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The U.S. Should Withdraw from the U.N.'s "Programme of Action" on Small Arms

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On August 27, the 2012 Review Conference began for the U.N. "Programme of Action to Prevent, Combat, and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects" (PoA). The program originated with 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 creation of the PoA in 2001.

The PoA contains a range of commitments on which participating nations have agreed to report biennially. It is not a treaty process: It is, in theory, a mechanism for encouraging voluntary cooperation. In practice, it has achieved little. On August 29, the U.N. released its International Small Arms Control Standards (ISACS), which epitomizes the PoA's

promotion of gun control norms. Since the PoA is ineffective and seeks to constrain freedoms protected by the Constitution, the time has come for the U.S. to withdraw from it.

Failures and Ambitions. The PoA works with the Coordinating Action on Small Arms (CASA) mechanism within the U.N., which was responsible for producing ISACS. Many other U.N. activities related to the control of small arms have effectively been subsumed into the PoA. For example, as a result of a U.N. conference on crime held in Cairo in 1995, the U.N. negotiated its Firearms Protocol, which entered into force in 2005. The Protocol is nominally supplementary to the U.N. Convention Against Transnational Organized Crime, but it is often treated as part of the PoA. The U.S. participates in the PoA, but has not signed or ratified the Protocol.

PoA supporters agree it has achieved little. In 2008, the U.N. Secretary-General stated that the PoA's results were not "substantive." A recent 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."¹

For example, over the biennial reporting period of 2010-2011, only 109 nations even bothered to file a report on their activities—if any—under the PoA. The U.S. statement to the current Review Conference tacitly acknowledged the PoA's ineffectiveness by urging it to hold fewer meetings. The U.S.'s only other recommendations were for better donor coordination and the inclusion of more "gender perspectives."²

The primary reason the PoA has failed is that most U.N. member states are not interested in—or capable of—controlling the genuinely illicit trade in small arms. But another reason is that the PoA seeks to advance norms that promote domestic gun control. Unlike the U.N. Arms Trade Treaty (ATT), which poses certain risks to Second Amendment freedoms but concentrates on international trade, the PoA focuses on domestic trade and manufacturing. But the ATT and the PoA are closely linked: supporters view the ATT as part of the broader PoA framework.

On July 9, 2001, then-U.S. Under Secretary of State for Arms Control and International Security Affairs John Bolton gave an opening

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statement to the first PoA meeting that rejected:

- Constraints on legal trade and manufacturing;
- The promotion of propaganda by the U.N. or other organizations;
- The prohibition of civilian possession;
- The limitation of the arms trade to governments; and
- Any institutionalization of the PoA process.

The battle continued at the 2006 Review Conference, which PoA supporters describe as a “failure.” By 2007, Bolton believed that the U.S. “had truly outlasted the normers!”—the PoA’s promotion of gun control norms.³

Regrettably, the basis for this optimism has faded. In 2001, as a quid pro quo for the acceptance of its other red lines, the U.S. agreed to the institutionalization of the PoA. That has proven a costly concession, as the PoA has outlived its critics. While many supporters would like the Review Conference to “seek further normative development” (i.e., to explicitly restrict civilian possession), or to take a “hard law” approach (i.e., to transform into a treaty process), the events of 2001 and 2006 demonstrated the risks of such ambitions.

Thus, the current Review Conference is likely to proceed cautiously. But that should not disguise the ambitions of the PoA’s backers, who over the coming years may be inclined by the failure of the July 2012 ATT conference to emphasize the PoA. Indeed, at the current Conference, the Non-Aligned Movement (120 nations), supplemented by the overlapping African Group (54 nations), with backing from Mexico, have argued for a ban on civilian firearms ownership.

Promotion of Gun Control Norms. In 2007, CASA members agreed to develop “a set of internationally accepted and validated standards” on small arms control, known as ISACS. Begun in 2008, the process should have been completed by July 2010, but was delayed by the difficulty of producing standards that would withstand even minimal scrutiny, resulting in ISACS launch in 2012 with only eight of its proposed 24 modules completed.⁴ The most controversial modules, including one on “controls over the access of civilians to small arms,” are forthcoming.

The U.N. occasionally refers to ISACS as “voluntary standards,” but it also asserts that they are “internationally accepted” and provide “comprehensive guidance” to policymakers. In short, they are a classic example of norm creation by “a voluntary global network of experts” that the U.N.—and many member states—subsequently presents as an inherent and necessary part of

the PoA, the Protocol, and national and regional practices. The U.S. has rejected the incorporation of ISACS into the PoA, but past U.S. rejections have only slowed the PoA, not stopped it.

The published ISACS modules are predicated on disdain for civilian firearms ownership. For example, Module 5.40 states that it is applicable in areas that “display high rates of crime or inter-personal violence (e.g. in urban areas)” or “have undergone legislative reform restricting the access of civilians to small arms.” In short, the U.N. views ISACS as setting out binding norms, and ISACS seeks to promote domestic gun control.

The U.S. Should Withdraw. The only saving grace of the PoA is that it is not—yet—a treaty process. Thus, the PoA, while not an immediate threat to U.S. sovereignty, is a classic bad U.N. institution: It is of little use, and busies itself with the creation of norms that are intended to slowly enmesh and bind all its members, especially the U.S. The U.S. has made clear that it shares the widespread skepticism about the achievements of the PoA, and that it rejects the incorporation of ISACS into the PoA; but PoA planning for activities through 2018 has already begun, and the history of the PoA offers no reason to hope that its performance will improve or that it will abandon its gun control agenda.

The U.S. should:

1. Jim McLay, “2012 and Beyond: Advocacy and Action in the UN Small Arms Process,” *Small Arms Survey*, No. 2, August 2012, <http://www.smallarmssurvey.org/fileadmin/docs/G-Issue-briefs/SAS-BP2-2012-and-beyond.pdf> (accessed August 29, 2012).
2. Statement by Steven R. Costner, Deputy Director of Office of Weapons Removal and Abatement for Bureau of Political-Military Affairs, U.S. State Department, to U.N. Programme of Action Review Conference, August 29, 2012, http://www.humanrights.gov/2012/08/29/deputy-secretary-costner-at-review-of-u-n-small-arms-action-program/?utm_source=rss&utm_medium=rss&utm_campaign=deputy-secretary-costner-at-review-of-u-n-small-arms-action-program (accessed August 29, 2012).
3. John Bolton, *Surrender Is Not An Option: Defending America at the United Nations and Abroad* (New York: Threshold Editions, 2007), p. 92.
4. “Standards Modules,” International Small Arms Control Standards, U.N. CASA, 2012, <http://www.smallarmsstandards.org/isacs/> (accessed August 30, 2012.)

- State clearly that it does not recognize ISACS as having any standing;
- Withdraw from the PoA—except for case by case participation in meetings of technical experts on particular subjects; and
- Propose the elimination of the U.N. mandate for the PoA.

The U.S. carries out a wide range of activities relevant to the PoA which it can continue with its

current bilateral and multilateral partners. But the PoA is a failed institution that embodies efforts to constrain U.S. sovereignty by the elaboration of global norms. The U.S. should no longer give it the credibility that derives from U.S. participation.

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