

# **Implementation of the United Nations Programme of Action to Prevent , Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects**

## **Report on National Implementation by Government of India**

India attaches great importance to the eradication of the illicit trade in Small Arms and Light Weapons (SALW) in all its aspects and has been actively associated with the various international efforts in this direction. In keeping with this commitment, India participated constructively in the first ever UN Conference on this subject in July 2001 - which led to the adoption of the modest UN POA by consensus.

2. India's implementation of the UN POA is well advanced at the national level - where there exists, since 1959, an established and comprehensive system of regulatory policies and practices relating to small arms and light weapons.

### **National Level**

#### **National Point of Contact and Coordination Agency (II.4, II.5)**

3. The office of Joint Secretary, Disarmament and International Security Affairs Division, Ministry of External Affairs, Government of India, New Delhi has been designated as the national point of contact for international liaison on matters related to implementation of the UN POA. These details have also been provided to the UN Department of Disarmament Affairs (DDA).

4. Government of India has set up an Inter-Ministerial Task Force in 2002 whose members include representatives from Ministry of External Affairs and the Ministries of Defence and Home Affairs and National Security Council Secretariat. The Task Force meets regularly to provide inputs related to policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in SALW. A Workshop on this subject was also organised on April 22, 2003, to review progress, create awareness and provide further impetus to the implementation of the UN POA.

#### **Provision of laws, regulations and administrative procedures/ Law enforcement/criminalisation (II.2, II.3, II.6)**

5. India's domestic policy on SALW is regulated statutorily under the **Arms Act (1959)** and **Arms Rules (1962)**, amended from time to time. These legislations and

various executive instructions from Central and State governments have evolved a good mechanism for effective control and regulation of SALW in India. The Arms Act (1959) and Arms Rules (1962) cover all aspects of lawful possession of manufacture, sale, transfer, transport, export, import of arms and ammunition, and provide penal provision for violation of these acts. The Arms Act (1959) and Arms Rules (1962) are central government legislation and state governments have a specified role their implementation.

6. In addition to these, Government of India has also enacted several other laws which have penal provisions related to illegal possession, manufacture etc. of SALW. These include Prevention of Terrorism Act (2002), Armed Forces (special powers) Act, Indian Penal Code, the Army Act and the analogous laws.

7. A specific distinction in terms of calibre (prohibited and non-prohibited bore) (*Please see Rule 3 , Schedule 1 of the Arms Act of 1959*) exists as far as possession and trading in firearms by civilians is concerned. Prohibited bore weapons are those in use by security forces/police and licence for these are , as a rule, not issued to civilians.

### **Problem of Illicit SALW in India:**

8. India thus has a conservative policy and a rigid mechanism to control all aspects of small arms and light weapons in India. Despite these provisions, India still faces the problem of proliferation of illicit SALW and weapons which are smuggled into the country by various anti-national groups. As far as cross-border smuggling of SALW is concerned, the seizures, though not by any means a true measure of the real extent of illicit SALW trafficking , assist the authorities in a statistical assessment of the real dimension of the problem . For example, in Jammu and Kashmir and the north eastern areas alone, the security forces have, since 1990, seized approximately 39,000 weapons of all types. The markings and types of weapons confiscated clearly indicate that these are brought into India through illicit channels from outside the country. A small amount of crude "country-made" weapons are also found to be produced clandestinely in India.

9. Government of India, seized of the serious problem posed by illicit SALW, had instructed all the State Government police forces to launch a special drive from April 2001 to unearth illicit and illegal SALW. A table indicating the position with regard to illegal weapons seized/recovered is at Annexure I. The Central Government has instructed the State governments to undertake another special drive to unearth illicit weapons during the current year (2003).

10. Since almost all terrorist activities involve the use of illegal weapons, including small arms, organisations indulging in such activities are declared as "unlawful" under the provisions of relevant acts. A list of 32 organisations which have been banned by the Government under Prevention of Terrorism Act (POTA) for their activities, is at Annexure II. *[Note: not all organisations listed are operative in India].*

### **Manufacture, Marking, Record Keeping and Tracing of the Small Arms & Light Weapons (II.7, II.8, II.9)**

11. The manufacture of SALW is regulated under a licensing system established by the Arms Act (1959) / Arms Rules (1962). Section 5 and 7 of the Arms Act (1959) and Article 20 of Arms Rules (1962) prohibit the manufacture, transfer, repair of any SALW without a licence. Through the licensing mechanism, Government of India is able to regulate the categories and types of weapons which may be manufactured - and the transactions which may be carried out in respect of those.

12. The manufacture and production of SALW in India is fully controlled by Government of India. Small Arms for armed forces/police as well as for civilian use are primarily manufactured by Indian Ordnance Factories controlled by the Ministry of Defence. These factories are engaged in the manufacture of all categories of small arms. The policy of the Government of India for manufacture of arms and ammunition in the private sector is based on the Industry Policy Resolution, 1956. The private sector is primarily engaged in the manufacture of single and double-barrel guns and air rifles/pistols. Even after liberalisation of the Indian economy and removal of licensing regime for major industries, the manufacture of arms like revolvers, pistols and rifled weapons - and ammunition thereof - has not been allowed in the private sector by the Government of India.

### **Marking**

13. All small arms produced/manufactured in India are uniquely marked. This applies to arms that are produced for private/personal use and those which are used by armed forces, police or para-military forces. The Arms Act (1959) provides (Section 8) that arms which do not bear specified identification marks may not be sold or transferred. Further, under the Arms Act (1959), any person found in possession of a weapon without identification marks would be presumed to have removed/obliterated the marks unless proven otherwise.

14. The SALW produced by Indian ordnance factories are marked by stamping to indicate the registration number, manufacturer / factory of origin and the year of

manufacture on one or more of the vital and critical components of a small arm - the body, the breech block and the barrel - during the final stages of production. A record of each and every weapon manufactured by the factory is kept along with the information on the concerned dealer / indenter. Allotment of these registration numbers for the armed forces/police and para-military forces is done centrally and a record is maintained of these registration numbers along with the indent. This provides for a double check on the records.

15. Private sector manufacturers of firearms are required by law to get every manufactured firearm stamped to show: the maker's name and registered trademark; the serial number of the weapon as entered in his register and the year of stamping; and proof-mark (Arms Rules (1959) Section 25). The parts of the weapons to be marked are also specified under these provisions.

16. Further if an imported firearm kept for sale by a dealer does not bear the manufacturer's name, the concerned importer is required to engrave appropriate identification marks (identifying the importer), as allotted by the Government under these provisions (Section 25, Arms Rules (1962) .

### **Record keeping:**

17. All ordnance factories maintain detailed records of small arms manufactured by them. Private firms and persons authorised to manufacture firearms against licences issued under the Arms Rules of 1962 are required to maintain a Gun Manufacturing Register which records information including Serial Numbers and Date, Month and Year of manufacture. They are also required to maintain a Register of Rectification in which the Serial Numbers stamped on guns which are not passed by the Proof House on first submission are to be entered with a cross reference to the Gun Manufacturing Register. A designated Inspecting Officer inspects these registers regularly.

18. According to existing laws (Arms Act of 1959 , Section 3), a proper licence is a prerequisite for possession of any SALW. District authorities may issue licences after duly making police enquiries. Due to the gravity of the problem of proliferation of illicit SALW - and the onslaught of terrorism, Government of India have, since 1987, withdrawn substantially, the licence issuing powers of State / District authorities – who may not , now , issue licences for prohibited bore weapons. Since 1987, their powers have been limited to issuing licences for non-prohibited bore weapons and these licences are valid for a limited geographical area. Under the existing law, all civilians are required to get their weapon/s

inspected once a year by a competent authority – this is also recorded in the licence.

19. A record of arms sold in the civilian market (non-prohibited bore) is also required to be kept by each arms dealer under Section 26 of the Arms Rules (1962) in a Sale and Transfer Register. These records are regularly checked by the concerned state/district authorities.

20. Licences for possession of prohibited bore weapons may only be issued, under special conditions, by the Ministry of Home Affairs, Government of India, who also maintain a record of all such weapons in possession of civilian population.

21. Armed forces/police and paramilitary forces maintain a permanent record of all the weapons in their possession.

### **State Stockpile Management and Security (II.10, II.17, II.18)**

22. The SALW held by the armed forces, police and other para-military forces are managed under a comprehensive system of regulations issued by Central and State Governments. The concerned government agency issues arms and ammunitions to armed forces, para-military forces and police as per the authorised scale and requirements. Under Chapter XX of the Defence Service Regulations (Regulations for the Army), specific and exhaustive provisions have been laid down for management and security of SALW held by the Army. These stocks are checked every quarter.

23. Police Arms and ammunition which have been classified as obsolete or unserviceable are earmarked for destruction before they are destroyed by the concerned State Police Force under proper supervision.

### **Disposal of seized and confiscated weapons (II.16)**

24. In the course of law enforcement activities – and operations against terrorists, Government authorities regularly seize / confiscate weapons belonging to both "prohibited" and "non-prohibited" bore categories. Detailed instructions are issued by the Government of India for disposal of such arms and ammunition. The main aim of the Government is to ensure that these weapons do not find their way back into the illicit trade channels or fall into the hands of unscrupulous elements.

### **Destruction of country-made weapons:**

25. Country-made weapons seized during the special drives or in the course of implementation of the law, after they are no longer required for any judicial purposes, are mutilated / defaced and are destroyed by the concerned State Police forces at a central location under proper supervision.

#### **Disposal of prohibited bore Small Arms:**

26. Details of SALW which are seized/confiscated by the police or para military forces, are sent to Ministry of Home Affairs after duly taking care of all the legal requirements. If required, in cases where the same type of weapons are already in use by the security forces - and for which spares would be available , the seized/confiscated weapons are re-allocated to units of security forces for counter-terrorist operations. Other prohibited bore weapons seized by security forces are destroyed at the Central Ordnance Depot.

#### **Disposal of non-prohibited bore Small Arms:**

27. Serviceable weapons of non-prohibited bore which are seized and confiscated by police or other law enforcement agencies may be disposed by allotment to eligible persons holding a valid licence for such weapons. Such weapons are required to meet all the requirements laid out in the Arms Act (1959) in terms of having proper markings. The allotment is based on the realisation of the price which is fixed by Government. A monthly statement of all such seized stock is required to be sent to the Ministry of Home Affairs by the concerned State Police Department. All obsolete/unserviceable weapons and firearms and their components are destroyed.

28. To ensure the security - and prevent misuse - of seized/confiscated weapons, a detailed inventory of these weapons is maintained in "seizure memos". Such details include , *inter-alia* , the make, type of weapon, registration number etc. For the safety and security of such weapons, their storage in local police stations is normally not allowed. These weapons are usually stored in a central location, such as in State Police Headquarters, so as to ensure their safety and proper supervision. Pending their disposal, a monthly statement of stocks of such weapons held by State Governments is sent to the Central Government (Ministry of Home Affairs).

#### **Export Controls (II.11, II.12, II.15)**

29. Export of all lethal items as well as other equipment and stores manufactured by Defence Public Sector Undertakings (DPSUs) and Indian Ordnance Factories (which includes SALWs) is governed by a regime administered by the Ministry of Defence in consultation with the Ministry of External Affairs. DPSUs and

ordnance factories may export their items only on receipt of a 'No-Objection Certificate' (NOC) from the Department of Defence Production and Supplies, Ministry of Defence. The grant of an NOC is subject, *inter alia*, to an end-user certificate - on a government-to-government basis - and to conformity with foreign policy objectives - which includes a ban on exports to countries under UN embargo.

30. In addition, provisions of the Arms Act (1959) and Arms Rules (1962) have very stringent provisions governing the export and import of small arms. Section 10 of the Arms Act (1959) requires that any one intending to engage in export / import of arms should first acquire the requisite licence. Furthermore, licence for export is not granted for automatic weapons and weapons which are in use by the police or armed forces of the country, weapons of "current and popular bore" (Section 33, Arms Rules (1962)) for which ammunition is available domestically, and certain antique weapons. Exports are not permitted for sale or military purposes.

31. Similarly import of arms by individuals or commercial entities is permitted only against a licence. Such imports are , as a rule, allowed only to renowned shooters/rifle clubs for their own use on the recommendation of the concerned Government Department. Furthermore, under the "Exim Policy 2002-2007", transfer of the imported firearm/s is not permitted during the lifetime of the importer/licensee.

### **Global and Regional level**

32. India recognises that close international co-operation is required to prevent, combat and eradicate the illicit trade in SALW . To this end , India has supported the efforts of international organisations and the initiatives taken under UN auspices. India has already supplied copies of its domestic legislation to UN DDA (II.23)

### **International instruments against terrorism and trans-national organised crime (II.38)**

33. India having been, for decades, a victim of the violent crimes committed by terrorism, realises only too well that urgent and concerted action is required at global and regional levels to ensure that the fight against terrorism is successful. In keeping with this commitment, India has supported the relevant UN Security Council Resolutions, including Resolution 1373, and has signed all 12 of the UN Conventions and Protocols relating to terrorism. India remains fully committed to

supporting the work of the UN Counter Terrorism Committee and other pertinent UN bodies.

34. In December 2002, India signed the **UN Convention on Trans-national Organised Crimes** and its associated protocols - including the Firearms Protocol.

35. As mentioned earlier, India has a very strict export policy for SALW to ensure effective implementation of UN arms embargoes (**II.32**).

36. India is a member of the Group of Governmental Experts established, pursuant to UN resolution 56/24V, to examine the feasibility of developing an international instrument to enable States to identify and trace, in a timely manner, illicit arms and light weapons. India fully supports the first step of developing a comprehensive tracing system and enhancing co-operation among States towards this end and the need to strengthen the effectiveness of Interpol's International Weapons and Explosive Tracking System (**II.36**).

#### **International cooperation to combat illicit trade in SALW:**

37. Considering that the illicit trade in SALW is closely linked with terrorism, illicit drug trafficking, money laundering and other trans-national organised crimes, India has taken bilateral initiatives with a number of countries to put in place arrangements which would help combat the illicit trade in SALW (**II.27**). Most recently, India signed an **Agreement with Poland on Co-operation in Combating Organised Crime and International Terrorism (February 2003)**. The Agreement aims at enhancing cooperation of the two countries in combating organized crime and international terrorism. It provides for exchange of documentation, information and experience on the activities of persons involved in organized crime and terrorism, including, *inter-alia*, illicit trade in arms, and funding of international terrorism. Agreements have also been signed with **Kazakhstan** on the setting up of a Joint Working Group for Combating International Terrorism and other types of Crimes (June 2002) and with **Tajikistan** and **Uzbekistan** on setting up of a Joint Working Group for Combating International Terrorism (January-February, 2003).

38. India has been actively associated with various workshops and seminars that have been organized either under UN auspices or by other interested parties to further effective international cooperation on this important subject, including the Follow up Meeting on the UN POA in Tokyo in January 2002, the Lancaster House Conference in UK (January 2003), the Conference on SALW organized by the UN Regional Centre for Peace and Disarmament in Asia and the Pacific

(February 2003), the Regional Seminar on Implementing the OSCE Small Arms Document and the UN Programme of Action on Small Arms and Light Weapons at Bucharest (February 2003), the Dutch-Norwegian Initiative on further steps to enhance international cooperation in preventing, combating and eradicating illicit brokering in small arms and light weapons (April 2003) and the International Policy Dialogue on UN Programme of Action on Small Arms and Light Weapons, organized by German Policy Forum in Bonn (April 2003).

As on 20.12.2002 Annexure I

**STATEMENT SHOWING SEIZURE/RECOVERY OF UNLICENSED/ILLEGAL ARMS AND ACTION TAKEN AGAINST THE OFFENDERS**

States/UTs	Number of arms/ ammunitions manufacturing units raided	Number of arms recovered  with category	Amount of ammu- Nition recovered with category	Number of illicit/ Unlicensed arms seized other than 3	Remarks
1.	2.	3.	4.	5.	6.
Goa	Nil	Nil	Nil	Nil	--
A&N Islands	Nil	Nil	Nil	Nil	--
Dadra & Nagar Haveli	Nil	Nil	Nil	3	4 accused arrested
Lakshadweep	Nil	Nil	Nil	Nil	--
Pondhicherry	Nil	Nil	Nil	Nil	--
Gujarat	Nil	45	108 cartridges	Nil	--
		(Country made pistols)			
Himachal Pradesh	Nil	19SBML	Nil	2	4 accused arrested
Manipur	Nil	72	1875	348	--
Karnataka	3	32 guns/ pistols	39 cartridges	12	--
Maharashtra	47	150	450 cartridges	65	25 accused arrested
		(Country made and Foreign made)			
Mizoram	Nil	5 Pistols	33 cartridges	Nil	--
Punjab	Nil	23 Pistols	13661 cartridges	160	--
Rajasthan	2	22	Some ammu- nition	359 - and some swords etc.	--
Assam	26	111	770	52	--
Tamil Nadu	5	1	10	2	--
Daman & Diu	Nil	Nil	Nil	1	--
Tripura	-	-	21	16	--
Chandigarh	1	4	509	12	--
West Bengal	4	425	3695	1821	283 cases under investigation
Jammu and Kashmir	-	4246	321,177	See col. 3	--
<b>TOTAL</b>	<b>88</b>	<b>5157</b>	<b>341350</b>	<b>2865</b>	<b>33 accused arrested and</b>

**ORGANISATIONS DECLARED  
AS TERRORIST ORGANISATIONS  
UNDER PREVENTION OF TERRORISM ACT, 2002**

1. BABBAR KHALSA INTERNATIONAL.
2. KHALISTAN COMMANDO FORCE.
3. KHALISTAN ZINDABAD FORCE.
4. INTERNATIONAL SIKH YOUTH FEDERATION.
5. LASHKAR-E-TAIBA/PASBAN-E-AHLE HADIS.
6. JAISH-E-MOHAMMED/TAHRIK-E-FURQAN.
7. HARKAT-UL-MUJAHIDEEN/HARKAT-UL-ANSAR/KARKAT-UL-JEHAD-E-ISLAMI.
8. HIZB-UL-MUJAHIDEEN/HIZB-ULMUJAHIDEEN PIR PANJAL REGIMENT.
9. AL-UMAR-MUJAHIDEEN.
10. JAMMU AND KASHMIR ISLAMIC FRONT.
11. UNITED LEBERATION FRONT OF ASSAM (ULFA).
12. NATIONAL DEMOCRATIC FRONT OF BODOLAND (NDFB).
13. PEOPLE'S LIBERATION ARMY (PLA).
14. UNITED NATIONAL LIBERATION FRONT (UNLF).
15. PEOPLE'S REVOLUTIONARY PARTY OF KANGLEIPAK (PREPAK).

16. KANGLEIPAK COMMUNIST PARTY (KCP).
17. KANGLEI YAOL KANBA LUP (KYKL).
18. MANIPUR PEOPLE'S LIBERATION FRONT (MPLF).
19. ALL TRIPURA TIGER FORCE.
20. NATIONAL LIBERATION FRONT OF TRIPURA.
21. LIBERATION TIGERS OF TAMIL EELAM (LTTE).
22. STUDENTS ISLAMIC MOVEMENT OF INDIA.
23. DEENDAR ANJUMAN.
24. COMMUNIST PARTY OF INDIA (MARXIST-LENINIST)—  
PEOPLE'S WAR, ALL ITS FORMATIONS AND FRONT  
ORGANISATIONS.
25. MAOIST COMMUNIST CENTRE (MCC),ALL ITS FORMATIONS  
AND FRONT ORGANISATIONS.
26. AL BADR
27. JAMIAT-UL-MUJAHIDDEN
28. AL-QAIDA.
29. DUKHTARAN-E-MILLAT (DEM)
30. TAMIL NADU LIBERATION ARMY (TNLA)
31. TAMIL NATIONAL RETRIEVAL TROOPS (TNRT)
32. AKHIL BHARAT NEPALI EKTA SAMAJ (ABNES)

\*\*\*