

At the 2021 U.N. Programme of Action on Small Arms Meeting, the U.S. Should Get Real

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KEY TAKEAWAYS

The 2018 meeting of the U.N. Programme of Action (PoA) on the illicit trade in small arms broke both a U.S. red line and the PoA's principle of unanimity.

The PoA's achievements are extremely limited: U.S. participation in the PoA merely lends it a credibility it does not deserve.

If the U.S. is to continue to participate in the PoA, the PoA must be reorientated to focus on specific, realistic, and relevant goals.

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 (PoA), commonly called the Programme of Action. The PoA is not a treaty; it is a political mechanism—intended to work by unanimous consent—for encouraging voluntary cooperation on suppressing the illicit arms trade. The PoA meetings result in an outcome document containing conclusions that, if unanimously agreed, are politically (though not legally) binding for all participants in the PoA. PoA meetings are held jointly with meetings of the International Tracing Instrument (ITI), created in 2005, which provides a framework for cooperation on small arms tracing.¹

From July 26 to July 30, 2021, the Seventh Biennial Meeting of States on the Programme of Action (BMS7)

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will be held in New York City. BMS7 was supposed to have been held in June 2020, but was delayed for a year by the COVID-19 pandemic. The BMS7 will likely focus in part on issues raised at the Third Review Conference (RevCon3) of the PoA, which was held from June 18 to June 29, 2018. The BMS7 is primarily important to the United States because RevCon3 *did not* work by unanimous consent. Instead, RevCon3 voted through an outcome document that broke the red line on the inclusion of ammunition that the U.S. established when the PoA was created. The U.S. must therefore decide if it will continue to participate in the PoA.

The PoA is lacking in substantive achievements. If it continues to work as it has previously, it will continue to fail. The only reason for the U.S. to participate in it was to prevent bad outcomes. Now that the PoA has broken one of the U.S.'s red lines—and violated the rule of unanimous consent that allowed the U.S. to prevent bad outcomes—the U.S. should not participate in the 2021 meeting of the PoA unless the PoA is reoriented to focus on specific, realistic, and relevant goals.

The Failure of the Programme of Action

There is widespread acceptance that the PoA has few, if any, achievements. 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.”² A 2014 assessment by PoA supporters, titled “Firing Blanks: The Growing Irrelevance of the U.N. Small Arms Process,” condemns 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. In 2018, at RevCon3, the International Committee of the Red Cross drew attention to the “gap between political commitments and actions,” which was a polite way of saying that many governments at the PoA talk a good game but do nothing.⁴ That is an accurate assessment.

The failure of the PoA is also evidenced by the lack of interest that nations show in fulfilling their commitment to report biennially on their implementation of it. The U.N. reporting template is available online, but in spite of this easy access, the number of nations that have fulfilled this most basic of commitments is not impressive.

Even in the relatively successful reporting cycle ending in 2020, only 120 nations submitted a report: In the previous biennial cycles from 2010, the number of reports submitted ranged from 76 to 108. At best, therefore, only 62 percent of U.N. member states even bother to report under the PoA—and with reports from 2020 coming in from nations such as war-torn South Sudan, it is doubtful that these reports shed any useful light on what is actually happening on the ground.⁵

In short, there is no basis for believing that the PoA is making any meaningful contribution to its supposed aim of eliminating the illicit trafficking of small arms.

The PoA: An Obstacle to Controlling the Illicit Arms Trade

While the 2015 MGE2 Summary acknowledged that “many” nations are not implementing the PoA, it also offered the contradictory conclusion that “the international community remains ever ready and ahead of the curve” in addressing the illicit arms trade.⁶ This unwillingness to draw honest conclusions from the acknowledged failure of the PoA is a serious barrier to making headway in controlling the illicit arms trade.

Any honest summary would acknowledge that many U.N. member nations are unable or unwilling to live up to their commitments under the PoA. But specific criticisms of member nations are very rare at the U.N. Criticisms (such as the one that “many” nations have not implemented the PoA) are acceptable only because they name no names. In practice, the PoA revolves entirely around the process of submitting biennial reports and the biennial effort to produce an outcome document at its meetings. Both of these are box-checking exercises because no one examines whether the reports submitted under the PoA, or its outcome documents, are accurate, meaningful, or relevant to events on the ground.

In practice, this suits many U.N. member states fine: They get credit for doing nothing, while the PoA remains focused on peripheral issues like 3D printing. Because most of the diplomats who attend the PoA are not experts, many may be unaware that they are not even talking about serious concerns. But the institutionalization of the PoA into a process that focuses only on producing reports and outcome has made it harder—not easier—to address the genuine issues surrounding the illicit arms trade, notably because it has given all of its participants an easy out: They can always claim that they support the PoA.

What the Programme of Action Could Do

If the nations involved in the PoA wanted to use it to help control illicit trade in small arms, the PoA could be modestly helpful in achieving this goal. Before MGE2, the U.S. pointed out that many U.N. member nations fail to mark small arms when they are imported.⁷ A focus on this failing would be useful. But at MGE2, discussion centered not on the failings of the member states, but on the need for their governments to impose more rules on firearms manufacturers.

By the same token, the PoA could seek to eliminate what is informally known as the “Chinese exemption,” under which China is exempt in practice from the requirement to put serial numbers on its firearms, which makes them difficult to trace. Of course, China would not agree to eliminate this exemption, but the PoA could at least highlight the issue. It does the exact opposite: The MGE2 summary laughably praises the Chinese use of “simple geometric symbols” (and thus the absence of serial numbers) as an example of “user-friendly marking.”⁸

Irrelevant Distractions: The Programme of Action in Practice

But instead of taking these helpful steps, the PoA tends to focus on irrelevant distractions. For example, many developing nations at the PoA love to claim that the problem they face is insufficient funding from the developed world. This may seem plausible on its face, but the actual claimants and requests give the lie to this perception.

In 2012, for example, the Non-Aligned Movement—a group of 120 nations, including Iran—demanded that developed countries supply its members with “advanced radar systems” (supposedly to improve their border controls). In the same year, the Islamist dictatorship of Sudan requested \$100,000 for a “gender-responsive public information campaign” on the small arms trade.⁹ What is needed in the PoA is not more funding, but more nations with honest and competent governments: Iran does not need or deserve U.S. funding for radar systems.

By the same token, the decision of RevCon3 to break both consensus and a U.S. red line to add ammunition was foolish. Adding ammunition serves no useful purpose: The idea of marking and developing the ability to trace individual rounds of ammunition is nonsensical, as the resulting database would have trillions of entries. The PoA’s member nations cannot and do not even meet their existing commitments, let alone one on ammunition. The

PoA discussed ammunition in 2001 and agreed then that trying to number, trace, and record bullets was wildly impractical.¹⁰

As the example of RevCon 3 illustrates, the emphasis of the PoA on the illicit trade in small arms guarantees it will never succeed: It is governments that define what is illegal, and the purpose of the PoA, as currently constituted, is to convince them to make more things related to small arms illegal. In short, as it stands, the PoA is a self-licking ice cream cone that will never make any substantive contribution towards its proclaimed objective of ending the illicit trade in small arms.

What the U.S. Should Do

The U.S. does most of the work of running traces on firearms, providing technical expertise, and giving aid to upgrade foreign recordkeeping through the PoA and the ITI. The quid pro quo was that the PoA respected U.S. red lines. However, if the U.S. is going to do most of the work and simultaneously have its red lines broken, there is no reason for it to participate in the PoA.

The PoA was intended to be consensus-based. The U.S. believed that if it participated, it could defend its red lines on the PoA. But RevCon3 taught the U.S. a lesson: Promises of a consensus-based outcome in the PoA provide no protection for U.S. interests. It is true that, if the U.S. does not participate in it, the PoA will likely cross even more U.S. red lines. But RevCon3 shows that this can happen even if the U.S. is in the room.

The wisest course of action for the U.S. would be to withdraw from the PoA. To wit:

- The PoA's substantive achievements are extremely limited;
- The PoA has broken one of the red lines that conditioned U.S. participation in the PoA; and
- The events of RevCon3 have demonstrated that the PoA is not reliably based on consensus, meaning that the U.S. has lost its ability to prevent the PoA from breaking more of its red lines in the future.

The U.S. therefore has no reason to participate in the PoA.¹¹ But it is extremely unlikely that the Biden Administration will respond to the PoA's deficiencies of substance and process by exiting from it.

Recommendations

If the U.S. is unwilling to withdraw from the PoA, it should:

- **Promote the financial assistance it provides.** The U.S. is already the largest donor in the world supporting conventional weapons marking, tracing, and stockpile security.¹² But the U.S. receives little—if any—credit for this assistance. This should be done both to counter the false narrative that the problem facing the PoA is a lack of donor funding and to make it clear that the U.S. is ready, willing, and able to assist nations that are genuinely interested in improving their ability to combat the illicit trade in small arms.
- **Continue to participate in the ITI.** The ITI is a modestly useful initiative that improves the U.S.’s ability to trace foreign-origin crime guns. Though it meets concurrently with the PoA, it has continued to operate by consensus. The U.S. should therefore continue to participate in the ITI by attending the portion of the BMS7 that relates to the ITI.
- **Seek to reorient the PoA to pursue specific, realistic, and relevant goals.** In 2018, the U.N. circulated an unsigned “food for thought” paper on the PoA. If this paper did not originate with the U.S., it certainly reflected then-current official U.S. thinking on the PoA. The paper calls for the PoA to abandon its obsession with “reaching every two years an agreed outcome on detailed substantive ideas that need a global consensus,” and instead to adopt a bottom-up approach that would call on nations “to show sustained, measurable, self-guided progress, either with or without international assistance.”¹³

If the U.S. can reorient the PoA so that it abandons its obsession with producing reports and outcome documents, and towards a focus on accountability at hitting nationally set targets, the PoA might become a forum for modest, if useful, contributions. But no one should underestimate how difficult it will be to change the PoA’s focus. The chair of BMS7, Ambassador Martin Kimani of Kenya, has already announced that there exists “an overwhelming preference for adopting the same working methods that were successfully employed in past Programme of Action...meetings. This includes a process based on consensus and the adoption of an outcome document.”¹⁴

Since the PoA has in the past failed precisely because it employed the supposedly successful working method of focusing on the production of an outcome document, it is clear that the U.S. faces a substantial and uphill battle to convince it to adopt different methods. In practice, it will not be possible to make the PoA change course without threatening that the U.S. will leave the PoA unless the PoA moves toward a process that emphasizes reaching reasonable goals instead of applauding the adoption of unrealistic and unhelpful ones.

Conclusion

The PoA is an example of a classic dilemma that bedevils American diplomacy in many multilateral institutions. *The PoA does not work*. Everyone concedes that the PoA does not work. As currently constituted, there is no likelihood that the PoA will ever work. Changing the focus and vision of the PoA in ways that will allow it to work will be extremely difficult. The U.S.'s participation simply gives the PoA a credibility it does not deserve. If the PoA was completely or even mostly harmless, this might not be so bad. But the PoA is actually a serious barrier to useful action.

The U.S. in general, and the Biden Administration in particular, must decide if it will acknowledge and respond to this dilemma or if it will continue down the existing, failed path of valuing the mere act of U.S. participation in multilateral institutions more highly than it does the ends those institutions are supposed to serve.

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Endnotes

1. For background on the history of the PoA, see Ted R. Bromund, “The United States Should Withdraw from the U.N.’s Programme of Action on Small Arms,” Heritage Foundation *Issue Brief* No. 5040, February 20, 2020, <https://www.heritage.org/global-politics/report/the-united-states-should-withdraw-the-uns-programme-action-small-arms>.
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