i, annexe 1, para. II.17; 2012l, paras. II.2.a, II.4.a).
- 30 Compare UNGA (2012i, annexe 1, para. III.4) with UNGA (2012l, para. III.4).
- 31 Compare UNGA (2012i, annexe 2, para. 11) with UNGA (2012m, para. 3.g).
- 32 See, for example, CARICOM (2012, p. 5).
- 33 States failed to reach agreement on a treaty at a July 2012 conference but subsequently elected to hold an additional negotiating conference in March 2013 (UNGA, 2012n).
- 34 See McDonald (2007, pp. 118–21).
- 35 See also paras. I.2–3, I.6, I.9.
- 36 See UNGA (2012l, paras. I.1, II.1; 2012m, para. 1).
- 37 The PoA makes no reference to ‘human rights’ (UNGA, 2001).
- 38 See also UNGA (2012l, paras. I.4, I.10); Geneva Declaration (2006).
- 39 Examples include provisions relating to stockpile management and international transfer control. See UNGA (2012l, paras. II.2.e–f, II.2.h).
- 40 See also para. I.13.
- 41 See also para. I.14.
- 42 See also para. II.2.c.
- 43 Concerning related UN General Assembly initiatives, see para. I.10.
- 44 See also para. I.15.
- 45 See New Zealand (2011).
- 46 The ITI outcome includes relatively strong ITI-specific provisions on international cooperation and assistance. See UNGA (2012m, paras. 3.b–d).
- 47 The Declaration also calls for enhanced international cooperation and assistance. See UNGA (2012l, paras. I.9, I.13).
- 48 See also para. I.13.
- 49 Regarding all these points, see UNGA (2008a, s. I; 2010a, s. II).
- 50 See UNGA (2012l, paras. I.4, I.10, I.17).
- 51 See Geneva Declaration (2006); Geneva Declaration Secretariat (n.d.).
- 52 See UNGA (2010a, para. 34).
- 53 See UNGA (2010a, para. 34).
- 54 See UNGA (2010a, paras. 34, 45).
- 55 See UNGA (2010a, paras. 35, 38).
- 56 This is also mentioned in para. II.5.g. See also UNGA (2010a, paras. 37, 43).
- 57 See UNGA (2010a, paras. 35, 41).
- 58 See UNGA (2008a, paras. 6, 7.n, 29.c).
- 59 See, for example, UNGA (2008a, annexe, para. 9.b; 2010a, annexe, para. 10.c).
- 60 See New Zealand (2011, p. 4).
- 61 See UNGA (2005, para. 24).

- 62 See UNGA (2005, para. 31).
 63 See UNGA (2005, paras. 25, 31).
 64 See RCW et al. (2012).
 65 This is the basic goal formulated by both the PoA and ITI outcomes (UNGA, 2012l, para. II.1; 2012m, para. 1).

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