

BACKGROUND

No. 3313 | MAY 14, 2018

U.S. Goals at the 2018 Review Conference of the U.N.'s Programme of Action on Small Arms

Ted R. Bromund, PhD

Abstract

The U.N.'s Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects (PoA) is a political mechanism, which works by unanimous consensus for encouraging voluntary cooperation against the illicit small-arms trade. It is a substantive failure, but that is unlikely to stop the PoA's forthcoming Third Review Conference from seeking to expand the PoA in unproductive ways—including by advocating an unworkable plan for the registry of individual rounds of ammunition and supporting new technical requirements for civilian firearms. If the U.S. continues to participate in the PoA, it should send a strong delegation to the Conference to effectively oppose these ideas. Likewise, the U.S. should staunchly reject all efforts to transform the PoA into a treaty and not be taken in by Trojan Horse strategies designed to impose constraining international norms on the U.S.

In 2001, the United Nations created the Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, commonly called the Programme of Action (PoA). The PoA is not a treaty; rather, it is a political mechanism, which works by unanimous consensus, for encouraging voluntary cooperation. A meeting of the PoA results in an outcome document or chair's summary containing conclusions that, if unanimously agreed, are politically—though not legally—binding on all the participants in the PoA.

On June 18–29, 2018, the Third Review Conference (RevCon3) of the PoA will be held in New York City. RevCon3 will likely focus on issues raised at the Sixth Biennial Meeting of States (BMS6) of the PoA, which was held on June 6–10, 2016. But as a Review Conference,

KEY POINTS

- The U.N. Programme of Action (PoA) is—and will continue to be—lacking in substantive achievements. It would be better for the U.S. to withdraw from the PoA entirely—except for case-by-case participation in meetings of technical experts on particular subjects.
- Withdrawing would be the most effective way for the U.S. to disassociate itself from whatever norms the PoA develops—and to prevent future progressive legal activists who take up positions in government from being able easily to apply those norms in the U.S. by administrative fiat.
- The U.S.'s approach at the next Review Conference should be to ensure that the PoA requires the U.S. to do nothing it does not already do, does not impede the U.S. from doing what it wants to do, and does not become entangled with treaties or instruments that the U.S. does not fully support.

This paper, in its entirety, can be found at <http://report.heritage.org/bg3313>

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

RevCon3 will also set the focus of the PoA and the national and international funding that will support it for the next six years—and is even free to change the text of the PoA itself.

The PoA is, and will continue to be, lacking in substantive achievements. It would be better for the U.S. to withdraw from the PoA entirely. The only reason for the U.S. to continue to participate in it is to prevent bad outcomes. If the U.S. does remain in the PoA, it will have to work hard at RevCon3 to prevent the ideas foreshadowed at BMS6, and by the U.N. over the past years, from shaping the PoA's agenda to 2024, the anticipated date of the next Review Conference.

The Origin of the PoA

The PoA originated in a U.N. General Assembly resolution in 1996 that established a Group of Governmental Experts on small arms and light weapons. The Group's reports culminated in the U.N. meeting in 2001 that created the PoA. This was a contentious meeting that opened with a statement from John Bolton, then U.S. Under-Secretary of State for Arms Control and International Security Affairs. In his statement, Bolton laid down five red lines on the PoA:

1. No constraints on legal trade and manufacturing;
2. No promoting of propaganda by the U.N. or other related organizations;
3. No prohibition of civilian possession;
4. No limitation of the arms trade to governments; and
5. No institutionalization of the PoA process.

The battle continued at the 2006 Review Conference, and by 2007 Bolton believed that the U.S. “had truly outlasted the normers!”—that is, the U.N. effort to promote gun control norms through the PoA.¹ Regrettably, Bolton's optimism was premature. In 2001, as a *quid pro quo* for the acceptance of its other red lines, the U.S. had agreed to the institutionalization of the PoA—though as a political process, not as a treaty. That has proven to be an unfortunate concession, as the PoA has outlasted its U.S. critics. But it was not the end of the story, for, after the PoA came into being, the U.S. added two additional red lines:

6. No inclusion of ammunition in the PoA; and
7. No reopening of the text of the PoA as adopted in 2001.

These seven red lines have continued to define U.S. policy towards the PoA.

The Failure of the PoA

There is widespread acceptance that the PoA's achievements are hard to assess and at best very limited—or even non-existent. In 2008, the U.N. Secretary-General stated that the PoA's results were not “substantive.” A 2012 survey by New Zealand's permanent representative to the U.N. acknowledged that “it is almost impossible to acquire an accurate picture of Programme of Action implementation and effectiveness” and that “the results of those more limited assessments that have been undertaken have not been encouraging.” A 2014 study by supporters of small-arms control, “Firing Blanks: The Growing Irrelevance of the U.N. Small Arms Process,”² condemned it for focusing on “peripheral issues.”³

The “Chair's Summary” of the Second Meeting of Governmental Experts (MGE2) under the PoA in 2015 noted that “many” nations are not implementing the PoA.⁴ A report by the Small Arms Survey (a Swiss NGO) asserted that BMS6 broke “fresh ground” but then contradicted this claim by noting that the PoA's “long-standing measurement gap” means that it impossible to know whether the PoA is actually being implemented.⁵ As the Survey implied, national reporting under the PoA has declined from its 2005–2006 high of 165 reports to a 2015–2016 total of 96 reports.⁶ In short, even supporters of the PoA recognize that it is making little to no contribution to its supposed aim of eliminating the illicit trafficking of small arms.

The PoA's supporters offer a number of justifications for its failure, including the revealing claim that the PoA excludes “references to legal gun possession by civilians.”⁷ In short, many PoA supporters are disappointed that they have been unable to use the PoA to promote gun control through the U.N. But in reality, the problems of the PoA are inherent in the structure of the U.N. and the PoA itself. Any honest process of assessing whether or not nations have lived up to the commitments they have made in the PoA would have to acknowledge that many U.N. member nations are unwilling or unable to do so. Admitting

this would be humiliating and embarrassing, and so the PoA's resort has been to blame the donor nations for not providing enough aid.

In practice, the institutionalization of the PoA has likely made it harder, not easier, to address the genuine issues surrounding the illicit arms trade because it has given all its participants an easy out: They can always claim that they support the PoA. In reality, what is lacking in this world is not commitments and rules. It is nations with honest and competent governments. The supposed emphasis of the PoA on the illicit trade in firearms is meaningless: It is governments that define what is illegal, and the whole purpose of the PoA is to convince them to make more things illegal. The PoA is a self-licking ice cream cone that is designed never to achieve its objective.

The Likely Emphases of the 2018 RevCon

As of mid-April 2018, only a skeleton provisional agenda is available for RevCon3. But the results of BMS6, and the emphases in the Secretary-General's 2016 report on the illicit trade in small arms and light weapons, make it clear what RevCon3 is likely to emphasize.

- **Ammunition.** There is no doubt that the RevCon3 will center on ammunition. Currently, the PoA makes only very limited mention of ammunition and imposes no obligations related to it. This was not an accident or an oversight: The question of including ammunition was raised in 2001, intensively debated, and found to be impractical. Yet the U.N. Secretary-General's 2016 report emphasizes "the urgent need to address the issue of ammunition along with the issue of small arms and light weapons."⁸ Ammunition was also a point of contention at BMS6, and the PoA's advocates repeatedly argue that "as a practical matter, it is clear that, to be effective, control measures must extend not only to weapons, but also to their ammunition."⁹ The U.S. is likely to come under pressure at RevCon3 to modify the PoA to require the marking of, and the development of the ability to trace, pallets, boxes, or even individual rounds of ammunition.
- **Marking and control of firearms.** BMS6, like previous PoA meetings, evinced a fascination with the marking of polymer (i.e., plastic) gun frames and modular weapons and with the marking and

control of 3D-printed small arms. It is very likely that these issues will return at RevCon3—and perhaps include pressure to expand marking requirements to include additional parts of conventional firearms; to require firearms owned by civilians to include radio-frequency ID chips, GPS tracking, or biometric technologies; or to mandate "sensible safe storage requirements" for such firearms.¹⁰

- **International assistance.** This means money. BMS6's principal themes were "the provision of training, equipment and the transfer of technology" and the "adequacy, effectiveness and sustainability" of international assistance.¹¹ Prior to BMS6, many recipient nations emphasized "the importance of rendering actual and continued unconditional and non-discriminatory assistance to developing countries, upon their request."¹² This is no more or less than a call for the U.S. to serve as an ATM for incompetent, corrupt, or criminal regimes. RevCon3 will likely follow up these themes with demands for more money and technical support for the many nations that have shown no ability—and no significant desire—to implement the commitments into which they have freely entered through the PoA.
- **Implementation synergies.** One of the emerging trends in all areas of U.N. activity on small arms is to insist that everything is relevant to, or even implicit in, its small-arms control programs. Thus, the PoA supposedly has "synergies," which are never defined with any precision, with the U.N.'s 2030 Agenda for Sustainable Development (SDG), the Arms Trade Treaty (ATT), the International Small Arms Control Standards (ISACS), the U.N. Firearms Protocol, Interpol, the World Customs Organization, and a wide variety of other U.N. organizations.¹³ At RevCon3, the U.S. is likely to come under pressure to assert that these instruments and organizations are formally related or relevant to the PoA.

What the U.S. Should Do

The U.S.'s approach at RevCon3 should be to ensure that the PoA requires the U.S. to do nothing it does not already do, does not impede the U.S. from doing what it wants to do, and does not become entangled with treaties or instruments that the U.S. does not fully support.

The U.S. needs to be aware that it cannot take a position at RevCon3 without considering the effect this will have on the next Conference of States Parties to the Arms Trade Treaty, which will be held in August 2018, and which is the subject of a separate paper published simultaneously with this one.¹⁴ Because the ATT is legally binding, whereas the PoA is merely a political instrument, it is in the U.S. interest to avoid pushing issues from the PoA to the ATT, and it is thus in the interest of the U.S. for RevCon3 to reach a consensus outcome—but only if that consensus outcome, embodied in an agreed outcome document, is one that the U.S. can fully support.

Guided by those broad considerations, this is the approach the U.S. should take at RevCon3:

- **Bring the strongest delegation.** It would be a false economy for the U.S. to attend RevCon3—or any international meeting on small arms—without bringing its most experienced technical advisers. One of the U.S.’s comparative advantages in this realm is that, unlike most nations, it has experts who know what they are talking about. Leaving them at home would be an act of folly that would create a serious risk that U.S. diplomats would agree to changes in the PoA that they do not understand.¹⁵
- **Uphold U.S. red lines.** The only reason the PoA exists today is that in 2001 the U.S. agreed to allow it to continue, provided that the PoA respected the U.S.’s red lines. The U.S. should reiterate all seven red lines and resolutely uphold them in their entirety.
- **Block any effort to blame the illicit arms trade on the legal U.S. ownership of firearms.** In preparation for previous PoA meetings, and indeed at previous PoA meetings, the argument has sometimes been advanced—for example, by Iran—that the way to end the illicit arms trade internationally is to require gun control in the U.S. This is hypocritical nonsense—and a direct violation of a U.S. red line. It must be forthrightly rejected and rebutted, as previous U.S. delegations have done.¹⁶
- **Block any change in the PoA related to ammunition.** As many nations are not living up to the PoA’s current requirements, expanding them is a

bad idea: If the PoA is to accomplish anything at all, it will only do so by focusing on a few simple goals (such as ensuring that nations reliably mark imported firearms), not by multiplying goals and complicating the PoA. It is true that firearms are useless without ammunition. But it is also true that, without a firearm, ammunition is useless—and while firearms are relatively permanent and therefore easier to mark and trace, ammunition is a consumable commodity that is much harder to mark and trace. Adding ammunition to the PoA would therefore serve no useful purpose. The idea of marking and then developing the ability to trace individual rounds is simply foolish: The resulting database would soon have trillions of entries, and it could only work by surveilling the purchases of individual firearms users. The U.S. should firmly reject *all* changes in this area.

There is an off-ramp for this dispute. As a result of a U.N. General Assembly resolution adopted in 2017, a Group of Governmental Experts (GGE) will convene in 2020 to consider “problems arising from the accumulation of conventional ammunition stockpiles in surplus, taking into account discussions in the open, informal consultations.”¹⁷ The down side of this resolution is that the GGE’s mandate has yet to be determined and will likely not be adopted until the 2019 meeting of the U.N. General Assembly. This GGE could yield a sensible result; it could do nothing slowly; or it could, depending on its mandate and personnel, issue a report that causes trouble at future meetings of the PoA or in the U.N. more broadly. But the fact that the GGE will meet does at least give the U.S. a good argument to use in the context of RevCon3, which is that the PoA should not seek to include ammunition and thereby pre-empt the action of the General Assembly or the deliberations of the GGE.

- **Block most changes in the PoA relevant to firearms marking and control.** Marking a conventional firearm in more places is not better—it is simply more confusing. The supposedly new challenges of modular firearms do not exist: Modular firearms are as old as Samuel Colt’s revolvers. Polymer frames do pose some technical challenges for marking, but in practice, they have not decreased the effectiveness of tracing programs.

3D-printed firearms are exceptionally rare and are raised as a subject only to allow the PoA to avoid more serious issues and because China wants U.N. approval to impose government controls on 3D printers.¹⁸ Tracking individual firearms with GPS or by other means is completely unacceptable. The U.S. should point out that there are no high-tech, magic-bullet solutions to the problems of illicit arms trafficking. It should reject all changes in these areas except on the marking of polymer frames, where the U.S. should only accept change if the PoA is willing to be entirely guided by U.S. technical and industry advice.¹⁹

- **Block any efforts to justify U.N. or government propaganda.** The Chair's Summary of MGE2 referred to the supposed need to promote "a culture of peace," which is code for government propaganda and censorship. Any such language is a direct violation of a U.S. red line and must be firmly rejected.
- **Block mandatory assistance through the U.N.** The U.S. is a generous provider of aid, on a bilateral basis, to nations that wish to improve their ability to mark and trace firearms. These programs serve U.S. interests by, for example, making it harder for corrupt officials in other nations to divert U.S.-origin firearms to terrorists, insurgents, or criminals without being detected. The U.S. should, however, oppose any attempt to formalize or expand such assistance as a mandatory part of the PoA.²⁰
- **Block extraneous mentions of gender.** The PoA, and other U.N. small-arms initiatives, have in recent years becoming increasingly gender conscious. It is not uncommon for speakers at the PoA to refer—without any evidence—to the special and unique knowledge of small arms that women supposedly possess. The draft outcome document for BMS6 asserted that the PoA needed to "foster the creation of alternative livelihoods for young men," an utterly unsuitable subject for the U.N. and its small-arms process.²¹ The ATT even draws an explicit link between gender-based violence and the international arms trade.²² These sound like feminist arguments for women's rights, but they are predicated on the assumption that women are inherently weak and eternally victims. The real

point of these arguments is to lay the groundwork for the claim that gun control is a human right because of the supposed fact that women suffer more from firearms violence than do men.²³ But the illicit arms trade is not a problem for women: It is a problem for *people*. The U.S. should therefore seek to minimize, and preferably eliminate, any references to gender.

- **Reject any effort to transform the PoA into a treaty.** In past years, U.N. and national officials regularly have called for the PoA to be transformed into a legally binding treaty.²⁴ These calls have faded as the ATT has absorbed more attention, but as the ATT itself is failing, it is possible that focus will shift back to turning the PoA into a treaty. If the PoA were to become a treaty, all of its existing flaws would become much more dangerous. The U.S. should staunchly reject all efforts to transform the PoA into a treaty.
- **Reject any changes in the PoA itself.** The text of the PoA was agreed upon by consensus. It should not be altered or amended in any way. If any nation argues that changes would improve the PoA, the U.S. response should be a straightforward refusal to consider any changes *at all* until the nations of the world comply in full with all the political commitments they have already accepted through the PoA—as it stands.
- **Block any effort to harmonize end use/end user certificates.** The U.N. has argued that one way to help control the illicit trade in small arms is for the world to negotiate a harmonized end-user certificate, a document that provides information on the recipient of imported arms and which is intended to prevent the diversion of arms from legal to illicit channels. Because of its federal system, and because it would be an invasion of individual privacy to do so, the U.S. cannot and does not provide the identity of the final individual end user of imported firearms. The U.S. should uphold this policy—and should therefore reject any effort to promote the negotiation of a harmonized end-user certificate through the PoA.²⁵
- **Keep the PoA separate from other instruments.** The PoA is mostly an irrelevant waste of time, but in its current form, and on its own, it

poses no fundamental threat to U.S. interests. The International Tracing Instrument (ITI), negotiated under the PoA, though not part of it, is even modestly useful. But the more the PoA intertwines with the SDG, the ATT, and ISACS, in particular, the more the PoA becomes legally binding (in the case of the ATT); contaminated with gun-control norms (ISACS); or part of the U.N.'s elephantine and unproductive development agenda (the SDG).²⁶ Not for nothing does Germany refer to the results of the PoA's meetings as its *acquis*—the European Union's term of art for the legally binding totality of all its laws, decisions, and directives.²⁷ The U.S. should reject any effort to mention or proclaim the existence of "synergies" with the ATT or ISACS, and it should strongly oppose, and seek to minimize, any mention of the SDGs.²⁸

- **Do not be afraid to break consensus.** The PoA is based on consensus, which means that even one nation can block changes to the PoA by objecting to them. The U.S. should not be afraid to break consensus if the PoA goes anywhere unacceptable.

Conclusion

Over the coming months, a draft outcome document for RevCon3 will begin to circulate. The U.S. must be forthright in reacting to this draft and in asserting its own views. The U.S. Mission to the U.N., to which the U.S. delegation to RevCon3 will report, must work with the delegation to build support for U.S. positions in the U.N. The U.S. has already made a good start by submitting an excellent working paper in advance of RevCon3 pointing out that better meetings, not more meetings, are needed and that RevCon3 should not add "new commitments to a list of those that remain unimplemented."²⁹

Finally, the U.S. must prepare as best it can for surprises. BMS6 tasked the U.N. Secretariat with producing a report examining "implementation trends, challenges and opportunities relating to" the PoA and ITI for presentation at RevCon3.³⁰ With U.N. Secretary-General Antonio Guterres reportedly planning a major push for "disarmament talks covering everything from nuclear and cyber war to small arms," this report has the potential to affect the outcome of RevCon3. The U.S. would be wise to seek to shape the report before it is presented in June.³¹

The only reason for the U.S. to remain involved in the PoA is on the theory that, by doing so, it can prevent bad things from happening. The problem with this theory is that, while the PoA has accomplished little of substance, it seeks, with its emphasis on "synergies," to create norms that are intended to enmesh and bind all its members—especially the U.S. Progressive American legal activists openly admit that this is their strategy. Harold Koh, a former Dean of Yale Law School and a former State Department Legal Adviser, has stated that he views the creation of these so-called norms as part of a transnational legal process that is intended to "rope-a-dope" anyone in the United States who opposes progressive views—that this is a progressive "counter-strategy," and that, "as a government official, [he] tried to apply it from within."³²

As Koh acknowledges, this strategy is not about law as a set of objective rules: It is about using law to achieve explicitly political goals. Today, for example, it focuses on "forcing Trump to punch himself out by expanding energy and capital on initiatives that do not advance his or his party's chances at reelection." Rarely has any progressive legal activist—and former senior government official—stated more clearly that, for progressives, the purpose of international law is to advance objectives not sanctioned by, or even opposed by, the democratic U.S. political process and its elected leaders.

Reiterating and upholding U.S. red lines is a necessary, but only a partial, defense against this so-called counter-strategy. It would be better if the U.S. had never allowed the PoA to come into existence, and it would be preferable for the U.S. to withdraw from the PoA entirely, except for case-by-case participation in meetings of technical experts on particular subjects. This is the most effective way for the U.S. to disassociate itself from whatever norms the PoA develops—and to prevent future progressive legal activists who take up positions in government from being able easily to apply those norms in the U.S. by administrative fiat. But if the U.S. is to participate in the PoA, and attend RevCon3, it must do so with open eyes and a clear voice.

—*Ted R. Bromund, PhD, is Senior Research Fellow in Anglo-American Relations in the Margaret Thatcher Center for Freedom, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation.*

Endnotes

1. Ted R. Bromund, "The U.S. Should Withdraw from the U.N.'s 'Programme of Action' on Small Arms," Heritage Foundation *Issue Brief* No. 3714, August 31, 2012, <https://www.heritage.org/report/the-us-should-withdraw-the-uns-programme-action-small-arms>.
2. IPI Global Observatory, "Firing Blanks: The Growing Irrelevance of the U.N. Small Arms Process," August 21, 2014, <https://theglobalobservatory.org/2014/08/firing-blanks-growing-irrelevance-un-small-arms-process/> (accessed March 9, 2018).
3. Ted R. Bromund, "The Failings and Structural Irrelevance of the U.N.'s Small-Arms Process," Heritage Foundation *Issue Brief* No. 4435, July 20, 2015, <https://www.heritage.org/report/the-failings-and-structural-irrelevance-the-uns-small-arms-process>.
4. *Ibid.*
5. Glenn McDonald, "Gaining Perspective: The U.N. Programme of Action's Sixth Biennial Meeting," Small Arms Survey *Briefing Paper*, September 2017, pp. 3 and 13, <http://www.smallarmssurvey.org/fileadmin/docs/T-Briefing-Papers/SAS-BP5-BMS6.pdf> (accessed February 22, 2018).
6. Ted R. Bromund, "Declines in National Reporting Reveal Failure of U.N.'s Programme of Action on Small Arms," Heritage Foundation *Issue Brief* No. 4412, May 28, 2015, <https://www.heritage.org/global-politics/report/declines-national-reporting-reveal-failure-uns-programme-action-small-arms>.
7. Ted R. Bromund, "The Failings and Structural Irrelevance of the U.N.'s Small-Arms Process."
8. United Nations, "The Illicit Trade in Small Arms and Light Weapons in All Its Aspects: Report of the Secretary-General," A/71/438-A/Conf.192/BMS/2016/1, October 4, 2016, para. 22, <https://s3.amazonaws.com/unoda-web/wp-content/uploads/2016/10/english.pdf> (accessed February 22, 2018).
9. McDonald, "Gaining Perspective," p. 7. For a similar emphasis during the negotiation of the Arms Trade Treaty in 2012, see Nick Hopkins, "U.K. Presses U.S. on Human Rights Clause in Arms Trade Treaty," *Guardian*, July 1, 2012, <https://www.theguardian.com/world/2012/jul/02/human-rights-arms-trade-treaty> (accessed February 22, 2018).
10. Bromund, "The Failings and Structural Irrelevance of the U.N.'s Small-Arms Process." Belgium has already submitted a working paper in advance of RevCon3 focusing on the non-issues of modular and polymer firearms. See "Working Paper Submitted by Belgium," Preparatory Committee for the Third United Nations Conference to Review Progress Made in the Implementation of the PoA, March 5, 2018, A/Conf.192/2018/PC/WP.1, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/CONF.192/2018/PC/WP.1&referer=/english/&Lang=E (accessed May 3, 2018).
11. McDonald, "Gaining Perspective," pp. 10-12.
12. Ted R. Bromund, "U.S. Goals at the 2016 Meeting of the U.N.'s Small-Arms Process," Heritage Foundation *Issue Brief* No. 4571, June 1, 2016, <https://www.heritage.org/report/us-goals-the-2016-meeting-the-uns-small-arms-process>.
13. McDonald, "Gaining Perspective," pp. 9 and 11-13. On ISACS, see Bromund, "The U.S. Should Withdraw from the U.N.'s 'Programme of Action' on Small Arms." On the SDGs, see Brett D. Schaefer and Terry Miller, "The U.N. Turns Its Economic Development Goals to Mush," Heritage Foundation *Commentary*, August 19, 2015, <https://www.heritage.org/global-politics/commentary/the-un-turns-its-economic-development-goals-mush>. On the ATT, see Ted R. Bromund, "Why the U.S. Must Unsign the Arms Trade Treaty in 2018," Heritage Foundation *Background* No. 3287, February 22, 2018, <https://www.heritage.org/global-politics/report/why-the-us-must-unsign-the-arms-trade-treaty-2018>.
14. Ted R. Bromund, "Key Goals for the United States at the 2018 Conference of States Parties to the Arms Trade Treaty," Heritage Foundation *Issue Brief* No. 4842, May 14, 2018, <http://report.heritage.org/ib4842>.
15. This is not a theoretical concern. It is widely rumored that the so-called "Chinese exemption" in the International Tracing Instrument—which allows China, alone among the world's nations, not to put serial numbers on its firearms—came into being because a U.S. diplomat did not consult with the relevant U.S. expert before agreeing to the deliberately deceptive Chinese proposal that created the exemption. See Ted R. Bromund, "The Failings and Structural Irrelevance of the U.N.'s Small-Arms Process."
16. Ted R. Bromund, "U.S. Participation in the U.N.'s 'Programme of Action' on Small Arms and Light Weapons Is Not in the National Interest," Heritage Foundation *Issue Brief* No. 4238, June 13, 2014, <https://www.heritage.org/report/us-participation-the-uns-programme-action-small-arms-and-light-weapons-not-the-national>. See also Ted R. Bromund, "The U.S. Should Withdraw from the U.N.'s 'Programme of Action' on Small Arms"; Ted R. Bromund, "Concluding Reflections on a Pointless U.N. Gathering on Guns," *National Review Online*, June 25, 2014, <https://www.nationalreview.com/blog/corner/concluding-reflections-pointless-un-gathering-guns-ted-r-bromund/>; and Ted R. Bromund, "At a U.N. Meeting on Guns, the U.S. Stands Up Under Fire," *National Review Online*, June 5, 2015, <https://www.nationalreview.com/2015/06/un-tries-preach-gun-control-us-ted-r-bromund/> (accessed March 6, 2018).
17. U.N. General Assembly, "Problems Arising from the Accumulation of Conventional Ammunition Stockpiles in Surplus," A/Res/72/55, December 12, 2017, <http://undocs.org/A/RES/72/55> (accessed March 6, 2018).
18. Ted R. Bromund, "The Failings and Structural Irrelevance of the U.N.'s Small-Arms Process."
19. The PoA is notorious for its lack of interest in industry input—despite the fact that the 2014 meeting of the PoA supposedly committed member states to support "engagement with industry." As one weary industry representative put it in 2014, "After we speak, they'll ignore us, and then they'll put out a press release saying they've engaged in full and inclusive consultation." Ted R. Bromund, "Concluding Reflections on a Pointless U.N. Gathering on Guns," *National Review*, June 25, 2014, <https://www.nationalreview.com/blog/corner/concluding-reflections-pointless-un-gathering-guns-ted-r-bromund/> (accessed March 9, 2018).

20. Predictably, the Non-Aligned Movement's working paper calls on the U.S., among others, "to facilitate sustainable, indiscriminate and unconditional transfer to developing countries, upon request, of related technology and equipment." See "Working Paper Submitted By Indonesia on Behalf of the Non-Aligned Movement," Preparatory Committee for the Third United Nations Conference to Review Progress Made in the Implementation of the PoA, March 20, 2018, A/Conf.192/2018/PC/WP.3, <https://s3.amazonaws.com/unoda-web/wp-content/uploads/2018/03/A-CONF.192-2018-PC-WP-3-Indonesia-NAM-ENG-only.pdf> (accessed May 3, 2018).
21. Ted R. Bromund, "U.S. Goals at the 2016 Meeting of the U.N.'s Small-Arms Process."
22. United Nations Office for Disarmament Affairs, "Arms Trade Treaty," Article 7.4, entered into force December 24, 2014, <https://unoda-web.s3.amazonaws.com/wp-content/uploads/2013/06/English7.pdf> (accessed March 6, 2018).
23. Ted R. Bromund, "The U.N. Confuses Gun Ownership with Arms Trafficking," *National Review Online*, June 9, 2015, <https://www.nationalreview.com/2015/06/un-confuses-gun-ownership-arms-trafficking-ted-r-bromund/> (accessed March 6, 2018).
24. Ted R. Bromund and David B. Kopel, "As the U.N.'s Arms Trade Treaty Process Begins, U.N.'s 'Programme of Action' on Small Arms Shows Its Dangers," Heritage Foundation *Web Memo* No. 2969, July 20, 2010, <https://www.heritage.org/global-politics/report/the-uns-arms-trade-treaty-process-begins-uns-programme-action-small-arms>.
25. Bromund, "U.S. Goals at the 2016 Meeting of the U.N.'s Small-Arms Process."
26. *Ibid.* For a full description of the cross-contaminated structure of the PoA, see Ted R. Bromund, "U.S. Participation in the U.N.'s 'Programme of Action' on Small Arms and Light Weapons Is Not in the National Interest." In short, the PoA is a mechanism for the incorporation of gun-control norms into the ATT and other U.N. instruments.
27. Bromund, "U.S. Goals at the 2016 Meeting of the U.N.'s Small-Arms Process."
28. Bromund, "Concluding Reflections on a Pointless U.N. Gathering on Guns."
29. See "Working Paper Submitted By the United States of America," Preparatory Committee for the Third United Nations Conference to Review Progress Made in the Implementation of the PoA, March 19, 2018, A/Conf.192/2018/PC/WP.2, <https://s3.amazonaws.com/unoda-web/wp-content/uploads/2018/03/A-CONF.192-2018-PC-WP-2-USA-ENG-only.pdf> (accessed May 3, 2018).
30. United Nations General Assembly, "Report of the Sixth Biennial Meeting of States to Consider the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects," A/Conf.192/BMS/2-16/2, June 15, 2016, para. 42, <http://undocs.org/en/A/CONF.192/BMS/2016/2> (accessed February 22, 2018).
31. Tom Miles, "Exclusive: U.N. Chief Plans Major Disarmament Push But U.S. Skeptical," Reuters, February 7, 2018, <https://www.reuters.com/article/us-un-arms-exclusive/exclusive-u-n-chief-plans-major-disarmament-push-but-u-s-skeptical-idUSKBN1FR1SF> (accessed February 14, 2018).
32. Harold Hongju Koh, "The Trump Administration and International Law," *Washburn Law Journal*, Vol. 56 (2017), pp. 414, 415, 416, and 421, <http://contentdm.washburnlaw.edu/cdm/ref/collection/wlj/id/6754> (accessed February 22, 2018). Koh has stated explicitly that this strategy also applies in the realm of the arms trade: See Harold Hongju Koh, "A World Drowning in Guns," *Yale Law School Faculty Scholarship Series Paper* No. 1777, January 1, 2003, http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2738&context=fss_papers (accessed February 23, 2018).