Position Paper by Germany

Submitted to the Chair-Designate of the Sixth Biennial Meeting of States (BMS 6) of the UN Programme of Action to combat illicit small arms and light weapons

Ref.: Letter by Ambassador Courtenay Rattray to member states from 18 December 2015

Germany would like to submit the following considerations and suggestions for the Sixth Biennial Meeting of States (BMS 6) on the implementation of the UN Programme of Action to combat illicit small arms and light weapons (PoA):

0. General Remarks

- Germany suggests using the BMS 6 to build upon the acquis of previous relevant conferences, including the PoA, the outcome documents of the Second Review Conference, the subsequent BMS and the Second Open-ended Meeting of Governmental Experts. The BMS 6 should use its limited time to focus on addressing unresolved challenges and emerging trends, and seek to make tangible recommendations with which to drive improvement in PoA implementation. Repetition of formerly agreed conclusions should be avoided. The working methods established at the before mentioned meetings should be maintained with this objective in mind. Germany supports short but meaningful conclusions of the discussions, showing a clear perspective for relevant issues and options to be treated at a substantial Third Review Conference (RevCon3) in 2018.

- At RevCon3 we should discuss the future of the PoA/ITI, based on solid empirical grounds from a comprehensive review of progress in addressing the worldwide problem of illegal SALW to date. We propose starting a global survey among UN member states that goes beyond biennial reporting, covering aspects of practical implementation and coordination such as: national legislative and administrative solutions to illegal SALW; surpluses identified and destroyed by police and national armed forces; practical and normative SALW control initiatives implemented by states and international organizations; integration with DDR/SSR programs; and new developments and initiatives relating to the ITI (marking, tracing, record-keeping).

- Germany encourages regional organizations to play an enhanced role in the implementation of the PoA and supports this in various joint projects. Regional organizations can promote cooperation and information exchange crucial for border control, tracing of arms and the fight against arms smuggling and organized crime. Regional organizations can also contribute to the development of best practices and standards in the control of small arms and light weapons.
- Germany sees scope to enhance the role of women in the security sector; including in the field of small arms control. The conclusions of BMS 5 made explicit reference to promoting the “meaningful participation and representation” of women in PoA-related “policymaking, planning and implementation processes”, including in the areas of stockpile management, and awareness raising and education (para. 17d) - building on an equivalent provision in the Review Conference outcome. Germany attaches great importance to UN Security Council Resolution 1325 (2000) and related UN SC Resolutions, and supports the development of standards and best practices in the control of small arms and conventional ammunition at the global level. It has contributed to the ongoing development of the International Small Arms Control Standards (ISACS) and encourages their worldwide use on a voluntary basis. Similarly, Germany encourages the use of the International Ammunition Technical Guidelines (IATG). Both sets of standards will be available to users around the world via a cost-free software tool developed by UNIDIR. The BMS 6 should explicitly endorse these internationally agreed standards for the implementation of the PoA and the ITI, including the establishment of indicators and benchmarks regarding implementation by national authorities, armed forces, or other national or international organizations.

- Germany considers the control of corresponding ammunition to be integral to the control of small arms and light weapons. Consequently, ammunition control should be – and is in practice - an integral part of the implementation of the PoA. Physical Security and Stockpile Management (PSSM) is a key enabler in building effective weapons and ammunition management capacity and should be implemented coherently, using compatible standards (ISACS/IATG). Unsafe storage of ammunition poses a considerable risk per se as its deterioration can lead to uncontrolled explosions or environmental contamination. Moreover, the effective control of ammunition will have a fast and noticeable impact on the control of small arms as the latter cannot be operated without the former. Germany would like to see the role of ammunition in the implementation of the PoA discussed at the BMS 6.

- The entry into force of the Arms Trade Treaty (ATT) in December 2014, its overwhelming adoption by UN member states, and its swift ratification by almost 2/3 of state signatories to date has added a new complementary dimension to the fight against the illicit trade in small arms and light weapons. As of January 2016 78 countries are States Parties and 52 are signatories. The corresponding 1st substantive ATT resolution was adopted by the UNGA on 7 December with 157 votes in favor, and none against. The Arms Trade Treaty covers small arms and light weapons; it also regulates the trade in corresponding ammunition. Article 11 of the ATT includes extensive provisions to take into consideration and to mitigate diversion risks. At the BMS 6 the potential synergies for the fight against the illicit trade in small arms and light weapons resulting from the entry into force of the Arms Trade Treaty should be explored, inter alia concerning the prevention of diversion, end-user certification, and the regulation of brokering.

- Germany welcomes the adoption of UN Security Council Resolution 2220 (2015) emphasizing the importance of the control of small arms and light weapons for international peace and stability. In that context, Germany also welcomes the report of the UN Secretary General to the Security Council S/2015/289 of 27 April 2015 and the substantial open discussion at the occasion of its presentation.
- Physical Security and Stockpile Management is at the heart of functioning SALW-control, and was thus a prominent issue throughout the BMS 5 outcome document. It also noted a connection between stockpile security and UN peacekeeping, pointing to its specific relevance in the “setting of armed violence, [...] and conflict and post-conflict situations”. Evidently, even simple PSSM-measures can go a long way in preventing diversion from government stocks.

  Determining actual and future needs, while identifying and disposing of surplus stocks (including dysfunctional SALW/ammunition) in the framework of proper life cycle management, allows for the concentration of the physical infrastructure on the essential minimum. Germany would like to see the crucial role of PSSM and measures to improve PSSM capacity building support to affected nations discussed at BMS 6.

1. Consideration of the Implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons

- Germany warmly welcomed the Chair’s conclusions of the Second Open-ended Meeting of Governmental Experts in June 2015, where the potential and the challenges of recent developments in the field of weapons technology, including modular weapon systems and the increasing use of polymer components, for the effective implementation of the ITI were summed up in an impartial and concise way. The Secretary General’s report A/CONF.192/BMS/2014/1 provided a valuable basis for the discussions, along with the comprehensive research papers of the Small Arms Survey on this topic. Germany, together with Belgium and Austria, contributed an extensive Working Paper, explaining in detail its position on many of the aspects discussed (e.g. solutions/proposals for: additional “secure” markings, definition and marking of “core components” and “modular weapons”, import marking in the producer country).

- Physical Security and Stockpile Management can take advantage of technological advances, including in the field of electronic control devices and data management. At the MGE2 fruitful discussions were held on the impact of these new developments on the implementation of the PoA and the ITI. A majority of countries shared the conclusions of the Chair that this should eventually lead to amendments of the relevant instruments. Germany suggests gathering more information from states on new trends and practices in stockpile management technology that could be compiled in a report and shared with member states. The BMS 6 could task the Secretariat accordingly.

- Germany is convinced, that the full potential of recent developments for improved SALW control has not been fully recognized, much less put to practical use. In a comprehensive concept of life cycle management for SALW, all stages, from production/importation to marking, storage, record-keeping and tracing, up to and including final disposal, could benefit. Moreover, sophisticated technologies could help to trace, track or prevent the use of diverted weapons (especially light weapons, such as MANPADS). “Smart weapons” could boost SALW-control by allowing for biometric individualization, centralized deactivation, or remote localization. A prudent, reliable and user-friendly deployment of such technologies could be particularly beneficial in the context of high risks of diversion or misuse. Existing obstacles should be the object of reinforced research. The recent Memorandum of the US-President asking relevant departments of the US
Administration to look into more research and possibly broader use of smart guns by US security agencies was a very positive step in this direction.

- While it is recognized that improving basic PSSM capacity has a more immediate impact on the successful resolution of current SALW challenges, there is clear, long-term benefit in promoting further research and a wider use of new technological possibilities. Germany therefore fully supports the Chair designate’s statement that the policy implications of these recent developments in SALW technology should be discussed at the BMS 6, including the next formal steps to allow for an eventual modification of the PoA and ITI with a view to the Third Review Conference. Already at BMS 5 states agreed to consider “practical steps to ensure the continued and enhanced effectiveness of national marking, record-keeping and tracing systems”. In its above-mentioned Working Paper Germany proposed that at BMS 6 technical solutions presented at MGE2 should form the basis of agreed political guidance for the interpretation of the ITI in light of the new developments. Over the longer-term, the MGE2 chair’s summary and any agreed political guidance that emerges from it could form the basis of negotiations among UN member states on a modification to the ITI.

- Typically the weak state structures predominantly associated with conflict zones hamper effective SALW control. In practice a peace operation is usually the first viable institution in a post-conflict setting to initiate the establishment of basic SALW-control measures (including tracing of illicit weapons, PSSM and capacity building), often framed within a more comprehensive DDR/SSR program. The collection/seizure of SALW, and their subsequent tracing as provided for by the ITI, can increase the effectiveness of (international) arms control measures by analyzing the chain of custody and identifying the origin of illegal weapons (for example, exposing possible violations of arms embargos, rearming of militant groups, or weaknesses in PSSM). It is therefore essential to embed small arms control generally, and conflict tracing specifically, into the broader context of conflict prevention, crisis management and peace-building policies.

- Where relevant and feasible, the mandate of UN and other internationally mandated peacekeeping missions should include provisions regarding SALW-control, to assist in building security as an essential enabler of long-term development. Such measures should be conducted through the appropriate law enforcement channels, in order to respect the sovereignty of host states, meet assurance requirements, and allow for appropriate validation.

- Where ongoing conflict prevents state authorities from taking action, international missions (possibly making use of INTERPOL’s iARMS platform) or other initiatives such as iTrace (financed by the EU and Germany) can assist. We propose initiating a discussion on possible measures for the improved integration of SALW into peacekeeping missions’ mandates at the BMS 6 and to encourage the UN secretariat to elaborate a joint report on the present state and the future potential of including SALW-control into ongoing and future UN peace missions. This report could become a subject of discussion at the Third Review Conference.

- Electronic information exchange among nations, the use of data bases and online technologies could further contribute to improved effectiveness, efficiency and speed in tracing illicit arms. The establishment of national arms registers – preferably in a general purpose digital format - is an important basis for this. In this light, the more active use of and contributions to internationally accessible data-bases by UN member states, allowing for easy and comprehensive
information exchange, should be considered. Recent acts of terrorism confront us with the need to cooperate across borders; our software tools also need to allow for intra-regional and cross-regional data exchange on illegal SALW. Germany suggests discussing at BMS 6 past experiences with these tools in the fight against illicit small arms and drawing conclusions for the future.

2. International cooperation and assistance for full and effective implementation of the Programme of Action and the International Tracing Instrument, including capacity building and training, and transfer of technology

- Germany is looking forward to discussing at BMS 6 the forthcoming Secretary General’s report, dealing with – among other issues – the adequacy, effectiveness and sustainability of financial and technical assistance, including the transfer of technology and equipment, particularly to developing countries.

- Germany believes that, considering the appalling statistics of people killed by SALW (around 200,000 every year) and the number of SALW in circulation (more than 800 million), the volume of financial and technical assistance deployed for the comprehensive implementation of the PoA seems rather inadequate.

- The situation has improved slightly with the advent of the Arms Trade Treaty, the rapid entering into force of which has mobilized additional resources by UN member states. We are confident that the recently adopted Sustainable Development Goals, specifically SDG 16.4 with its explicit objective of substantially reducing the illegal flow of arms, will have a similar effect.

- Notwithstanding the responsibility of individual member states for the comprehensive national implementation of the PoA, with governmental commitment a major prerequisite, member states willing to provide assistance according to their economic possibilities can play an important role. Germany therefore believes that the BMS 6 should acknowledge the need for renewed focus on supporting affected states to build capacity to implement effective Life Cycle Management systems, and the role of PSSM in doing so. Furthermore BMS 6 should further consider how international capacity building support might be better coordinated, and make tangible recommendations for improvement in this key area.

- Given the significant resource requirements posed by PoA implementation, the effectiveness and efficiency of international assistance become essential. Unfortunately it seems that much more can be done in this respect, as many projects do not include systematic (national) assessments and commonly defined priorities. Improving coordination among donors and between donors and recipients also seems vital to increasing effectiveness and sustainability. Other important aspects include cooperation in implementation, custom-tailored responses to recipients' needs and the building of national capacity for sustainable and measureable implementation.

- The official website of the PoA (www.poa-iss.org) serves as a digital platform for all issues relating to the PoA, among them the facilitation of donor/recipient dialogue. It should be used more intensively by all stakeholders. Substantial and regular reports should identify, prioritize and communicate assistance needs as well as implementation trends and challenges. As reporting fatigue can be seen with virtually all disarmament instruments (PoA, ITI, UNROCA, MILEX) and the ATT has created a new reporting obligation, possibilities for streamlining reporting
should be identified and presented by UNODA. This will certainly become a subject of discussion at this year’s planned GGE-meetings on UNROCA and MILEX.

- Germany has supported the PoA from the start and has thoroughly reflected all its requirements and recommendations into national law and practices. It is deeply committed to assisting other member states fulfil their obligations under the PoA, the ITI and other related instruments, such as the UN Firearms Protocol and the UN Register of Conventional Arms. With this objective it has spent approximately 33 million euros (2011-2015) on practical measures for global conventional arms control (not counting humanitarian demining), of which roughly 70% are relevant to global PoA-implementation. Germany is a vocal proponent of mobilizing additional resources, and provides a forum for matching needs and resources at the regular meetings of the Group of Interested States in Practical Disarmament Measures.

- Germany has whole-heartedly supported the establishment of the UN Trust Fund Facility UNSCAR ("UN Trust Fund Facility Supporting Cooperation on Arms Regulation") and has so far contributed 2.2 million Euros to it. In Germany’s view, UNSCAR should remain the dedicated trust fund for PoA-implementation once a separate facility has been set up for the ATT. Synergies and issues that overlap the two instruments with overlapping issues should be monitored by their respective lead agencies (UNODA and the ATT Secretariat). The BMS 6 should acknowledge UNSCAR’s importance and encourage financial contributions by donor states as well as the full engagement of states in need of assistance.

- During its G7-presidency in 2015 Germany created an initiative on SALW-control in the Sahel zone, together with the African Union. The intention is to improve coordination among the countries of the region, between them and the competent regional organization, and with and among donors. This should have a visible impact on the effectiveness of PoA assistance in the area. A BMS 6 side-event is planned to present and discuss the results of the first year. Ways of improving coordination, including an enhanced role for regional organizations in the PoA process, should be discussed under this agenda point at BMS 6.

- The data generated by our projects is shared openly with relevant national authorities and like-minded NGOs and IOs, because we believe that transparency will facilitate an honest and systematic evaluation of project impact. We attach a high priority to full partnership with and the involvement of national and regional stakeholders in project design and implementation, including the support of and coordination by the competent national agency. Some projects specifically aim at empowering national SALW commissions and regional organizations so that they can effectively fulfill their role in PoA implementation. BMS 6 could discuss guidelines for best practices in project implementation.

3. Additional measures for the effective implementation of the PoA and the ITI

a) Connection between PoA and SDG 16.4

- As is well known among experts (but unfortunately not the greater public) international efforts to control illicit small arms are coordinated under the PoA. Since its entry into force in December 2014, the ATT regulates all aspects regarding the legal arms trade, shedding light on former “grey areas” and reducing the space for illegal trafficking. Within the new Sustainable Development
Goals (SDGs) – agreed to by heads of state and government of all UN member states – target 16.4 foresees among other things that steps be taken to “significantly reduce illicit […] arms flows” by 2030. The role that small arms and associated ammunition play in the global picture of violence is in fact pivotal. For example, the Small Arms Survey in Geneva has estimated that around 44 percent of all violent deaths are caused by firearms; this amounts to 197,000 men, women and children killed each year (average for 2007-2012, without firearm suicides). Beyond the human tragedy these figures relate, the additional stress weakens already fragile health systems and hinders economic development, especially in post conflict situations.

- This alignment of global policy agendas on security and development provides a new globally legitimated and comprehensive framework for states to reinforce their efforts to fight the illicit proliferation of small arms and thus reduce the impact of armed violence on civilians in areas of conflict, violent extremism and pervasive organized crime. At the same time, it will diminish the deadly consequences of domestic violence and the risk of suicide by firearms.

- Germany believes that the development of global indicators within the SDG framework (to be approved by the UN Statistical Commission in March 2016) will allow for a regular and objective evaluation of implementation progress of all UN member states. Among them, one indicator is dedicated to target 16.4 and focuses on the “Percentage of seized small arms and light weapons that are recorded and traced, in accordance with international standards and legal instruments” (E/CN.3/2016/2). While important for firmly positioning the question of illegal arms flows within the SDGs, we believe that this global indicator should be complemented by more systematic data for measuring the volume of illicit arms flows, as well as the effectiveness of measures aimed at reducing the risk of weapons entering the illicit market. Existing international instruments such as the PoA, ATT, UN Firearms Protocol and ITI can be used to develop national indicators that enable member states to assess their efforts in combating illicit arms flows and to contribute more effectively to sustainable peace and security. At BMS 6 these developments merit thorough discussion.

- Supporting the development of global capacities to effectively tackle the problem of illicit arms flows is a priority for Germany. In October 2015 during a side-event at the opening week of the UN General Assembly, German Foreign Minister Frank Walter Steinmeier called for the development of a “Global Partnership on combatting illegal SALW”, which would support the implementation of existing international instruments dealing with countering illicit trafficking (specifically the PoA and ITI), and promote regulation of the legal trade through the Arms Trade Treaty. The Global Partnership would help link disarmament processes with the 2030 Development Agenda by working on regional / national indicators (to measure impact), by stimulating partnerships at local / regional levels, by sharing good practices and by identifying synergies and funding potentials from new sources.

- As a first step Germany has partnered with the Small Arms Survey to develop means of strengthening the mutually supporting small arms control and development agendas by:
  - Establishing a platform allowing stakeholders to make better use of synergies between existing small arms control approaches and the new SDGs;
- Generating data and research, sharing results, experiences and practices in addressing the challenges of illicit SALW; and
- Reaching out to key international and regional stakeholders (such as the African Union) and engaging them in policy relevant discussions.

b) Consideration of ways to strengthen the role of regional and sub-regional organizations in the implementation of the PoA and the ITI

- Germany wholeheartedly supports the notion of a stronger role for regional and sub-regional organizations in the implementation of international norms for arms control, including arms export and import control. At BMS 5 these organizations were referred to frequently, for example with regard to strengthening cooperation in illicit SALW trade across borders; avoiding duplication in the provision of, and requests for, assistance by assuming a coordinating role; and building capacity and promoting cooperation and assistance for PoA and ITI implementation.

- In the new phase of its above-mentioned G7 initiative on improved SALW coordination in the Sahel Germany will second technical experts to the African Union and two leading African sub-regional organizations and intends to support existing coordination mechanisms for small arms control. It is imperative that the nations and the organizations of the most affected regions are at the steering wheel of these processes because they have the highest degree of democratic and legal legitimacy to tackle this challenge. What is more, only they have the “on the ground” knowledge necessary to create the intended impact.

- At BMS 6 options for creating a more visible and operational role for these organizations should be discussed, especially with a view to enhancing their role in the PoA process. Their concentration of regional knowledge and expertise, along with empirically grounded policies focused on the priorities of the region, could help improve the effectiveness and practical relevance of PoA-implementation and – as an additional benefit – PoA meetings. This aspect should also form part of future reports of the Secretary General on SALW.